



TPCSA Model Board Policy Series

Module 2 – Instruction

Richard Milburn Academy

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PG - 2.101 INSTRUCTIONAL PROGRAM OVERVIEW

Sec. 1. ESSENTIAL KNOWLEDGE AND SKILLS

Richard Milburn Academy shall establish instructional objectives that relate to the essential knowledge and skills for grade-level subjects or courses. These objectives shall address the skills needed for successful performance in the next grade or next course in a sequence of courses.

Assignments, tests, projects, classroom activities, and other instructional activities shall be designed so that the student's performance indicates the level of mastery of the designated curriculum objectives. The student's mastery level shall be a major factor in determining the grade for a subject or course.

Sec. 2. GUIDELINES FOR GRADING

The Superintendent or designee shall ensure that each campus or instructional level develops guidelines for teachers to follow in determining grades for students. These guidelines shall ensure that grading reflects a student's relative mastery of an assignment and that a sufficient number of grades are taken to support the grade average assigned. Guidelines for grading shall be clearly communicated to students and parents.

In accordance with grading guidelines, a student shall be permitted a reasonable opportunity to redo an assignment or retake a test for which the student received a failing grade.

Sec. 3. PROGRESS REPORTING

Grade/progress reports shall be issued on a form approved by the Superintendent or designee within the time period approved by the Superintendent or designee. Supplemental progress reports may be issued at the teacher's discretion.

Sec. 4. REPORT OF STUDENT PERFORMANCE TO PARENTS

Richard Milburn Academy shall provide a record of the comparisons of student performance made under Education Code 39.034 and provided to Richard Milburn Academy under Education Code 39.302 in a written notice to the student's parent or other person standing in parental relationship.

For a student who failed to perform satisfactorily as determined under either performance standard under Education Code 39.0241 on an assessment instrument administered under Education Code 39.023(a), (c), or (l), Richard Milburn Academy shall include in the notice specific information relating to access to educational resources at the appropriate assessment instrument content level, including assessment instrument questions and answers released under Education Code 39.023(e).

Education Code 39.303.

Sec. 5. CONFERENCES

Conferences may be requested by a teacher or parent as needed.

Sec. 6. ACADEMIC DISHONESTY

Academic Dishonesty Definition

Students found to have engaged in academic dishonesty shall be subject to grade penalties on assignments or tests and disciplinary penalties in accordance with the Student Code of Conduct. Academic dishonesty

includes cheating, copying and/or modifying another student's work files stored on a computer, copying the work of another student or allowing another student to copy your work, plagiarism of any kind, including the use of electronic media, and unauthorized communication between students during or after an examination. The determination that a student has engaged in academic dishonesty shall be based on the judgment of the classroom teacher or another supervising employee, taking into consideration written materials, observation, or information from students.

PG. 2.102 EDUCATIONAL PROGRAM IN GENERAL

Sec. 1. SCHOOL YEAR

Richard Milburn Academy shall operate so that it provides the minimum number of instructional days specified in the charter contract currently on file with the State of Texas and as specified by Education Code 25.081.

Sec. 2. LENGTH OF SCHOOL DAY

A school day shall be at least 240 minutes each day, including intermissions and recesses.

Sec. 3. REQUIRED INSTRUCTION

A primary purposes of Richard Milburn Academy's curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage. Richard Milburn Academy shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter, in reading courses, and in the adoption of textbooks.

Sec. 4. REQUIRED CURRICULUM

Richard Milburn Academy shall ensure that all students enrolled participate actively in a balanced curriculum designed to meet individual needs.

Richard Milburn Academy shall offer to students in all grade levels the curriculum required by the charter contract currently on file with the State of Texas. This curriculum shall include, at appropriate grade levels:

1. A foundation curriculum that includes:
 - a. English language arts;
 - b. Mathematics;
 - c. Science; and
 - d. Social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and
2. An enrichment curriculum that includes:
 - a. To the extent possible, languages other than English;
 - b. Health, with emphasis on:
 - i. Physical health, including the importance of proper nutrition and exercise;
 - ii. Mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making; and
 - iii. Suicide prevention, including recognizing suicide-related risk factors and warning signs;
 - c. Physical education;

- d. Fine arts;
- e. Career and technology education;
- f. Technology applications;
- g. Religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
- h. Personal financial literacy.

Education Code 12.111(a), 28.002(a), 28.025

Sec. 5. SOCIAL STUDIES INSTRUCTION

The following provisions in this Section apply for any social studies course in the required curriculum pursuant to Education Code 28.002(h-3):

a) Teacher Discussion

A teacher may not be compelled to discuss a particular current event or widely debated and currently controversial issue of public policy or social affairs. A teacher who chooses to do so shall, to the best of the teacher's ability, strive to explore the topic from diverse and contending perspectives without giving deference to any one perspective.

b) Students

Richard Milburn Academy or a Richard Milburn Academy teacher may not require, make part of a course, or award a grade or course credit, including extra credit, for a student's:

1. political activism, lobbying, or efforts to persuade members of the legislative or executive branch at the federal, state, or local level to take specific actions by direct communication; or
2. participation in any internship, practicum, or similar activity involving social or public policy advocacy

c) Trainings, Orientations, or Therapies

A teacher, administrator, or other employee of Richard Milburn Academy may not be required to engage in training, orientation, or therapy that presents any form of race or sex stereotyping or blame on the basis of race or sex.

d) Course Content

A teacher, administrator, or other employee of Richard Milburn Academy may not:

1. require or make part of a course the concept that:
 - i. one race or sex is inherently superior to another race or sex;
 - ii. an individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
 - iii. an individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race;
 - iv. members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
 - v. an individual's moral character, standing, or worth is necessarily determined by the individual's race or sex;

- vi. an individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
- vii. an individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;
- viii. meritocracy or traits such as a hard work ethic are racist or sexist or were created by members of a particular race to oppress members of another race;
- ix. the advent of slavery in the territory that is now the United States constituted the true founding of the United States; or
- x. with respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality; and

2. require an understanding of The 1619 Project.

Education Code 28.002(h-3).

Sec. 6. CHARACTER TRAITS AND PERSONAL SKILLS INSTRUCTION

Richard Milburn Academy shall adopt a character education program that includes the following positive character traits:

- 1. Courage;
- 2. Trustworthiness, including honesty, reliability, punctuality, and loyalty;
- 3. Integrity;
- 4. Respect and courtesy;
- 5. Responsibility, including accountability, diligence, perseverance, and self-control;
- 6. Fairness, including justice and freedom from prejudice;
- 7. Caring, including kindness, empathy, compassion, consideration, patience, generosity, and charity;
- 8. Good citizenship, including patriotism, concern for the common good and the community, and respect for authority and the law;
- 9. School pride; and
- 10. Gratitude.

Beginning with the 2022-2023 school year, Richard Milburn Academy shall adopt a character education program that includes the following positive character traits and personal skills:

- 1. Courage;
- 2. Trustworthiness, including honesty, reliability, punctuality, and loyalty;
- 3. Integrity;
- 4. Respect and courtesy;
- 5. Responsibility, including accountability, diligence, perseverance, self-management skills, and self-control;
- 6. Fairness, including justice and freedom from prejudice;
- 7. Caring, including kindness, empathy, compassion, consideration, patience, generosity, charity, and interpersonal skills;
- 8. Good citizenship, including patriotism, concern for the common good and the community, responsible decision-making skills, and respect for authority and the law;
- 9. School pride; and

10. Gratitude.

The programs shall be implemented in accordance with guidelines published by the Commissioner of Education / State Board of Education.

Education Code 29.906.

Sec. 7. CARDIOPULMONARY RESUSCITATION AND AUTOMATED EXTERNAL
DEFIBILLATOR INSTRUCTION

Richard Milburn Academy shall provide instruction to students in grades 9 through 12 in cardiopulmonary resuscitation and the use of an automated external defibrillator in a manner consistent with State Board of Education requirements. The instruction may be provided as a part of any course. A student shall receive the instruction at least once before graduation.

Cardiopulmonary resuscitation instruction must include training in cardiopulmonary resuscitation techniques and the use of an automated external defibrillator that has been developed:

1. By the American Heart Association or the American Red Cross; or
2. Using nationally recognized, evidence-based guidelines for emergency cardiovascular care and incorporating psychomotor skills to support the instruction.

Richard Milburn Academy may use emergency medical technicians, paramedics, police officers, firefighters, representatives of the American Heart Association or the American Red Cross, teachers, other school employees, or other similarly qualified individuals to provide instruction and training under this section. Instruction is not required to result in certification in cardiopulmonary resuscitation or the use of an automated external defibrillator. If instruction is intended to result in certification in cardiopulmonary resuscitation or the use of an automated external defibrillator, the course instructor must be authorized to provide the instruction by the American Heart Association, the American Red Cross, or a similar nationally recognized association.

A school administrator may waive this curriculum requirement for an eligible student with a disability.

Education Code 28.0023.

Sec. 8 FENTANYL ABUSE PREVENTION AND DRUG POISONING AWARENESS
EDUCATION

Richard Milburn Academy shall annually provide research-based instruction related to fentanyl abuse prevention and drug poisoning awareness to students in grades 9 through 12. The instruction required by this section must include:

1. Suicide prevention;
2. Prevention of the abuse of and addiction to fentanyl;
3. Awareness of local school and community resources and any processes involved in accessing those resources; and

4. Health education that includes information about substance use and abuse, including youth substance use and abuse.

The instruction required by this section may be provided by an entity or an employee or agent of an entity that is:

1. A public or private institution of higher education;
2. A library;
3. A community service organization;
4. A religious organization;
5. A local public health agency; or
6. An organization employing mental health professionals.

Education Code 38.040.

Sec. 9. SCHOOL CALENDAR

The Superintendent shall develop a school calendar reflecting Richard Milburn Academy's operations in accordance with the requirements of the charter contract. The Superintendent or designee shall distribute the school calendar to all students and parents.

Sec. 10. RECOGNITION DATES

Richard Milburn Academy will regularly observe the following recognition days, weeks, and months by appropriate activities in public schools:

Hydrocephalus Awareness Month: September is Hydrocephalus Awareness Month to:

1. Increase public awareness of hydrocephalus; and
2. Encourage the development of partnerships between the federal government, health care professionals, and patient advocacy groups to advance the public's understanding of the condition, improve the diagnosis and treatment of the condition, and support research for a cure.

Gov't Code 622.106.

Texas History Month: March is Texas History Month in honor of those Texans who helped shape the history of the State of Texas and in recognition of events throughout Texas' history. Texas History Month shall be regularly observed by appropriate celebrations and activities in public schools to promote interest in and knowledge of Texas history. *Gov't Code 662.102.*

Celebrate Freedom Week: To educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the week in which September 17 falls is designated as Celebrate Freedom Week. *Education Code 29.907.*

Generation Texas Week: To educate middle school and high school students about the importance of higher education, the Superintendent shall designate one week during the school year as Generation Texas Week. The Superintendent shall designate one week during the school year as Generation Texas Week for all high

school students attending Richard Milburn Academy.

During the designated week, each school shall provide students with comprehensive grade- appropriate information regarding the pursuit of higher education. The information provided must include information regarding:

1. Higher education options available to students;
2. Standard admission requirements for institutions of higher education, including:
 - a. Overall high school grade point average;
 - b. Required curriculum;
 - c. College readiness standards and expectations as determined under Education Code 28.008; and
 - d. Scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;
3. Automatic admission of certain students to general academic teaching institutions as provided by Education Code 51.803; and
4. Financial aid availability and requirement, including the financial aid information provided under Education Code 33.007(b).

Additionally, each high school shall provide to the students during the designated week at least one public speaker to promote the importance of higher education.

Education Code 29.911.

Holocaust Remembrance Week: The governor shall designate a week to be known as “Holocaust Remembrance Week” in public schools to educate students about the Holocaust and inspire a sense of responsibility to recognize and uphold human value and to prevent future atrocities.

Holocaust Remembrance Week shall include age-appropriate instruction, as determined by Richard Milburn Academy:

1. Information about the history of and lessons learned from the Holocaust;
2. Participation, in person or using technology, in learning projects about the Holocaust; and
3. The use of materials developed or approved by the Texas Holocaust and Genocide Commission.

Education Code 29.9072.

American Indian Heritage Day: The last Friday in September is American Indian Heritage Day in recognition of the historic, cultural, and social contributions American Indian communities and leaders have made to this state. American Indian Heritage Day shall be regularly observed by appropriate ceremonies, activities, and programs in public schools to honor American Indians in this state and to celebrate the rich traditional and contemporary American Indian culture. *Gov’t Code 662.056.*

Constitution Day: Upon receipt of federal funds, Richard Milburn Academy shall recognize September 17 as Constitution Day and hold an educational program on the United States Constitution for students served by Richard Milburn Academy. *Pub. L. 108-447.*

Father of Texas Day: November 3 is Father of Texas Day in memory of Stephen F. Austin. Father of Texas Day shall be regularly observed by appropriate and patriotic programs in public schools to properly

commemorate the birthday of Stephen F. Austin and to inspire a greater love for this state. *Gov't Code 662.045.*

Public School Paraprofessional Day: The second Wednesday in May of each year is Public School Paraprofessional Day in recognition of education paraprofessionals including teacher assistants, instructional aides, educational trainers, library attendants, bilingual assistants, special education associates, mentors, and tutors. Public School Paraprofessional Day shall be regularly observed by appropriate ceremonies and activities in public schools to properly recognize the paraprofessionals who have made tremendous contributions to the educational process. *Gov't Code 662.049.*

Sam Rayburn Day: January 6 is Sam Rayburn Day in memory of the Texas and American statesman, Sam Rayburn. Sam Rayburn Day shall be regularly observed by appropriate programs in public schools to commemorate the birthday of Sam Rayburn. *Gov't Code 662.041.*

September 11: To commemorate the events of September 11, 2001, in each year that date falls on a regular school day, each public elementary or secondary school shall provide for the observance of one minute of silence at the beginning of the first class period of that day. Immediately before the period of observance required by this section, the class instructor shall make a statement of reference to the memory of individuals who died on September 11, 2001. The period of observance required by this section may be held in conjunction with the minute of silence required by Section 25.82. *Education Code 25.0821.*

State of Texas Anniversary Remembrance Day: February 19 is State of Texas Anniversary Remembrance Day (STAR Day) in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the State of Texas in 1846. STAR Day shall be regularly observed by appropriate and patriotic programs in the public schools to properly commemorate the annexation of this state and to inspire a greater appreciation for the history of this state. *Gov't Code 662.047.*

Texas First Responders Day: September 11 is Texas First Responders Day in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies. Texas First Responders Day shall be regularly observed by appropriate ceremonies in public schools to honor Texas first responders. *Gov't Code 662.050.*

Texas Fruit and Vegetable Day: The first Friday in April is designated as Texas Fruit and Vegetable Day in public schools to promote awareness of the health benefits of fruits and vegetables and to encourage students to consume more fruits and vegetables during Texas Fruit and Vegetable Month. Texas Fruit and Vegetable Day shall include appropriate instruction, as determined by Richard Milburn Academy.

Education Code 29.9073.

Texas Military Heroes Day: The governor shall designate a day to be known as Texas Military Heroes Day in public schools to educate students about the sacrifices made by Texans who have served in the armed forces of the United States. Texas Military Heroes Day will include appropriate instruction, as determined by Richard Milburn Academy. Instruction may include:

1. Information about persons who have served in the armed forces of the United States and are from the community or the geographic area in which Richard Milburn Academy is located; and
2. Participation, in person or using technology, in age-appropriate learning projects at battlefields and gravesites associated with a person who has served in the armed forces.

Education Code 29.9071.

Women's Independence Day: August 26 is Women's Independence Day to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote. Women's Independence Day shall be regularly observed by appropriate programs in the public schools to inspire a greater appreciation of the importance of women's suffrage. *Gov't Code 662.051.*

Sec. 11. EXERCISE OF CONSTITUTIONAL RIGHT TO PRAY

Each Richard Milburn Academy student has an absolute right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school. A person shall not require, encourage, or coerce a student to engage in or refrain from such prayer or meditation during any school activity. *Education Code 25.901*

PG.-2.103 ACADEMIC ACHIEVEMENT

Sec. 1. GRADUATION REQUIREMENTS

Credit counted toward high school graduation may be earned only if the student received a grade equivalent to 70 or higher on a scale of 100, based upon the essential knowledge and skills of each course completed. Credit earned toward state graduation requirements in an accredited school district shall be transferable and must be accepted by any other school in the state.

Sec. 2. ACADEMIC ACHIEVEMENT RECORD

Richard Milburn Academy shall use the academic achievement record (transcript) form designated by the Commissioner of Education ("Commissioner"). This form shall serve as the academic record for each student and shall be maintained permanently by Richard Milburn Academy.

Any credit earned by a student must be recorded on the academic achievement record, regardless of when the credit was earned. A student's performance on a state assessment, including an end-of-course assessment instrument required under Education Code 39.023(c), must be included in the student's academic achievement record.

Copies of the academic achievement record shall be made available to students transferring to another public school. Richard Milburn Academy shall respond promptly to all requests for student records from receiving schools.

Education Code § 28.025(e); 19 TAC § 74.5(b)-(d).

a) Transcript Seals

A student who completes high school graduation requirements shall have attached to the academic achievement record the State Board-approved seal. *19 TAC § 74.5(e).*

b) Endorsement

A student who completes the requirements for an endorsement shall have the endorsement clearly indicated on the academic achievement record. *19 TAC § 74.5(f).*

c) Performance Acknowledgment

A student who earns a performance acknowledgment shall have the performance acknowledgment clearly indicated on the academic achievement record. *19 TAC § 74.5(g)*.

d) Distinguished Level of Achievement

A student who earns the distinguished level of achievement shall have the distinguished level of achievement clearly indicated on the academic achievement record and on the diploma. *19 TAC § 74.5(h)*.

e) Completion of Speech Requirements

A student who demonstrates proficiency in speech as specified in 19 Texas Administrative Code § 74.11 shall have completion of the speech requirement clearly indicated on the academic achievement record. *19 TAC § 74.5(i)*.

f) Completion of CPR Instruction

A student who completes instruction in cardiopulmonary resuscitation (CPR) as specified in 19 Texas Administrative Code § 74.38 in grade 9, 10, 11, or 12 shall have completion of the CPR instruction clearly indicated on the academic achievement record. *19 TAC § 74.5(j)*.

g) Proper Interaction with Peace Officers

A student who completes the required instruction on proper interaction with peace officers shall have completion of the instruction clearly indicated on the academic achievement record. *19 TAC § 74.5(k)*.

h) Languages Other than English

A student who satisfies a graduation credit requirement related to a language other than English by successfully completing a dual language immersion program at an elementary school as specified in 19 Texas Administrative Code § 74.12(b)(5)(F) shall have the credit clearly indicated on the academic achievement record. *19 TAC § 74.5(l)*.

i) Certificate of Coursework Completion

A student who completes all graduation requirements except for required end-of-course assessment instruments may be issued a certificate of coursework completion. The academic achievement record shall include a notation of the date a certificate of completion was issued to the student. *19 TAC § 74.5(m)*.

Richard Milburn Academy may allow a student who receives a certificate to participate in a graduation with students receiving high school diplomas.

PG.-2.104 GRADUATION REQUIREMENTS

Sec. 1. COURSE AND DIPLOMA REQUIREMENTS

A student may graduate and receive a diploma only if:

1. The student successfully completes the curriculum requirements identified by the State Board of Education and complies with requirements related to financial aid applications for high school graduation and secondary-level performance on end-of-course assessments;
2. The student successfully completes the Texas First Early High School Completion Program; or
3. The student successfully completes an individualized education program.

Education Code 28.025(c), 28.0253

a) Individual Graduation Committee

Without complying with the requirements discussed above, certain students may receive a diploma if the student is eligible for a diploma as determined by an individual graduation committee (IGC) in accordance with the guidelines below.. *Education Code 25.025(c-6), .0258.*

For each 11th or 12th grade student who has failed to comply with end-of-course (EOC) assessment instrument performance requirements for not more than two courses, Richard Milburn Academy shall establish an IGC at the end of or after the student's 11th grade year to determine whether the student may qualify to graduate. An IGC may not qualify a student to graduate before the student's 12th grade year.

The IGC shall be composed of:

1. The Principal or Principal's designee;
2. For each EOC assessment instrument on which the student failed to perform satisfactorily, the teacher of the course;
3. The department chair or lead teacher supervising the teacher(s) described above; and
4. As applicable:
 - a. The student's parent;
 - b. A designated advocate if the parent is unable to serve; or
 - c. The student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

Richard Milburn Academy shall provide an appropriate translator, if available, for a parent, advocate, or student who is unable to speak English.

Education Code 28.0258(a)-(c), (c-2); 19 TAC 74.1025.

b) Notice

Richard Milburn Academy shall ensure a good faith effort is made to timely notify the appropriate person(s) described under Sec. 1-a, Item 4 of the time and place for concerning the IGC and the purpose of the IGC. The notice must be:

1. Provided in person or by regular mail or e-mail;
2. Clear and easy to understand; and
3. Written in English, in Spanish, or, to the extent practicable, in the native language of the appropriate person(s).

Education Code 28.0258(d).

c) Eligibility to Graduate

To be eligible to graduate and receive a high school diploma as determined by an IGC, a student must successfully complete the curriculum requirements for high school graduation identified by the State Board of Education.

A student's IGC shall also recommend additional requirements by which the student may qualify to graduate, including:

1. Additional remediation; and
2. For each EOC assessment instrument on which the student failed to perform satisfactorily:
 - a. The completion of a project related to the subject area of the course that demonstrates proficiency in the subject area; or
 - b. The preparation of a portfolio of work samples in the subject area of the course, including work samples from the course that demonstrate proficiency in the subject area.

A student may submit to the IGC coursework previously completed to satisfy a recommended additional requirement.

Education Code 28.0258(f), (g).

The IGC will consider the criteria at Education Code 28.0258(h) and any other academic information designated for consideration by the State Board of Education in determining whether a student is qualified to graduate. After considering the criteria, the IGC may determine that the student is qualified to graduate. A student may graduate and receive a diploma on the basis of the IGC's decision only if the student successfully completes all additional requirements recommended by the IGC, the student meets applicable curriculum requirements, and the IGC's vote is unanimous. The IGC's decision is final and may not be appealed. *Education Code 28.0258(i).*

Sec. 2. GRADUATION REQUIREMENTS FOR STUDENTS ENTERING GRADE 9 IN OR AFTER THE 2014–2015 SCHOOL YEAR

To receive a high school diploma, a student entering grade 9 in the 2014–2015 school year and thereafter must complete:

1. Requirements of the foundation high school program under 19 Administrative Code 74.12 (see Sec. 2-a, "Foundation High School Program," below);
2. Testing requirements for graduation under 19 Administrative Code Chapter 101; and
3. Demonstrated proficiency, as determined by Richard Milburn Academy, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.

A student shall enroll in the courses necessary to complete the curriculum requirements for the foundation high school program specified in 19 Administrative Code 74.12 and the curriculum requirements for at least one endorsement.

Education Code 28.025(c); 19 TAC 74.11(a), (c).

a) Foundation High School Program

A student must earn at least 22 credits to complete the foundation high school program and must demonstrate proficiency in the following core courses:

1. English language arts—4 credits;
2. Mathematics—3 credits;
3. Science—3 credits;
4. Social Studies—3 credits;
5. Languages other than English—2 credits;
6. Physical Education—1 credit;
7. Fine Arts—1 credit; and
8. Elective courses—5 credits.

19 TAC 74.12.

b) Endorsements

A student shall specify in writing an endorsement the student intends to earn upon entering grade

9. A student may earn any of the following endorsements:

1. Science, technology, engineering, and mathematics (STEM);
2. Business and industry;
3. Public services;
4. Arts and humanities; and
5. Multidisciplinary studies.

Richard Milburn Academy must make at least one endorsement available to students. If Richard Milburn Academy offers only one endorsement, its curriculum must offer multidisciplinary studies.

To earn an endorsement a student must demonstrate proficiency in the curriculum requirements for the foundation high school program and, in accordance with 19 Administrative Code 74.13(e), earn:

1. A fourth credit in mathematics;
2. An additional credit in science; and
3. Two additional elective credits.

A course completed as part of the four courses needed to satisfy an endorsement requirement may also satisfy a requirement under the foundation high school program, including an elective requirement. The same course may count as part of the set of four courses for more than one endorsement.

Richard Milburn Academy shall permit a student to enroll in courses under more than one endorsement before the student's junior year and to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated.

A student must earn at least 26 credits to earn an endorsement, but a student is not entitled to remain enrolled to earn more than 26 credits.

Richard Milburn Academy may define advanced courses and determine a coherent sequence of courses for an endorsement area, provided that prerequisites in 19 Administrative Code Chapters 110–118, 126, 127,

and 130 are followed.

Education Code 28.025; 19 TAC 74.13

i. Exception

A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:

1. The student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and
2. The student's parent or person standing in parental relation to the student files with a school counselor's written permission, on a form adopted by Texas Education Agency, allowing the student to graduate under the foundation high school program without earning an endorsement.

19 TAC 74.11(d).

c) Distinguished Level of Achievement

A student may earn a distinguished level of achievement by successfully completing the curriculum requirements for the foundation high school program and the curriculum requirements for at least one endorsement, including four credits in science and four credits in mathematics, including Algebra II. *19 TAC 74.11(e).*

d) Texas First Early High School Completion Program

Richard Milburn Academy shall allow a student to graduate and receive a high school diploma under the Texas First Early High School Completion Program (the "Program") if, using the standards established under Education Code Section 28.0253(c), the student demonstrates mastery of and early readiness for college in each of the subject areas described by Section 28.0253(c) and in a language other than English, notwithstanding any other local or state requirements. A student who earns a high school diploma through the Program is considered to have earned a distinguished level of achievement under the foundation high school program adopted under Section 28.025.

Education Code Section 28.0253(a)-(f).

1. On a student's initial enrollment in high school in a grade below grade 12, Richard Milburn Academy shall provide to the student and the student's parent or guardian information regarding the requirements to earn a high school diploma under the Program; and
2. the Texas First Scholarship Program established under Subchapter K-1, Chapter 56.

Education Code Section 28.0253(g).

e) Prerequisites

A student may not be enrolled in a course that has a required prerequisite unless:

1. The student has successfully completed the prerequisite course(s);
2. The student has demonstrated equivalent knowledge as determined by Richard Milburn Academy;

or

3. The student was already enrolled in the course in an out-of-state, an out-of-country, or a Texas nonpublic school and transferred to a Texas public school prior to successfully completing the course.

Richard Milburn Academy may award credit for a course a student completed without having met the prerequisites if the student completed the course in an out-of-state, an out-of-country, or a Texas nonpublic school where there was not a prerequisite.

19 TAC 74.11(i), (j).

f) College Courses

Courses offered for dual credit at or in conjunction with an institution of higher education that provide advanced academic instruction beyond, or in greater depth than, the essential knowledge and skills for the equivalent high school course required for graduation may satisfy graduation requirements, including requirements for required courses, advanced courses, and courses for elective credit as well as requirements for endorsements. *19 TAC 74.11(h).*

g) Languages Other than English

Students may earn credit for language other than English in accordance with 19 Administrative Code 74.12(b)(5). A student who successfully completes a dual language immersion program may satisfy one credit of the two credits required in a language other than English in accordance with 19 Administrative Code 74.12(b)(5)(F). *19 TAC 74.12(b)(5).*

h) Physical Education Substitutions

To the extent permitted by state rules applicable to the student's graduation program, Richard Milburn Academy shall award state graduation credit in physical education for participation in approved activities and elective courses.

Richard Milburn Academy shall award state graduation credit in physical education for appropriate private or commercially sponsored physical activity programs conducted either on or off campus, upon approval by the Commissioner of Education ("Commissioner").

A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, social studies or a course that is offered for credit as provided by Education Code 28.002(g-1) for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's admission, review and dismissal ("ARD") committee if the student receives special education services;
2. The student's Section 504 Committee, if the student does not receive special education services under Education but is covered by Section 504; or
3. A committee, established by Richard Milburn Academy, of persons with appropriate knowledge

regarding the student if each of the committees described above is inapplicable. This committee must follow the same procedures required of an ARD or a Section 504 Committee.

Education Code 28.025(b-10)–(b-11); 19 TAC 74.12(b)(6).

i) Community-Based Fine Arts Programs

In accordance with local Richard Milburn Academy policy, the required fine arts credit may be earned through participation in a community-based fine arts program not provided by Richard Milburn Academy. Such credit may be earned through participation in the community-based fine arts program only if the program meets each of the following requirements:

1. Richard Milburn Academy must apply to the Commissioner for approval of the community-based fine arts program;
2. The State Board of Education must certify that the program provides instruction in the essential knowledge and skills for fine arts as defined by 19 Administrative Code Chapter 117, Subchapter C;
3. Richard Milburn Academy must document student completion of the approved activity;
4. The program must be organized and monitored by appropriately trained instructors;
5. The fine arts program may be provided on or off a school campus and outside the regular school day; and
6. Students may not be dismissed from any part of the regular school day to participate in the community-based fine arts program.

Richard Milburn Academy shall require that instructors of the community-based fine arts program provide Richard Milburn Academy, at its request, the information necessary to obtain the criminal history record information required for school personnel in accordance with 19 Administrative Code Chapter 153, Subchapter DD, if the community-based program is offered on campus.

Education Code 28.025(b-9); 19 TAC 74.12(b)(7)(B), .1030.

j) Performance Acknowledgments

In accordance with the requirements of 19 Administrative Code 74.14, a student may earn a performance acknowledgment on the student's transcript for:

1. Outstanding performance:
 - a. In a dual credit course;
 - b. In bilingualism and bi-literacy;
 - c. On a College Board advanced placement test or international baccalaureate examination;
 - d. On an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace (PSAT/ACT-Plan); or
 - e. On an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process (SAT/ACT); or
2. Earning a state-recognized or nationally or internationally recognized business or industry certification or license.

Education Code 28.025(c-5); 19 TAC 74.14.

Sec. 3. TRANSFERS FROM OUT-OF-STATE OR NONPUBLIC SCHOOLS

An out-of-state or out-of-country transfer student (including foreign exchange students) or a transfer student from a Texas nonpublic school is eligible to receive a Richard Milburn Academy diploma, but must complete all applicable high school graduation requirements. Any course credits required for graduation that are not completed before enrollment may be satisfied through credit by examination, correspondence courses, distance learning, or completing the course, according to the provisions of 19 Administrative Code 74.26. *19 TAC 74.51(f), .61(i).*

Sec. 4. STUDENTS RECEIVING SPECIAL EDUCATION SERVICES

a) Definitions

“Modified curriculum” and “modified content” refer to any reduction of the amount or complexity of the required knowledge and skills in 19 Administrative Code Chapters 110–118, 126–128, and 130. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content. *19 TAC 89.1070(l).*

“Employability and self-help skills” are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment. *19 TAC 89.1070(j).*

b) Summary of Academic Achievement and Evaluation

All students graduating must be provided with a summary of academic achievement and functional performance as described in 34 C.F.R. 300.305(e)(3). This summary must consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. An evaluation as required by 34 C.F.R. 300.305(e)(1) (evaluation to determine that the child is no longer a child with a disability), must be included as part of the summary for a student graduating under 19 Administrative Code 89.1070(b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C). Students who participate in graduation ceremonies but who are not graduating under subsections (b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C) and who will remain in school to complete their education do not have to be evaluated. *19 TAC 89.1070(h), (i).*

c) Students Entering Grade 9 In or After the 2014-2015 School Year

A student entering grade 9 in the 2014–2015 school year and thereafter who receives special education services may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

1. The student has demonstrated mastery of the required state standards (or Richard Milburn Academy standards if greater) in 19 Administrative Code Chapters 110-118, 126–128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program specified in 19 Administrative Code 74.12 applicable to students in general education as well as satisfactory performance on the required state assessments, unless the student’s ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation.
2. The student has demonstrated mastery of the required state standards (or Richard Milburn Academy standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and

satisfactorily completed credit requirements for graduation under the foundation high school program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to students in general education, as well as satisfactory performance on the required state assessments, unless the student's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation. The student must also successfully complete the student's Individualized Education Program ("IEP") and meet one of the following conditions:

- a. Consistent with the IEP, the student has obtained fulltime employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of Richard Milburn Academy.
- b. Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of Richard Milburn Academy.
- c. The student has access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.
- d. The student no longer meets age eligibility requirements.

When a student receives a diploma under item 2(a), (b), or (c), above, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

19 TAC 89.1070(b), (k).

d) Endorsements

A student enrolled in a special education program may earn an endorsement on his or her transcript by:

1. Successfully completing, with or without modification of the curriculum:
 - a. The curriculum requirements identified by the State Board of Education for the foundation high school program; and
 - b. The additional endorsement curriculum requirements prescribed by the State Board of Education; and
2. Successfully completing all curriculum requirements for the endorsement adopted by the State Board of Education:
 - a. Without modification of the curriculum; or
 - b. With modification of the curriculum, provided that the modified curriculum is sufficiently rigorous as determined by the student's ARD committee.

The ARD committee shall determine whether the student is required to achieve satisfactory performance on an EOC instrument to earn an endorsement on the student's transcript.

Education Code 28.025(c-7)-(c-8).

Sec. 5. GRADUATION OF MILITARY DEPENDENTS

a) Course Waiver Requirements

Richard Milburn Academy shall waive specific courses required for graduation if similar coursework has

been satisfactorily completed by a military student in another district, or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, Richard Milburn Academy shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

b) Transfers During Senior Year

Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from Richard Milburn Academy after all alternatives have been considered, the sending district and Richard Milburn Academy shall ensure the receipt of a diploma from the sending district, if the student meets the graduation requirements of the sending district.

c) Passing Standard Substitutions

Richard Milburn Academy may utilize a substitute passing standard adopted by the Commissioner on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for completing a specific course otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in Texas for the first time after completing the ninth grade or who reenrolls in a Texas public school at or above the tenth grade level after an absence of at least two years from Texas public schools. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, §§ A, C.

Sec. 6. GRADUATION OF A STUDENT WHO IS HOMELESS OR IN CONSERVATORSHIP OF DFPS

If an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to Richard Milburn Academy and the student is ineligible to graduate from Richard Milburn Academy, the public school from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the school from which the student transferred. *Education Code 28.025(i).*

PG.-2.105 MAKE UP WORK

Students shall be permitted to make up assignments and tests following any absence. Students shall receive a zero for any assignment or test not made up within the allotted time.

Teachers may assign additional work to ensure that students who have been absent have sufficient opportunity to master the Texas Essential Knowledge and Skills (TEKS) or to meet subject or course requirements. The assignments shall be based on the instructional objectives for the subject or course and may provide greater depth of subject matter than routine make-up work.

Sec. 1. TESTS AND MAKEUP WORK

Students shall be permitted to make up assignments and tests following any absence.

Teachers may assign additional work to ensure that students who have been absent have

sufficient opportunity to master the TEKS or to meet subject or course requirements. The assignments shall be based on the instructional objectives for the subject or course and may provide greater depth of subject matter than routine makeup work.

A student shall be responsible for obtaining and completing the make-up work in a satisfactory manner and within the time specified by the teacher.

Sec. 2. LATE PROJECTS

Teachers may assign a late penalty to any project turned in after the due date. Late projects will be accepted within the grading period without penalty with an excused absence. All late work will be graded and added to the grade book. Five points per week will be deducted from each assignment. An action plan to complete all missed assignments will be created by the teacher.

RMA will ensure that the student and parent are notified in writing concerning penalties for late projects.

PG.-2.106 CAREER AND TECHNOLOGY EDUCATION

Sec. 1. CAREER AND TECHNOLOGY PROGRAM

The Board may conduct and supervise career and technology classes and other educational programs for students and spend local maintenance funds for the cost of those classes and programs. In developing a career and technology program, the Board shall consider the state plan for career and technology education. *Education Code 29.183.*

Sec. 2. DISTINGUISHED ACHIEVEMENT IN CAREER AND TECHNOLOGY EDUCATION

The Board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum and under which a student may:

1. Receive specific education in a career and technology profession that leads to postsecondary education or meets or exceeds business or industry standards; and
2. Obtain from Richard Milburn Academy an award for distinguished achievement in career and technology education and a stamp or other notation on the student's transcript that indicates receipt of the award.

An award granted under this provision is not in lieu of a diploma or certificate of coursework completion.

a) Contracts with Other Entities

The Board may contract with an entity identified in Education Code 29.184(a) for assistance in developing the program or providing instruction to students participating in the program. The Board may also contract with a local business or a local institution of higher education for assistance in developing or operating a career and technology education program. A program may provide education in areas of technology unique to the local area. *Education Code 29.187.*

b) Insurance

If a business that contracts with Richard Milburn Academy obtains any insurance related to the student other than liability insurance, any proceeds of the insurance must be used for the benefit of the student and the student's family. *Education Code 29.187(g).*

Sec. 3. PROVIDING CAREER AND TECHNICAL EDUCATION

The following provisions apply only if Richard Milburn Academy receives federal career and technical education funds. *19 TAC 75.1021.*

a) Students with Disabilities

A student with a disability shall be provided career and technical education in accordance with all applicable federal law and regulations including the Individuals with Disabilities Education Act (“IDEA”) and its implementing regulations, state statutes, and rules of the State Board of Education and the Commissioner of Education (“Commissioner”).

A student with a disability shall be instructed in accordance with the student’s Individualized Education Program (“IEP”), in the least restrictive environment, as determined by the student’s admission, review and dismissal (“ARD”) committee. If a student with a disability is unable to receive a free appropriate public education (educational benefit) in a regular career and technical education program, using supplementary aids and services, the student may be served in separate programs designed to address the student’s occupational/training needs, such as career and technical education for students with disabilities.

A student with a disability identified in accordance with the IDEA is an eligible participant in career and technical education when the following requirements are met:

1. The ARD committee shall include a representative from career and technical education, preferably the teacher, when considering initial or continued placement of a student in career and technical education program;
2. Planning for the student shall be coordinated among career and technical education, special education, and state rehabilitation agencies and should include a coherent sequence of courses;
3. Richard Milburn Academy shall monitor to determine if the instruction being provided to a student with a disability in career and technical education classes is consistent with the student’s IEP;
4. Richard Milburn Academy shall provide supplementary services that each student with a disability needs to successfully complete a career and technical education program, such as curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices;
5. Richard Milburn Academy shall help fulfill the transitional service requirements of the IDEA and implementing regulations, state statutes, and rules of the Commissioner for each student with a disability who is completing a coherent sequence of career and technical education courses.
6. When determining placement in a career and technical education classroom, the ARD committee shall consider a student’s graduation plan, the content of the individual transition plan, the IEP, including the consideration of transition services, and classroom supports. Enrollment numbers should not create a harmful effect on student learning for a student with or without disabilities in accordance with the provisions in the IDEA and its implementing regulations.

19 TAC 75.1023.

b) Student Organizations

Richard Milburn Academy may use federal career and technical education funds to provide opportunities for student participation in approved student leadership organizations and assist career and technical student organizations in accordance with all applicable federal and state laws, rules, and regulations. However, students shall not be required to join such an organization. Student participation in career and technical

student organizations shall be governed in accordance with 19 TAC Chapter 76 (relating to extracurricular activities).

The following career and technical student organizations are recognized by the U.S. Department of Education and the TEA:

1. Business Professionals of America (BPA);
2. DECA;
3. Future Business Leaders of America (FBLA);
4. Future Educators Association (FEA);
5. FFA;
6. Family, Career, and Community Leaders of America (FCCLA);
7. Health Occupations Students of America (HOSA);
8. Technology Student Association (TSA); and
9. Skills USA.

19 TAC 75.1024.

c) Program Evaluation

Richard Milburn Academy shall annually evaluate its career and technical education programs.

19 TAC 75.1025.

d) Annual Notification

Prior to the beginning of each school year, the Superintendent shall advise students, parents, employees, and the general public that all career and technical education opportunities will be offered without regard to race, color, national origin, sex, or disability. Such notification shall comply with the guidelines provided by the *Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap*, published by the Office for Civil Rights.

PG.-2.107 COMPENSATORY INSTRUCTION

Sec. 1. COMPENSATORY SERVICES IN GENERAL

Students at all grade levels who have been identified as being at-risk of dropping out of school, who are not performing at grade level, or who did not perform satisfactorily on a state-mandated assessment will be provided accelerated and/or compensatory educational services in accordance with applicable law and based on needs assessment. Principals are responsible for ensuring that each identified student receives such appropriate accelerated and/or compensatory services.

The services provided to each identified student shall be consistent with Richard Milburn Academy's goals and strategies for assisting students in need of academic assistance, and shall be reviewed for effectiveness at the close of each grading period.

Parents shall be encouraged to participate in the planning of educational services for their child and shall be kept informed regarding the child's progress toward educational goals. Parents of students who are not successful in meeting requirements for promotion shall be informed of any available options, such as an extended year program or summer school.

Sec. 2. COMPENSATORY EDUCATION ALLOTMENT

On a schedule adopted by the Commissioner of Education (“Commissioner”), Richard Milburn Academy shall report to the Texas Education Agency (“TEA”) the census block group in which each student enrolled in Richard Milburn Academy who is educationally disadvantaged resides. *Education Code 48.104(i)*.

a) *Use*

At least 55% of Richard Milburn Academy’s compensatory education funds must be used to:

1. Fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Education Code Chapter 39, Subchapter B or disparity in the rates of high school completion between:
 - a. Students who are educationally disadvantaged and students who are not educationally disadvantaged; and
 - b. Students at risk of dropping out of school and all other students; or
2. Support a program eligible under Title I of the ESEA and its subsequent amendments, and by federal regulations implementing the ESEA.

Education Code 48.104(i), (k).

Sec. 3. DROPOUT PREVENTION STRATEGIES

Upon request from the Commissioner, Richard Milburn Academy shall submit a plan describing the manner in which Richard Milburn Academy intends to use its compensatory education allotment for developing and implementing research-based strategies for dropout prevention.

Richard Milburn Academy shall submit its plan no later than December 1 of each school year preceding the school year in which Richard Milburn Academy will receive the compensatory education allotment to which the plan applies.

Richard Milburn Academy may not spend or obligate more than 25% of its compensatory education or high school allotment without approval by the Commissioner.

A plan required by the Commissioner shall:

1. Design a dropout recovery plan that includes career and technology education courses or technology applications courses that lead to industry or career certification;
2. Integrate into the dropout recovery plan research-based strategies to assist students in becoming able academically to pursue postsecondary education, including:
 - a. High-quality, college readiness instruction with strong academic and social supports;
 - b. Secondary to postsecondary bridging that builds college readiness skills, provides a plan for college completion, and ensures transition counseling; and
 - c. Information concerning appropriate supports available in the first year of postsecondary enrollment to ensure postsecondary persistence and success, to the extent funds are available for that purpose; and
3. Plan to offer advanced academic and transition opportunities, including dual credit courses and college preparatory courses, such as advanced placement courses.

Richard Milburn Academy may enter into a partnership with a public junior college in order to fulfill a

plan, in accordance with Education Code 29.402.

Any program designed to fulfill a plan must comply with the requirements of Education Code 29.081(e) and (f).

Education Code 29.918.

Sec. 4.. INTENSIVE PROGRAM OF INSTRUCTION

a) State Assessments

Richard Milburn Academy shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument or is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by Richard Milburn Academy. The program shall be designed to:

1. Enable the student to:
 - a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or
 - b. Attain a standard of annual growth specified by Richard Milburn Academy and reported by Richard Milburn Academy to TEA; and
2. If applicable, carry out the purposes of Education Code 28.0211.

b) Students Receiving Special Education Services

For a student in a special education program who does not perform satisfactorily on a state assessment instrument, the student's admission, review, and dismissal committee shall design the program to:

1. Enable the student to attain a standard of annual growth on the basis of the student's individualized education program; and
2. If applicable, carry out the purposes of Education Code 28.0211.

c) Graduation Requirements

Richard Milburn Academy shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.

d) Final Determination

Richard Milburn Academy's determination of the appropriateness of an intensive program of instruction for a student is final.

Education Code 28.0213.

PG.-2.108 CREDIT BY EXAMINATION

Sec. 1. CREDIT BY EXAMINATION (WITH PRIOR INSTRUCTION)

The Principal (or a student's attendance committee, as applicable) has authority to offer a student in any of grades 9–12 credit for an academic subject in which the student had some prior instruction if the student scores 70% on a criterion-referenced test approved by the Board for the particular course. In order to obtain credit by examination with prior instruction, a student in any of grades 9–12 must also satisfy the following local requirements:

1. A student who has previously taken a course – but did not receive credit for it – may, in circumstances determined by the Principal and Response to Intervention (RTI) committee, be permitted to earn credit by passing an exam on the essential knowledge and skills defined for that course or subject. Prior instruction may include, for example, incomplete coursework due to a failed course or excessive absences, homeschooling, or coursework by a student transferring from a non-accredited school. The student must score at least 70 on the exam to receive credit for the course or subject.

Any criterion-referenced test approved by the Board shall assess the student's mastery of the essential knowledge and skills and shall be administered according to established Richard Milburn Academy procedures.

Prior to offering a student an opportunity to demonstrate mastery or earn credit by this method, an appropriate Richard Milburn Academy employee shall review the student's records to determine whether the student has had prior instruction in the subject or course.

19 TAC 74.24(c)(12).

Sec. 2. CREDIT BY EXAMINATION (WITHOUT PRIOR INSTRUCTION)

With Board approval, Richard Milburn Academy shall develop or purchase examinations for acceleration that thoroughly test the essential knowledge and skills for credit for secondary school academic subjects.

19 TAC 74.24(b)(1).

a) Grade 9 through Grade 12

Richard Milburn Academy shall give a student in grades 9-12 for an academic subject in which he or she has not had prior instruction if the student scores:

1. A three or higher on a College Board advanced placement examination that has been approved by the Board for the applicable course;
2. A scaled score of 50 or higher on an examination administered through the College-Level Examination Program and approved by the Board for the applicable course; or
3. 80% on any other criterion-referenced test approved by the Board for the applicable course.

19 TAC 74.24(c)(8).

For each high school course, the Board shall approve at least four examinations that shall include College Board advanced placement examinations and examinations administered through the College-Level Examinations Program. The approved examinations may include those developed by:

1. Texas Tech University;

2. The University of Texas at Austin;
3. Richard Milburn Academy; or
4. Another entity if the assessment meets all requirements under 19 TAC 74.26(c)(2).

19 TAC 74.24(c)(1)-(2).

A student may not attempt to earn credit by examination for a specific high school course more than two times. If a student fails to earn credit by examination for a specific high school course before the beginning of the school year in which the student would ordinarily be required to enroll in that course in accordance with Richard Milburn Academy's prescribed course sequence, the student must satisfactorily complete the course to receive credit for the course. *19 TAC 74.24(c)(9)-(10).*

b) Fees

Richard Milburn Academy shall not charge for a Board-approved examination for acceleration for credit for secondary school academic subjects. If a parent requests an alternative examination, Richard Milburn Academy may administer and recognize results of a test purchased by the parent or student from Texas Tech University or the University of Texas at Austin. *19 TAC 74.24(a)(3).*

PG.-2.109 DUAL CREDIT

Sec. 1. COLLEGE CREDIT PROGRAM

a) Program Requirements

If allowed by its open-enrollment charter, Richard Milburn Academy may implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. The college credit may be earned through:

1. International baccalaureate, advanced placement, or dual credit courses;
2. Articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or
3. Any combination of the courses in items 1 and 2.

The program may provide a student the opportunity to earn credit for a course or activity, including apprenticeship or training hours:

1. That satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree, and is approved by the Texas Higher Education Coordinating Board ("THECB"); and
2. For which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

A dual credit course must be:

1. In the core curriculum of the public institution of higher education providing college credit;
2. A career and technical education course; or
3. A foreign language course.

These requirements do not apply to a dual credit course offered as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

Richard Milburn Academy is not required to pay a student's tuition or other associated costs for taking a course under this policy.

Education Code 28.009.

b) Eligible Course Requirements

To be eligible for high school credit, a dual credit course must be provided by an institution of higher education that is accredited by any of the following regional accrediting associations:

1. Southern Association of Colleges and Schools;
2. Middle States Association of Colleges and Schools;
3. New England Association of Schools and Colleges;
4. North Central Association of Colleges and Schools;
5. Western Association of Schools and Colleges; or
6. Northwest Association of Schools and Colleges.

Additionally, the course shall provide advanced academic instruction beyond or in greater depth than the essential knowledge and skills for the equivalent high school course.

19 TAC 74.25.

Sec. 2. STUDENT ELIGIBILITY FOR DUAL CREDIT COURSES

A high school student is eligible to enroll in academic dual credit courses and workforce education dual credit courses as permitted by 19 Administrative Code 4.85(b). To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college's regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.). An institution may impose additional requirements for enrollment in courses for dual credit.
19 TAC 4.85(b).

a) Partnership Programs

An eligible student may enroll in a partnership program with a Texas college or university in accordance with an agreement between Richard Milburn Academy and the college or university. Richard Milburn Academy shall award credit toward high school graduation in accordance with the agreement between Richard Milburn Academy and the college or university.

b) Other College-Level Courses

Richard Milburn Academy may award a student credit for completing a college-level course at an accredited college or university that is not in a partnership program with Richard Milburn Academy. Award of credit shall be based on administrator approval in accordance with guidelines established by the Superintendent or designee.

c) Texas Virtual School Network

According to guidelines established by the Texas Virtual School Network (TxVSN) and the course provider,

Richard Milburn Academy may enroll a student in college-level courses through the TxVSN. When the student successfully completes a course, credit shall be applied toward graduation requirements.

Sec. 3. ATTENDANCE ACCOUNTING

The time that a student attends a dual credit course, including a course provided under the college credit program, shall be counted as part of the minimum instructional hours required for a student to be considered a full-time student in average daily attendance. *Education Code 48.005(g)*.

Additionally, the Commissioner of Education may approve instructional programs provided off campus by an entity other than Richard Milburn Academy in which participation by a student may be counted for purposes of determining average daily attendance. *Education Code 48.007(a)*.

Richard Milburn Academy may adopt a policy that allows a student to participate in an off- campus instructional program. The program must be provided only by an institution of higher education that is accredited by one of the regional accrediting associations specified in 19 TAC 74.25.

To be eligible, a student must:

1. Be in grade 11 or 12;
2. Have demonstrated college readiness as outlined in the requirements for participation in dual credit programs in the Student Attendance Accounting Handbook;
3. Meet any eligibility requirements adopted by the institution of higher education; and
4. Have the approval of the Principal or other school official designated by Richard Milburn Academy.

The off-campus program must comply with rules adopted by the THECB in the Texas Administrative Code, Title 19, Part 1, with respect to teacher qualifications.

19 TAC 129.1031.

Sec. 4. ANNUAL REPORTS

Richard Milburn Academy shall annually report to the TEA:

1. The number of Richard Milburn Academy students, including career and technical students, who have participated in the program and earned college credit; and
2. The cumulative number of courses in which participating students have enrolled and college credit hours the students have earned.

Education Code 28.009(c).

PG.-2.110 GIFTED AND TALENTED PROGRAM

Sec. 1. GIFTED AND TALENTED PROGRAM

If allowed by the Richard Milburn Academy/Texas, Inc. Charter, the Superintendent shall develop a gifted and talented program that is approved by the Board and disseminated to parents. The program shall provide an array of learning opportunities for gifted/talented students in ~~kindergarten~~ 9 through grade 12 and shall

inform parents of the opportunities. Options shall include:

1. Instructional and organizational patterns that enable identified students to work together as a group, to work with other students, and to work independently;
2. A continuum of learning experiences that leads to the development of advanced-level products and performances;
3. In-school and, when possible, out-of-school options relevant to the student's area of strength that are available during the entire school year; and
4. Opportunities to accelerate in areas of strength.

19 TAC 89.1, 89.3.

For purposes of this policy, "gifted and talented student" means a child or youth who performs at or shows the potential for performing at a remarkably high level of accomplishment when compared to others of the same age, experience, or environment and who:

1. Exhibits high performance capability in an intellectual, creative, or artistic area;
2. Possesses an unusual capacity for leadership; or
3. Excels in a specific academic field.

Education Code 29.121.

Sec. 2. PROGRAM REQUIREMENTS

The program developed by the Superintendent shall incorporate the following requirements:

a) Nomination

Students may be nominated or referred for the gifted and talented program at any time by teachers, counselors, parents, or other interested persons.

b) Conferences

Conferences shall be held with nominated students and their parent(s), if appropriate, to determine if the students are interested in the program.

c) Screening and Identification Process

Assessment opportunities related to the screening and identification process for nominated and referred students shall be conducted at least once per school year.

d) Parental Consent

Written parental consent shall be obtained before any special testing or individual assessment is conducted as part of the screening and identification process. All student information collected during the screening and identification process shall be an educational record, subject to the protections of the Family Educational Rights and Privacy Act.

e) Identification

The program shall establish criteria to identify gifted and talented students. The criteria shall conform to the state definition of gifted and talented, and shall ensure the fair assessment of students with special needs, including the culturally different, the economically disadvantaged, and students with disabilities.

f) Assessments

Individual eligibility for the program shall be determined from data collected through both objective and subjective assessments measured against the criteria approved by the Board. Assessment tools may include, but are not limited to, achievement tests, creativity tests, behavioral checklists completed by teachers and parents, teacher nominations, student/parent conferences, and available student work product.

g) Selection

Each Richard Milburn Academy campus shall establish a selection committee to evaluate each nominated student according to the established criteria. The selection committee shall be composed of at least three educators who have received training in the nature and needs of gifted students. The selection committee shall select those students for whom the gifted and talented program is the most appropriate educational setting.

h) Selection Notification

Parents and students shall be notified in writing upon selection of the student for the gifted and talented program. Participation in any program or services provided for gifted students is voluntary. Richard Milburn Academy shall obtain written permission from the parent(s) before placing a student in the program.

i) Reassessment

Richard Milburn Academy shall reassess students to determine appropriate program placement when a student moves from the elementary level to the middle school level, and from the middle school level to high school.

j) Transfer Students

When a student identified as gifted by a previous Texas public school enrolls in Richard Milburn Academy, the student's records shall be reviewed by the appropriate selection committee to determine if placement in the Richard Milburn Academy gifted and talented program is appropriate. If the transferring student's records are limited or not available, or if the identification criteria for placement in the program for gifted and talented students at the previous school are not comparable to Richard Milburn Academy's, the standard procedures for identifying gifted and talented students shall be employed.

The selection committee shall make its determination within 30 days of the student's enrollment in Richard Milburn Academy, and shall base its decision on the transferred records, observation reports of Richard Milburn Academy teachers who instruct the student, and student and parent conferences.

k) Furloughs

Any student who is unable to maintain satisfactory performance or whose educational needs are not being met within the gifted and talented program may be placed on furlough. Richard Milburn Academy, a parent, or the student may initiate a furlough.

The selection committee shall document the specific reasons for granting the furlough and the time period for which the furlough shall last. At the end of a furlough, the student may reenter the program, be placed on another furlough, or be exited from the program.

l) Program Exit

Student performance in the program shall be monitored. The selection committee may exit a student from the program at any time if the selection committee determines it is in the student's best interest and his or her educational needs. If a student or parent requests removal from the program, the selection committee shall meet with the parent and student before granting the request.

m) Appeals

A parent or student may appeal a final decision of the selection committee regarding selection for or removal from the gifted and talented program. Appeals shall first be made to the selection committee. Any subsequent appeals shall be made in accordance with the policy on Parent and Student Complaints, beginning at Level One.

Sec. 3. GIFTED AND TALENTED TEACHERS

The Superintendent shall ensure that:

1. Prior to assignment in the program, teachers who provide instruction and services that are part of the program for gifted students have a minimum of 30 hours of staff development that includes nature and needs of gifted/talented students, assessing student needs, and curriculum and instruction for gifted students;
2. Teachers without the required training who provide instruction and services that are part of the gifted and talented program complete the 30-hour training requirement within one semester;
3. Teachers who provide instruction and services that are part of the program receive a minimum of six hours annually of professional development in gifted education; and
4. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

19 TAC 89.2.

Sec. 4. PROGRAM EVALUATION

The gifted and talented program shall be evaluated annually, and evaluation information shall be shared with Board members, administrators, teachers, counselors, students in the gifted and talented program, and the community. Evaluation information shall also be used to modify and update the program.

Sec. 5. COMMUNITY AWARENESS

The Superintendent shall ensure that information about the Richard Milburn Academy gifted and talented program is available to parents and community members, and that they have an opportunity to develop an understanding of and support for the program.

PG.-2.111 STATE VIRTUAL SCHOOL NETWORK

Sec. 1. TEXAS VIRTUAL SCHOOL NETWORK

The Texas Virtual School Network (“TxVSN”) is a state-led initiative for online learning authorized by Education Code Chapter 30A. The TxVSN is a partnership network administered by the Texas Education Agency (“TEA”) in coordination with regional education service centers (ESCs), Texas public school districts and charter schools, institutions of higher education, and other eligible entities. *19 TAC 70.1001(4)*.

Sec. 2. PROHIBITION ON REQUIRED ENROLLMENT

Richard Milburn Academy shall not require a student to enroll in an electronic course. *Education Code 30A.107(d)*.

Sec. 3. STUDENT ELIGIBILITY FOR TXVSN COURSES

A student is eligible to enroll in a course provided through the TxVSN only if the student:

1. On September 1 of the school year is younger than 21 years of age or younger than 26 years of age and entitled to the benefits of the Foundation School Program under Education Code 48.003;
2. Has not graduated from high school; and
3. Is otherwise eligible to enroll in a Texas public school.

A student is eligible to enroll full-time in courses provided through the TxVSN only if the student:

1. Was enrolled in a Texas public school in the preceding school year;
2. Is a dependent of a member of the United States military who has been deployed or transferred to the State of Texas and was enrolled in a publicly funded school outside of Texas in the preceding school year; or
3. Has been placed in substitute care in Texas, regardless of whether the student was enrolled in a Texas public school in the preceding school year.

a) Exception for Military Dependents

A student is eligible to enroll in one or more courses provided through the TxVSN or enroll full-time in courses provided through the TxVSN if the student:

1. Is a dependent of a member of the United States military;
2. Was previously enrolled in high school in Texas; and
3. No longer resides in the State of Texas due to a military deployment or transfer.

Education Code 30A.002; 19 TAC 70.1013.

b) Enrolled Students

A student who is enrolled in Richard Milburn Academy as a full-time student may take one or more electronic courses through the TxVSN. *Education Code 30A.107(b)*.

c) Unenrolled Students

A student who resides in Texas but is not enrolled in Richard Milburn Academy as a full-time student may, subject to Education Code 30A.155, enroll in electronic courses through the TxVSN. The student:

1. May not in any semester enroll in more than two electronic courses offered through the TxVSN;
2. Is not considered to be a public school student;
3. Must obtain access to a course provided through the TxVSN through the school district or open-enrollment charter school attendance zone in which the student resides;
4. Is not entitled to enroll in a course offered by a school district or open-enrollment charter school other than an electronic course provided through the TxVSN; and
5. Is not entitled to any right, privilege, activities, or services available to a student enrolled in a public school, other than the right to receive the appropriate unit of credit for completing an electronic course.

Education Code 30A.107(c).

d) Compulsory Attendance

Students are not required to be in physical attendance while participating in a TxVSN course. Students are considered to have met attendance requirements for a course upon successful completion of a TxVSN course. A student who has successfully completed the grade level or course is eligible to receive any weighted funding for which the student is eligible. Richard Milburn Academy shall maintain documentation to support a student's successful completion to support verification of compulsory attendance. *19 TAC 70.1001(9), .1017.*

Sec. 4. STUDENT PARTICIPATION IN THE TXVSN

The Superintendent or designee shall establish procedures for students to enroll in courses provided by the TxVSN.

Enrollment in courses through the TxVSN shall not be subject to limitations Richard Milburn Academy may impose for other distance learning courses.

Sec. 5. NOTICE

At the time and in the manner that Richard Milburn Academy informs students and parents about courses that are offered in Richard Milburn Academy's traditional classroom setting, Richard Milburn Academy shall notify parents and students of the option to enroll in an electronic course offered through the TxVSN. *Education Code 26.0031(a).*

Sec. 6. REQUESTS TO ENROLL

Except as provided below, Richard Milburn Academy may not deny the request of a parent of a full-time student to enroll the student in an electronic course offered through the TxVSN.

Richard Milburn Academy may deny a request to enroll a student in an electronic course if:

1. A student attempts to enroll in a course load that is inconsistent with the student's high school graduation plan or requirements for college admission or earning an industry certification;

2. The student requests permission to enroll in an electronic course at a time that is not consistent with the enrollment period established by the course provider; or
3. Richard Milburn Academy offers a substantially similar course.

The course provider shall make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

If a parent of a student requests permission to enroll the student in a TxVSN course, Richard Milburn Academy has discretion to select a course provider approved by TEA for the course in which the student will enroll based on factors including the informed choice report required by Education Code 30A.108(b). *Education Code 26.0031.*

a) Appeals

A parent may appeal to the Commissioner of Education (the “Commissioner”) Richard Milburn Academy’s decision to deny a request to enroll a student in an electronic course offered through the TxVSN. The Commissioner’s decision is final and may not be appealed. *Education Code 26.0031; 19 TAC 70.1008, .1035.*

b) Students with Disabilities

The determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student’s admission, review, and dismissal (“ARD”) committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act and Section 504, Rehabilitation Act of 1973. *Education Code 30A.007(b).*

Sec. 7. STUDENT ASSESSMENT

All students enrolled in the TxVSN are required to take the statewide assessments as required in Education Code 39.023. The administration of the assessment instrument to the student enrolled in the electronic course must be supervised by a proctor.

Richard Milburn Academy shall report to the Commissioner through the Public Education Information Management System (“PEIMS”) the results of assessment instruments administered to students enrolled in an electronic course offered through the TxVSN separately from the results of assessment instruments administered to other students.

Education Code 30A.110; 19 TAC 70.1023.

Sec. 8. FEES

Richard Milburn Academy may charge a fee for enrollment in an electronic course provided through the TxVSN to a student who resides in Texas and:

1. Is enrolled in Richard Milburn Academy as a full-time student with a course load greater than that normally taken by students in the equivalent grade level in other public schools; or
2. Elects to enroll in a TxVSN course for which Richard Milburn Academy declines to pay the cost as authorized by Education Code 26.0031(c-1).

Richard Milburn Academy may charge a fee for enrollment in a TxVSN course during the

summer.

Richard Milburn Academy shall charge a fee for enrollment in an electronic course provided through the TxVSN to a student who resides in Texas and is not enrolled in a school district or open-enrollment charter school as a full-time student.

A TxVSN course cost may not exceed the lesser of the cost of providing the course or \$400.

If Richard Milburn Academy is not the provider school, Richard Milburn Academy may charge a student enrolled in Richard Milburn Academy a nominal fee, not to exceed the amount specified by the Commissioner, if the student enrolls in an electronic course provided through the TxVSN that exceeds the course load normally taken by students in the equivalent grade level. *Education Code 30A.155.*

Richard Milburn Academy may decline to pay the course costs for a student who chooses to enroll in more than three year-long electronic courses, or the equivalent, during any school year. This does not limit the ability of the student to enroll in additional electronic courses offered through the TxVSN at the student's expense.

Richard Milburn Academy, if it is not the course provider, may charge a student enrolled in Richard Milburn Academy a nominal fee, not to exceed \$50, if the student enrolls in a TxVSN course that exceeds the course load normally taken by students in the equivalent grade level.
Education Code 30A.155(a)-(c-1); 19 TAC 70.1025.

Sec. 9. PROVISION OF COMPUTER EQUIPMENT AND INTERNET SERVICE

This policy does not:

1. Require Richard Milburn Academy to provide a student with home computer equipment or Internet access for a course provided through the TxVSN; or
2. Prohibit Richard Milburn Academy from providing a student with home computer equipment or Internet access for a course provided through the TxVSN.

Education Code 30A.003.

Sec. 10. APPLICABILITY

This policy does not affect the provision of a course to a student while the student is located on the physical premises of Richard Milburn Academy, unless Richard Milburn Academy chooses to participate in providing an electronic course or an electronic diagnostic assessment under Education Code Chapter 30A to a student who is located on the physical premises of Richard Milburn Academy.

This policy does not apply to a virtual course provided by Richard Milburn Academy only to students enrolled in Richard Milburn Academy if the course is not provided as part of the TxVSN. *Education Code 30A.004.*

Sec. 11. RICHARD MILBURN ACADEMY AS PROVIDER

Richard Milburn Academy is eligible to act as a course provider only if Richard Milburn Academy is rated acceptable under Education Code 39.054. Additionally, Richard Milburn Academy may serve as a course provider only:

1. To a student within its service area; or
2. To another student in the state:
 - a. Through an agreement with the school district in which the student resides; or
 - b. If the student receives educational services under the supervision of a juvenile probation department, the Texas Youth Commission, or the Texas Department of Criminal Justice, through an agreement with the applicable agency.

Education Code 30A.101(a).

Sec. 12. CONTRACTS WITH VIRTUAL SCHOOL SERVICE PROVIDERS

Each contract between Richard Milburn Academy and an administering authority (as that term is defined by Education Code 30A.001(1)) must:

1. Provide that the administering authority may cancel the contract without penalty if legislative authorization for Richard Milburn Academy through the TxVSN is revoked; and
2. Be submitted to the Commissioner.

A contract submitted under this provision is public information for purposes of Chapter 552, Government Code. *Education Code 30A.056.*

PG.-2.113 CONTRACTS WITH OUTSIDE AGENCIES

Sec. 1. STUDENTS WITH DISABILITIES

Richard Milburn Academy may contract with a public or private facility, institution, or agency inside or outside of Texas for the provision of services to students with disabilities. *Education Code 29.008(a).*

PG.-2.201 ACADEMIC TESTING PROGRAMS

Sec. 1. LOCAL TESTING

In addition to the state-administered assessment instruments, Richard Milburn Academy may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. Any such locally adopted norm-referenced assessment instrument must be economical, nationally recognized, and state-approved.

For purposes of this Policy, “assessment instrument” means a Richard Milburn Academy- commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported publicly (such as to the Board) in the aggregate.

A company or organization scoring an assessment instrument shall send test results to Richard Milburn Academy for verification. Richard Milburn Academy shall have 90 days to verify the accuracy of test data and report the results to the Board.

Richard Milburn Academy shall follow procedures for test security and confidentiality set forth in 19 TAC Chapter 101, Subchapter C. *Education Code 39.026, .032; 19 TAC 101.101.*

a) Limits on Local Testing

In a subject area for which a state assessment is administered, Richard Milburn Academy may not administer locally required assessments designed to prepare students for state-administered assessments to any student on more than 10% of the instructional days in any school year. A campus-level planning and decision-making committee may limit the administration of locally required assessments to 10% or a lower percentage of the instructional days in any school year. This prohibition does not apply to the administration of college preparation assessments, advanced placement tests, international baccalaureate examinations, or state assessments. *Education Code 39.0262.*

Sec. 2. BENCHMARK ASSESSMENT INSTRUMENTS

“Benchmark assessment instrument” means a Richard Milburn Academy-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument. An assessment instrument designed to prepare students for state-administered assessment instruments is one that:

1. Evaluates students’ potential performance relative to the state’s blueprint in whole for a state-administered assessment; or
2. Is primarily focused on test-taking techniques.

It does not include an assessment designed to evaluate students’ mastery of parts of the Texas Essential Knowledge and Skills or the efficacy of instructional practice.

Richard Milburn Academy may not administer to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

This prohibition does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination, or an independent classroom examination designed or adopted and administered by a classroom teacher.

A parent of or person standing in parental relation to a student who has special needs, as determined in accordance with Commissioner of Education rule, may request administration to the student of additional benchmark assessment instruments.

Education Code 39.0263; 19 TAC 101.6003.

Sec. 3. COLLEGE PREPARATION ASSESSMENTS

Each school year, and at state cost, Richard Milburn Academy may administer an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument:

1. To students in the spring of the eighth grade for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school; and
2. To students in the tenth grade for the purpose of measuring a student’s progress toward readiness for college and the workplace.

The provisions of Education Code 39.0261(a)(1) and (a)(2), with respect to the administration of college preparation assessment instruments at state cost, apply only if the legislature appropriates funds for those purposes.

Education Code 39.0261(a)(1)-(a)(2), (f).

High school students, in the spring of the eleventh grade or during the twelfth grade, may select and take once, at state cost:

1. One of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes; or
2. The assessment instrument designated by the Texas Higher Education Coordinating Board under Education Code 51.334.

A high school student is not prohibited from taking a test more than once, at his or her own expense.

Education Code 39.0261(a)(3), (e).

Sec. 4. ARMED SERVICES VOCATIONAL APTITUDE BATTERY TEST

Each school year, Richard Milburn Academy shall provide students in grades 10 through 12 an opportunity to take the Armed Services Vocational Aptitude Battery test (“ASVAB”) test and consult with a military recruiter. The test must be scheduled:

1. During normal school hours; and
2. At a time that limits conflicts with extracurricular activities, to optimize student participation.

Richard Milburn Academy shall provide each student in grades 10 through 12 and the student’s parent or person standing in parental relation to the student a notice of the date, time, and location of the scheduled administration of the ASVAB test.

Richard Milburn Academy may elect not to provide the ASVAB test only if it provides an alternative test that:

1. Assesses a student’s aptitude for success in a career field other than a career field that requires postsecondary education;
2. Is free to administer;
3. Requires minimal training and support of Richard Milburn Academy faculty and staff to administer the test; and
4. Provides the student with a professional interpretation of the test results that allows the student to explore occupations that are consistent with the student’s interests and skills and develop strategies to attain the student’s career goals.

Education Code 29.9015.

PG.-2.202 READING ASSESSMENTS

Sec. 1. SELECTION OF READING INSTRUMENTS

The Commissioner of Education (“Commissioner”) shall adopt a list of reading instruments that Richard Milburn Academy may use to diagnose student reading development and comprehension. Richard Milburn Academy may adopt a list of reading instruments for use in addition to the reading instruments on the Commissioner’s list. Each reading instrument adopted must be based on scientific research concerning reading skills development and reading comprehension. A list of adopted reading instruments must provide

for diagnosing the reading development and comprehension of students participating in a bilingual education or special language program. *Education Code 28.006(b)*.

Sec. 2. ACCELERATED READING INSTRUCTION PROGRAM

Richard Milburn Academy shall implement an accelerated reading instruction program that provides reading instruction addressing reading deficiencies to students identified as at risk for dyslexia or other reading difficulties, and shall determine the form, content, and timing of that program. The ARD committee of a student who participates in Richard Milburn Academy's special education program and who does not perform satisfactorily on a reading instrument shall determine the manner in which the student will participate in an accelerated reading instruction program.

Education Code 28.006(g).

PG.-2.203 STATE ASSESSMENTS

Sec. 1. STUDENT TESTING REQUIREMENTS

All Richard Milburn Academy students receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code, Chapter 39, Subchapter B. *19 TAC 101.5(a)*.

Unless exempted by applicable law, a student may not receive a high school diploma until the student has performed satisfactorily on applicable end-of-course ("EOC") assessment instruments. *Education Code 39.025(a); 19 TAC 101.4001*.

Sec. 2. EMERGENT BILINGUAL STUDENTS

In grades 9–12, emergent bilingual students shall participate in the state assessment in accordance with the Commissioner of Education's ("Commissioner") rules at 19 TAC Chapter 101, Subchapter AA. *Education Code 39.023(l), (m)*.

Sec. 3. SPECIAL EDUCATION

The student's admission, review and dismissal ("ARD") committee shall determine whether any allowable modification is necessary in administering to the student a required EOC assessment instrument and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma. *Education Code 39.025(a-4)*.

Sec. 4. MILITARY DEPENDENTS

If a student is a military dependent, Richard Milburn Academy shall accept:

1. Exit or EOC exams required for graduation from the sending state;
2. National norm-referenced achievement tests; or
3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated for a military dependent transferring in his or her senior year, then the provisions of Education Code 162.002 art. VII, Section C shall apply.

a) Substitute Passing Standard

A substitute passing standard adopted by the Commissioner may be applied only for a qualified military dependent who enrolls in a Texas public school in this state for the first time after completing the ninth grade or who reenrolls in a Texas public school at or above the tenth grade level after an absence of at least two years from Texas public schools. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, §§ B–C.

Sec. 5. ADMINISTRATION OF ASSESSMENTS

Richard Milburn Academy shall follow the test administration procedures established by the Texas Education Agency (“TEA”) in the applicable test administration materials. The Superintendent shall be responsible for administering tests. *19 TAC 101.25, 101.27.*

Beginning no later than the 2022-2023 school year, each assessment instrument required under Education Code 39.023(a), (c), or (l) must be administered electronically, unless otherwise provided by commissioner rule. *Education Code 39.0234.*

a) Assessment Schedule

The Commissioner shall specify the schedule for testing and field testing that is in compliance with Education Code 39.023(c-3) and supports reliable and valid assessments. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs. The Commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state. *19 TAC 101.25.*

b) Alternate Test Dates

Richard Milburn Academy or a campus may request from the Commissioner an alternate test date. Alternate test dates will only be allowed if Richard Milburn Academy or campus is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect Richard Milburn Academy's or campus' ability to administer an assessment or the students' performance on an assessment. “Exceptional circumstances” include:

1. Inclement weather or natural disasters that would cause Richard Milburn Academy or campus to be closed or that would cause a small percentage of students to be in attendance on the day testing is scheduled;
2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the Commissioner may prohibit Richard Milburn Academy or campus from participating in UIL competition on the new

test date if that is determined to be in the best interest of Richard Milburn Academy, campus, and students.

19 TAC 101.5003.

c) Assessment on Religious Holy Days

For purposes of this subsection, “religious holy day or period of observance” means a holy day or a period of holy days observed by a religion whose places of worship would be exempt from property taxation under Tax Code 11.20.

The Board may consider the dates of religious holy days or periods of observance likely to be observed by enrolled students during the period set by the State Board of Education for the administration of state assessment instruments in establishing:

1. Richard Milburn Academy’s calendar for that school year; and
2. The instructional days within that period on which students are administered the required assessment instruments, provided that the Board may not exclude more than two instructional days from that period based solely on the occurrence of a single religious holy day or period of observance.

In establishing a school calendar, the Board shall provide for alternative dates for the administration of state assessments who is absent from school to observe a religious holy day or period of observance on the date an assessment instrument is administered.

Education Code 39.0238.

d) Request for Paper Administration

Subject to the limitations in this subsection, Richard Milburn Academy may administer an assessment instrument required under Education Code 39.023(a), (c), or (l) in paper format to any student whose parent, guardian, or teacher in the applicable subject area requests the assessment instrument be administered to the student in paper format. *Education Code 39.02342(a).*

A request for the administration of an assessment instrument in paper format must be submitted to the school:

1. For a fall administration of an assessment instrument, not later than September 15 of the school year in which the assessment instrument will be administered; and
2. For a spring administration of an assessment, not later than December 1 of the school year in which the assessment instrument will be administered.

Education Code 39.02342(b).

The number of students enrolled at Richard Milburn Academy who are administered an assessment instrument in paper format for any single administration may not exceed three percent of the number of students enrolled in Richard Milburn Academy. On receipt of more requests for administration of an assessment instrument than the maximum number permitted under this subsection, Richard Milburn Academy shall accept the requests in the order received until the maximum number is reached.

This limitation does not apply a student whose admission, review, and dismissal committee determines that the administration of an assessment instrument in paper format is a necessary modification for the student.

Education Code 39.02342(c).

Sec. 6. NOTICE TO STUDENTS AND PARENTS

The Superintendent shall be responsible for providing written notice to each student and the student's parent or guardian of the testing requirements for graduation and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student's seventh-grade year. The Superintendent shall also provide such notice for students in grades 9–12 who are new to Richard Milburn Academy. Notice of the dates, times, and locations of testing shall be provided to each student who will take the tests and to out-of-school individuals.

19 TAC 101.3012(a).

Sec. 7. END-OF-COURSE ASSESSMENTS

Students in grade 9 and above who are enrolled in a course for which an EOC assessment exists as required by Education Code 39.023(c) shall take the appropriate assessment. *19 TAC 101.3021(a).*

a) Students Enrolled Below High School Level

A student in grade 8 or lower who takes a high school course for credit is required to take the applicable EOC assessment. The EOC assessment result shall be applied toward the student's assessment graduation requirements, as specified in 19 TAC 101.3022. *19 TAC 101.3021(d).*

b) Assessment Requirements for Graduation

A student must meet satisfactory performance on an EOC assessment listed in Education Code 39.023(c) only for a course in which the student is enrolled and for which an EOC assessment instrument is administered in order to be eligible to receive a Texas diploma.

i. Exceptions: English I or English II

A student who was administered separate reading and writing EOC assessments under Education Code 39.023(c), for the English I or English II course has met that course's assessment graduation requirement if the student has:

1. Achieved satisfactory performance on either the reading or writing EOC assessment for that course;
2. Met at least the minimum score on the other EOC assessment for that course; and
3. Achieved an overall scale score of 3750 or greater when the scale scores for reading and writing are combined for that course.

Exceptions related to English I also apply to English learners who meet the criteria in 19 TAC 101.1007.

ii. Exceptions: Credits Earned Prior to Enrollment

If a student earned high school credit for a course with an EOC assessment prior to enrollment in a Texas public school and the credit has been accepted by a Texas public school, or a student completed a course for Texas high school credit in a course with an EOC assessment prior to the 2011–2012 spring administration, the student is not required to take the corresponding EOC assessment.

19 TAC 101.3021(e), .3022.

c) Substitute Assessments

A student may use certain assessments as substitute assessments in place of an EOC assessment, to meet the student’s assessment graduation requirements in accordance with the Commissioner’s chart at 19 TAC 101.4002(b). An approved substitute assessment may be used in place of only one specific EOC assessment.

A student is eligible to use a substitute assessment if the student meets all eligibility criteria listed in 19 TAC 101.4002(c)-(d).

A student electing to substitute an assessment for graduation purposes must still take the required EOC assessment if the student does not meet the eligibility requirements above.

A student who fails to perform satisfactorily on the PSAT or the ACT-PLAN as indicated in the chart at 19 TAC 101.4002(b) must take the appropriate EOC assessment to meet the assessment graduation requirements for that subject.

ii. Verification of Results

An eligible student is responsible for providing Richard Milburn Academy an official copy of the student’s scores from the substitute assessment. Upon receipt of official results of an approved substitute assessment, Richard Milburn Academy must:

1. Verify the student’s score on the substitute assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the Commissioner.

19 TAC 101.4002, .4005.

d) Satisfactory Performance

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the Commissioner, on each EOC assessment instrument administered to the student. *Education Code 39.025(a).*

e) Individual Graduation Committee

A student in grade 11 or 12 who has failed to comply with the EOC assessment instrument performance requirements under Education Code 39.025 for not more than two courses may qualify to graduate on the basis of a review by an individual graduation committee (“IGC”). *Education Code 28.0258, 39.025(a-2).*

f) Special Education

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258. As provided in 19 TAC 89.1070 (Graduation Requirements) and 19 TAC 101.3023 (Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

A student dismissed from a special education program who achieved satisfactory performance on an alternate EOC assessment while enrolled in a special education program is not required to take and achieve satisfactory performance on the general EOC assessment to graduate. A student who took an EOC assessment while enrolled in a special education program is not required to retake and achieve satisfactory performance on the EOC assessment if the student's ARD committee determined that the student was not required to achieve satisfactory performance on the EOC assessment to graduate. A student dismissed from a special education program must achieve satisfactory performance on any remaining EOC assessments that the student is required to take. If the student fails to achieve satisfactory performance on no more than two of the remaining EOC assessments, the student is eligible for IGC review under Education Code 28.0258 and is subject to the IGC provisions above. *19 TAC 101.3022(f)*.

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a Texas high school diploma. A student's ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation.

All students in grades 9–12 with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student's IEP will be assessed using alternate versions of EOC assessments as listed in 19 TAC 101.3011(b)(2).

19 TAC 101.3023(a)-(b).

g) Credit by Examination

An EOC assessment administered under Education Code 39.023(c) cannot be used for purposes of credit by examination under 19 TAC 74.24. *19 TAC 101.3021(c)*.

h) Retakes

Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. A student is not required to retake a course as a condition of retaking an EOC assessment instrument. If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course. *Education Code 39.025(b); 19 TAC 101.3021(f), .3022(d)*.

Sec. 8. REPORTING RESULTS

a) Public Reports

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of the Board, after receipt from TEA. The information shall not contain the names of individual students or teachers. *Education Code 39.030(b)*.

b) Reports to the Board

The Superintendent shall accurately report all test results, with appropriate interpretations, to the Board according to the schedule in the applicable test administration materials.

c) Reports to Students, Parents, and Teachers

Richard Milburn Academy shall notify each of its students, his or her parent or guardian, and his or her teacher for that subject of test results, observing confidentiality requirements stated in Section 12-c below. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. Upon receipt of the assessment results from the test contractor, Richard Milburn Academy shall disclose a student's assessment results to a student's teacher in the same subject area as the assessment for that school year. *19 TAC 101.3014.*

The TEA has adopted a series of questions to be included in an EOC assessment instrument administered under Education Code 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. Richard Milburn Academy shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. Richard Milburn Academy may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course. *Education Code 39.0233(b).*

d) Parent's Right-to-Know Under ESSA

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), Richard Milburn Academy shall provide to each individual parent of a child who is a student in such school, with respect to such student information on the level of achievement and academic growth of the student, if applicable and available, on each of the state academic assessments required under Part A. *20 U.S.C. 6312(e)(1)(B)(i).*

Sec. 9. OUT-OF-STATE TRANSFERS

Richard Milburn Academy shall accurately report to TEA whether that student transferred into Richard Milburn Academy from out of state during the current school year. Procedures for the reporting of out-of-state-transfer students to TEA shall be established in the applicable test administration materials. Richard Milburn Academy shall follow procedures specified in those test administration materials.

The assessment results of the out-of-state transfer students shall be reported separately to Richard Milburn Academy from the results of its other students in addition to the current reporting of assessment results for all students and other student subsets.

19 TAC 101.3014.

Sec. 10. ACCELERATED INSTRUCTION

Richard Milburn Academy shall provide accelerated instruction to any student who fails to perform satisfactorily on a state assessment instrument in the manner required by applicable law. *See also PG-2.205.*

Sec. 11. ASSESSMENT SECURITY AND CONFIDENTIALITY

All assessment instruments included in the student assessment program are considered secure, and the contents of these tests, including student information used or obtained in their administration, are confidential.

The Superintendent and campus principals in all Richard Milburn Academy schools shall:

1. Implement and ensure compliance with state test administration procedures and training activities;
2. Notify TEA as soon as Richard Milburn Academy becomes aware of any alleged or suspected violation of the security or confidential integrity of an assessment;
3. Report all confirmed testing violations to TEA within 10 working days of Richard Milburn Academy becoming aware of the violation in accordance with the reporting process stipulated in the test administration materials;
4. Ensure that the only individuals with access to secure assessment materials are Richard Milburn Academy employees who have:
 - a. Met the requirements to participate in the student assessment program;
 - b. Received annual training in test security and test administration procedures; and
 - c. Signed an oath affirming they understand their obligation to maintain and preserve the security and confidentiality of all state assessments and student information, acknowledge their responsibility to report any suspected testing violation, and are aware of the range of penalties that may result from a violation of test security and confidentiality or a departure from test administration procedures; and
5. Ensure the security of assessment materials by:
 - a. Verifying that all boxes of testing materials have been accounted for and match Richard Milburn Academy shipping notices upon receipt from the state's testing contractor(s);
 - b. Requiring campuses to immediately inventory all testing materials received and to notify the Richard Milburn Academy testing coordinator of any shortages or discrepancies;
 - c. Immediately notifying the state's testing contractor(s) of any discrepancies between the materials received and Richard Milburn Academy's shipping notices;
 - d. Placing test booklets and answer documents in secure, limited-access, locked storage when not in use;
 - e. Collecting and destroying any scratch paper, graph paper, or reference materials that students have written on, as well as any recordings, after the completion of a test administration;
 - f. Requiring that all secure materials assigned to individual campuses have been accounted for and packaged in accordance with the procedures for returning materials as detailed in the test administration materials;
 - g. Requiring that all test item image cards and photocopies or reproductions of secure test materials have been collected and returned to the Richard Milburn Academy testing coordinator for return to the testing contractor(s); and
 - h. Maintaining inventory and shipping records for five years.

19 TAC 101.3031(a)(1)-(a)(2).

a) Security and Confidentiality Violations

Violations of the security and confidential integrity of an assessment include:

1. Directly or indirectly assisting students with responses to test questions;
2. Tampering with student responses;
3. Falsifying holistic ratings or student responses;
4. Viewing secure test content before, during, or after an administration unless specifically

- authorized by TEA or by the procedures outlined in the test administration materials;
5. Discussing or disclosing secure test content or student responses;
 6. Scoring students' tests, either formally or informally;
 7. Duplicating, recording, or electronically capturing confidential test content unless specifically authorized by TEA or by the procedures outlined in the test administration materials;
 8. Responding to secure test questions;
 9. Fraudulently exempting or preventing a student from participating in the administration of a required state assessment;
 10. Receiving or providing unallowable assistance during calibration activities (e.g., taking notes, providing answer sheets, or sharing answers);
 11. Encouraging or assisting an individual to engage in the conduct described in subparagraphs (1)-(10) above or in any other serious violation of security and confidentiality;
 12. Failing to report to an appropriate authority that an individual has engaged or is suspected of engaging in conduct described in subparagraphs (1)-(11) above or in any other serious violation of security and confidentiality under this section;
 13. Failing to implement sufficient procedures to prevent student cheating; and
 14. Failing to implement sufficient procedures to prevent alteration of test documents by anyone other than the student.

i. Consequences / Penalties

If Richard Milburn Academy determines that a student has cheated or attempted to cheat on a state assessment either by providing or receiving direct assistance, Richard Milburn Academy shall invalidate the student's test results. Any violation of test security or confidential integrity may result in TEA:

1. Invalidating student test results;
2. Referring certified educators to the State Board for Education Certification for sanctions; and
3. Lowering Richard Milburn Academy's accreditation status Richard Milburn Academy's or campus's accountability ratings, or appointment of a monitor, conservator, or a management team in accordance with Education Code Chapter 39A.

ii. Test Administration Procedures and Training Activities

Test administration procedures shall be delineated in the test administration materials provided to Richard Milburn Academy annually. Richard Milburn Academy must comply with all of the applicable requirements specified in the test administration materials.

Richard Milburn Academy shall ensure that test coordinators and administrators receive training to ensure that testing personnel have the necessary skills and knowledge required to administer assessment instruments in a valid, standardized, and secure manner.

iii. Record Retention

Richard Milburn Academy shall maintain records related to the security of assessment instruments for five years.

19 TAC 101.3031(a-3)-(d).

iv. Development of Procedures

The Superintendent and each Principal must develop procedures to ensure the security and confidentiality of state assessments, and will be responsible for notifying TEA in writing of conduct that violates the security or confidentiality of an assessment.

b) Minimize Disruptions

In implementing the Commissioner’s procedures for the administration of assessment instruments adopted or developed under Education Code 39.023, including procedures designed to ensure the security of the assessment, Richard Milburn Academy shall minimize disruptions to school operations and the classroom environment. *Education Code 39.0301(a-1)*.

c) Assessment Confidentiality Results

Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA). *Education Code 39.030(b)*

PG.-2.204 STATE ASSESSMENT OF EMERGENT BILINGUAL STUDENTS

Sec. 1. LANGUAGE PROFICIENCY ASSESSMENT COMMITTEE (LPAC)

The language proficiency assessment committee (“LPAC”) shall select the appropriate assessment option for emergent bilingual students, in accordance with 19 TAC 101.1005. LPAC assessment decisions must be made on an individual student basis in accordance with administrative procedures established by the Texas Education Agency (“TEA”).

The LPAC shall document in the student’s permanent record file:

1. The decisions and justifications related to English language proficiency assessments under 19 TAC 101.1003;
2. The decisions and justifications related to selecting the appropriate assessment option under 19 TAC 101.1005; and
3. In conjunction with the admission, review, and dismissal (“ARD”) committee, the need for allowable testing accommodations under 19 TAC 101.1003 and .1005.

19 TAC 101.1003(b), (c), .1005(a), (c).

Sec. 2. DEFINITIONS

“Recent unschooled immigrant” means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum determined by the LPAC. *Education Code 39.027(g)*.

“Unschooled asylee or refugee” means a student who:

1. Initially enrolled in a school in the United States as:
 - a. An asylee as defined by 45 C.F.R. 400.41; or
 - b. A refugee as defined by 8 U.S.C. 1101;

2. Has a visa issued by the U.S. Department of State with a Form I-94 Arrival/Departure record, or a successor document, issued by the U.S. Citizenship and Immigration Services that is stamped with “Asylee,” “Refugee,” or “Asylum”; and
3. As a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Education Code 28.002, as determined by the LPAC established under Education Code 29.063.

Education Code 39.027(a-1); 19 TAC 101.1005(c).

¹ In this policy, the term “English learner” is synonymous with “emergent bilingual” student, as that term is used in Subchapter B, Chapter 29, Education Code.

“Inadequate schooling outside the United States” is defined as little or no formal schooling outside the United States such that the asylee or refugee lacks basic literacy in his or her primary language upon enrollment in school in the United States. *19 TAC 101.1005(d).*

Sec. 3. ENGLISH LANGUAGE PROFICIENCY ASSESSMENTS

In 9 through grade 12, an English learner shall be administered state-identified English language proficiency assessments annually in listening, speaking, reading, and writing to fulfill state requirements under Education Code, Chapter 39, Subchapter B, and applicable federal requirements. *19 TAC 101.1003(a).*

Sec. 4. LIMITATIONS ON EXEMPTIONS

a) First Year after Enrollment

An English learner may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to one year after initial enrollment in a school in the United States if the student has not demonstrated proficiency in English as determined by the assessment system developed to evaluate academic progress of an English learner. *Education Code 39.027(a)(1).*

b) Subsequent Years

An English learner granted the initial exemption period above may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to:

1. An additional two years if the student is a recent unschooled immigrant or is in a grade for which no assessment instrument in the primary language of the student is available; or
2. An additional four years if the student’s initial enrollment in a school in the United States was as an unschooled asylee or refugee.

The LPAC must determine that the student lacks the academic language proficiency in English necessary for an assessment in English to measure the student’s academic progress in a valid, reliable manner.

c) Minimum Days for Enrollment

Regardless of the date on which the student initially enrolled in a school in the United States, unless a

student is enrolled in a school in the United States for a period of at least 60 consecutive days during a year, the student may not be considered to be enrolled in a school in the United States for that year for the purpose of determining a number of years under Education Code 39.027(a)(1), (2), or (3).

Education Code 39.027(a)(1)–(2), (a-1), (a-2), (g).

Sec. 5. END-OF-COURSE ASSESSMENTS

An emergent bilingual student shall participate in the end-of-course assessments as required by Education Code 39.023(c) and, except as provided below, shall be administered the general form of the English-version state assessment. *19 TAC 101.1005(b).*

An emergent bilingual student shall not be exempt from taking an end-of-course assessment for reasons associated with limited English proficiency or inadequate schooling outside the United States, except as provided below.

a) Exception

If an emergent bilingual student enrolled in English I or English for Speakers of Other Languages I has not yet demonstrated English language proficiency in reading as determined by the English language proficiency assessments required above and has been enrolled in U.S. schools for three school years or less, or qualifies as an unschooled asylee or refugee enrolled in U.S. schools for five school years or less, then he or she shall not be required to retake the applicable English I assessment in which the student is enrolled each time it is administered if the student passes the course but fails to achieve the passing standard on the assessment.

19 TAC 101.1007(a), (b).

Sec. 6. NON-EMERGENT BILINGUAL STUDENTS

Richard Milburn Academy may administer the assessment of academic skills in Spanish to a student who is not identified as an emergent bilingual student but who participates in a bilingual program if the LPAC determines the assessment in Spanish to be the most appropriate measure of the student's academic progress. *19 TAC 101.1005(g).*

Sec. 7. SPECIAL EDUCATION

For each emergent bilingual student who receives special education services, the student's ARD committee in conjunction with the student's LPAC shall select the appropriate assessments.

a) Selecting Assessments

The ARD committee shall document the decisions and justifications in the student's individualized education program (IEP). *19 TAC 101.1005(a).*

b) English Language Proficiency Tests

In rare cases, the ARD committee in conjunction with the LPAC may determine that it is not appropriate for an emergent bilingual student who receives special education services to participate in an English language proficiency assessment required above for reasons associated with the student's particular

disability. The ARD committee shall document the decisions and justifications in the student's IEP, and the LPAC shall document the decisions and justifications in the student's permanent record file. *19 TAC 101.1003(b)*.

In the case of an emergent bilingual student who receives special education services, the ARD committee in conjunction with the LPAC shall determine and document the need for allowable testing accommodations in accordance with administrative procedures established by TEA. *19 TAC 101.1003(c)*.

c) Alternative Assessment Instruments

In certain cases, an emergent bilingual student who receives special education services may, as a result of his or her particular disabling condition, qualify to be administered an alternative assessment instrument based on alternative achievement standards. *19 TAC 101.1005(b)*.

An unschooled asylee or refugee who meets these criteria shall be granted an exemption from an administration of an assessment instrument under Education Code 39.023(a), (b), or (l). This exemption will only apply during the school year an unschooled asylee or refugee is first enrolled in a U.S. public school. *19 TAC 101.1005(c)*.

d) Testing Accommodations

The LPAC in conjunction with the ARD committee shall determine and document any allowable testing accommodations for assessments in accordance with administrative procedures established by TEA. *19 TAC 101.1005(e)*.

Sec. 8. GRADE ADVANCEMENT REQUIREMENTS

The LPAC shall determine appropriate assessment and accelerated instruction for an emergent bilingual student who is administered a grade advancement test in English or Spanish, except as provided by 19 TAC 101.1005. The grade placement committee for an emergent bilingual student shall make its decisions in consultation with a member of the student's LPAC. *19 TAC 101.2003(e)*.

PG.-2.205 ACCELERATED INSTRUCTION-UNSATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS

Sec. 1. CURRICULAR AND INSTRUCTIONAL SYSTEMS

To ensure that each student achieves at least satisfactory performance on each state assessment instrument administered under Education Code 39.023, Richard Milburn Academy shall ensure that its curricular and instructional systems provide instruction to all students that:

1. Is consistently aligned with the essential knowledge and skills for the applicable subject area and grade level; and
2. Strategically and timely addresses deficiencies in the prerequisite essential knowledge and skills for the applicable subject area and grade level.¹

¹ Education Code 28.0211(a).

Sec. 2. UNSATISFACTORY PERFORMANCE ON A SESSMENT INSTRUMENTS

a) Accelerated Instruction Program

i. General requirements

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(a) or (l) in the third, fourth, fifth, sixth, seventh, or eighth grade or on an end-of-course assessment instrument administered under Education Code 39.023(c), other than an assessment instrument developed or adopted based on alternative academic achievement standards, Richard Milburn Academy shall provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year and, subject to Sec. 2-a-iii and Sec. 2-a-v below, either:

1. Allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under Education Code 21.3521 for the subsequent school year in the applicable subject area; or
2. Provide the student supplemental instruction, as described in Sec. 2-d below.²
3. STAAR-Alt 2, are retained, or take substitute high school assessments aren't subject to requirements

Accelerated instruction provided during the following school year may require participation of the student before or after normal school hours.³

Richard Milburn Academy is not required to provide accelerated instruction to a student who, instead of being administered an assessment instrument specified in this Sec. 2-a-i, was administered a substitute assessment instrument in accordance with other law or Texas Education Agency rule authorizing the use of the substitute assessment instrument for purposes of satisfying the requirements concerning the applicable assessment instrument under Sec. 2-a-1.⁴

Richard Milburn Academy also is not required to provide a student accelerated instruction or supplemental instruction based on the student's failure to perform satisfactorily on an assessment instrument administered as an optional assessment in the same subject area in which Richard Milburn Academy is required to provide the student the accelerated or supplemental instruction.⁵

ii) Supplemental Instruction

If Richard Milburn Academy receives funding under Education Code 29.0881, the Coronavirus Response and Relief Supplemental Appropriations Act, or the American Rescue Plan Act of 2021, then supplemental instruction provided by Richard Milburn Academy must:

² Education Code 28.0211(a-1).

³ Education Code 28.0211(a-2).

⁴ Education Code 28.0211(a-10).

⁵ Education Code 28.0211(a-13).

1. Include targeted instruction in the essential knowledge and skills for the applicable grade levels and subject area;
2. Be provided in addition to instruction normally provided to students in the grade level in which the student is enrolled;
3. Be provided during the subsequent summer or school year:
 - a. To each student for no less than:
 - i. 15 hours; or
 - ii. 30 hours for a student whose performance on the applicable assessment instrument was significantly below satisfactory, as defined by commissioner rule; and
 - b. Unless the instruction is provided to a student fully during summer, no less than once per week during the school year, except as otherwise provided by commissioner rule to account for school holidays or shortened school weeks.
4. Be designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area;
5. Include effective instructional materials designed for supplemental instruction;
6. Be provided to a student individually or in a group of no more than four students, unless the parent or guardian of each student in the group authorizes a larger group;
7. Be provided by a person with training in the applicable instructional materials for the supplemental instruction and under the oversight of Richard Milburn Academy; and
8. To the extent possible, be provided by one person for the entirety of the student's supplemental instruction period.⁶

iii. Limitations on supplemental instruction

Richard Milburn Academy may not be required to provide supplemental instruction to a student in more than two subject areas per school year. If Richard Milburn Academy would otherwise be required to provide supplemental instruction to a student in more than two subject areas for a school year, Richard Milburn Academy shall prioritize providing supplemental instruction to the student in mathematics and reading, or Algebra I, English I, or English II, as applicable for that school year.⁷

iv. Limitations on scheduling accelerated instruction programs

In providing accelerated instruction under Sec. 2-a-1, Richard Milburn Academy may not remove a student, except under circumstances for which a student enrolled in the same grade level who is not receiving accelerated instruction would be removed, from:

1. Instruction in the foundation curriculum and enrichment curriculum for the grade level in which the student is enrolled; or
2. Recess or other physical activity that is available to other students enrolled in the same grade level.⁸

v. Students who are retained

⁶ Education Code 28.0211(a-4).

⁷ Education Code 28.0211(a-8).

⁸ Education Code 28.0211(a-3).

The requirements for accelerated instruction under Sec. 2-a-1 do not apply to a student who is retained at a grade level for the school year in which those requirements would otherwise apply.⁹

vi. Accelerated Education Plan

a) General requirements

Richard Milburn Academy shall develop an accelerated education plan (“AEP”) for each student who does not perform satisfactorily on an assessment instrument specified under Sec. 2-a-1 for two or more consecutive school years in the same subject area.

Not later than the start of the subsequent school year, Richard Milburn Academy shall develop an AEP for each student identified in this section that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade or course level by the conclusion of the school year. The AEP:

1. Must:
 - a. Identify the reason the student did not perform satisfactorily on the applicable assessment instrument; and
 - b. Unless otherwise allowed under Education Code 28.0211(a-4)(3)(A), require the student to be provided with no less than 30 hours, or a greater number of hours if appropriate, of supplemental instruction for each consecutive school year in which the student does not perform satisfactorily on the assessment instrument in the applicable subject area; and
2. May require that, as appropriate to ensure the student performs satisfactorily on the assessment instrument in the applicable subject area at the next administration of the assessment instrument:
 - a. Richard Milburn Academy expand the times in which supplemental instruction under Sec. 2-a-ii-3 is available to the student;
 - b. The student be assigned for the school year to a specific teacher who is better able to provide accelerated instruction; and
 - c. Richard Milburn Academy provide any necessary additional resources to the student.¹⁰

An AEP must be documented in writing, and a copy must be provided to the student’s parent or guardian.¹¹

Except as requested under Sec. 2-a-viii or provided by the waiver process under Sec. 2-a-vi-a, a student for whom an AEP must be developed must be assigned, in each school year and subject covered by the AEP, to an appropriately certified teacher who meets all state and federal qualifications to teach that subject and grade.¹² The commissioner may waive the requirement regarding assignment of a student to an appropriately certified classroom teacher on the request of Richard Milburn Academy.¹³

b) Monitoring

⁹ Education Code 28.0211(a-3).

¹⁰ Education Code 28.0211(f).

¹¹ Education Code 28.0211(f-1).

¹² Education Code 28.0211(n).

¹³ Education Code 28.0211(n-1).

Richard Milburn Academy shall monitor the student during the school year to ensure that the student is progressing in accordance with the AEP.¹⁴

c) Complaint Process

The Superintendent or designee shall develop a process to allow a parent to contest the content or implementation of an AEP.¹⁵ This process shall recognize the Board’s final authority to hear or decide parent and student grievances. The grievance 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 parent appeal process is made available to students and parents through the Student and Parent Handbook.

The Board shall retain final authority to hear or decide parent and student grievances.¹⁶ The Board may conduct a closed meeting when hearing or deciding a parent or student grievance as allowed by applicable law.¹⁷

vii. Parental election to modify or opt-out

A parent or guardian of a student to whom supplemental instruction will be provided and who either was administered and failed to perform satisfactorily on an assessment instrument specified in Sec. 2-a-1 above or was administered a beginning-of-year assessment instruction aligned with the essential knowledge and skills for the applicable subject area, including a student to whom Sec. 2-a-vi-a applies, may elect to modify or remove a requirement for that instruction by submitting a written request to an administrator of the campus at which the student is enrolled. Richard Milburn Academy may not encourage or direct a parent or guardian to:

1. Not provide supplemental instruction to the student; or
2. Provide supplemental instruction in a group larger than authorized under Sec. 2-a-ii, item 6.¹⁸

viii. Parent requests for classroom assignments

The Superintendent or designee shall establish a process allowing for the parent or guardian of a student who fails to perform satisfactorily on an assessment instrument specified in Sec. 2-a-i to make a request for consideration that the student be assigned to a particular classroom teacher in the applicable subject area for the subsequent school year, if more than one classroom teacher is available.¹⁹ This process shall be included in Richard Milburn Academy’s Student and Parent Handbook.

b) *Agency-Approved Alternatives*

Richard Milburn Academy may utilize an automated, computerized, or other augmented method approved by the Texas Education Agency for providing supplemental instruction in lieu of some or all

¹⁴ Education Code 28.0211(f-2).

¹⁵ Education Code 28.0211(f-3).

¹⁶ 19 TAC 100.1033(b)(14)(C)(i).

¹⁷ Gov’t Code Ch. 551, Subch. D.

¹⁸ Education Code 28.0211(a-9).

¹⁹ Education Code 28.0211(a-5).

of the individual or group instruction required under Sec. 2-a-ii, as appropriate for the applicable grade level and subject area and a student's academic deficiency. <<School Name's>> use of an automated, computerized, or other augmented method shall be in accordance with rules adopted by the commissioner.²⁰

c) Use of Service Providers

For the purpose of providing accelerated instruction or supplemental instruction under this policy, Richard Milburn Academy may use a service provider that is not on a list of service providers approved by the Texas Education Agency if Richard Milburn Academy can demonstrate to the commissioner that use of the service provider results in measurable improvement in student outcomes.²¹

d) Notice of Unsatisfactory Performance

Richard Milburn Academy shall provide to the parent or guardian of a student who fails to perform satisfactorily on an assessment instrument specified under Sec. 2-a-i notice that the student is not performing on grade level in the applicable subject area. Notwithstanding Sec. 4, the notice must be provided at a parent-teacher conference or, if Richard Milburn Academy is unable to provide the notice at a parent-teacher conference, by another means.²²

For each such student, Richard Milburn Academy shall make a good faith attempt to provide a parent-teacher conference with the student's primary teacher at the start and end of the subsequent school year. At the conference, Richard Milburn Academy shall provide the student's parent or guardian with:

1. Notice that the student is not performing on grade level in the applicable subject area; and
2. An explanation of the accelerated instruction to which the student is entitled and the AEP that must be developed for the student, and the manner in which the parent or guardian may participate in developing the plan.²³

e) Students in Homebound or Other Off-Campus Instructional Arrangements

If a student who attends school in a homebound or other off-campus instructional arrangement, including at a residential treatment campus or state hospital, is unable to participate in an accelerated instruction program due to the student's condition, Richard Milburn Academy may determine that the student be provided the accelerated instruction when the student attends school in an on-campus instructional setting. If the student's condition prevents the student from attending school in an on-campus instructional setting for the school year during which the accelerated instruction is required to be provided to the student, Richard Milburn Academy is not required to provide the accelerated instruction to the student for that school year.²⁴

²⁰ Education Code 28.0211(a-11).

²¹ Education Code 28.0211(a-12).

²² Education Code 28.0211(a-14).

²³ Education Code 28.0211(b-1).

²⁴ Education Code 28.0211(i-1).

Sec. 3. SPECIAL EDUCATION STUDENTS

The admission, review, and dismissal (“ARD”) committee of a student who participates in Richard Milburn Academy’s special education program and who does not perform satisfactorily on an assessment instrument specified in Sec. 2-a above shall, at the student’s next ARD meeting , review the student’s participation and progress in, as applicable, accelerated instruction, supplemental instruction, or an AEP developed at a parent teacher conference. The student’s parent may request, or Richard Milburn Academy may schedule, an additional ARD committee meeting if a committee member believes that the student’s individualized education program needs to be modified based on the requirements in Education Code 28.0211. If Richard Milburn Academy refuses to convene a committee meeting requested by the student’s parent or guardian, Richard Milburn Academy shall provide written notice explaining the reason of its refusal to convene the meeting.²⁵

Sec. 4. PARENT NOTICE

In each instance under this policy in which Richard Milburn Academy is required to provide notice or a written copy to a parent or guardian, Richard Milburn Academy shall make a good faith effort to ensure that such notice or copy is provided either in person or by regular mail and that the notice or copy is clear and easy to understand and is written in English or the parent or guardian’s native language.²⁶

Sec. 5. RETENTION DECISIONS

This policy does not preclude Richard Milburn Academy from retaining at a grade level a student who performs satisfactorily on an assessment instrument specified under Sec. 2-a-i in accordance with state law or Board policy.²⁷

PG.-2.206 PARENTAL ELECTION

Sec. 1. PARENTAL ELECTION

Subject to Section 2, a parent or guardian may elect for a student to repeat certain courses and grades as set forth below. An election made by a parent or guardian under this Section shall be made in writing to Richard Milburn Academy. *Education Code 28.02124(a)-(b)*.

a) ***High School Credit Courses***

For courses taken for high school credit, a parent or guardian may elect for a student to repeat any course in which the student was enrolled in during the previous school year. This option is not available for students if Richard Milburn Academy determines the student has met all of the requirements for graduation. *Education Code 28.02124(a-1)*.

²⁵ Education Code 28.0211(i).

²⁶ Education Code 28.0211(h).

²⁷ Education Code 28.0211(g).

Sec. 2. RETENTION COMMITTEE

If Richard Milburn Academy disagrees with a parent or guardian's election for a student to repeat a grade or retake a course, Richard Milburn Academy must convene a retention committee and meet with the parent to discuss retention.

a. Meeting Format

The retention committee meeting shall be conducted in person unless an alternative means is agreeable to the parent or guardian. A student may not be retained for a grade or retake a course if the parent or guardian does not meet with the retention committee. *Education Code 28.02124(c)*.

b. Committee Members

The retention committee shall be composed of:

1. the principal or the principal's designee;
2. student's parent or guardian;
3. the teacher who taught the grade or course for which the parent wants the student retained or repeated; and
4. additional teachers at the discretion of the principal, if the student will potentially repeat multiple courses. *Education Code 28.02124(d)*.

c. Meeting Requirements

During the meeting, the retention committee shall:

1. discuss the merits of and concerns with advancement and retention; and
2. review and consider the student's grade in each subject or course, the results of any formative or summative assessments administered to the student, and any other available academic information to determine the student's academic readiness for the next grade or a given course. *Education Code 28.02124(e)*.

d. Retention Decision

After the parent or guardian participates in the retention committee meeting, the parent or guardian shall decide whether the student should be retained or retake a grade or course. Richard Milburn Academy must abide by the decision of the parent or guardian. *Education Code 28.02124(f)*.

Retention under this policy shall be considered the same as retention of a student by Richard Milburn Academy. *Education Code 28.02124(h)*.

e. Repeating a Grade or Course for which Credit Has Been Earned

A Student who receives a passing grade or who earns credit for a high school course shall retain Richard Milburn Academy's original assignment of a grade or award of credit when a student is retained under this policy, unless Richard Milburn Academy adopts a policy to a different effect. *Education Code 28.02124(g)*.

Sec. 3. TRANSFER OF RIGHTS

The rights of a parent or guardian under Education Code 28.02124 and this policy transfer to a student if the student is 18 years of age or older or has had the disabilities of a minor removed, unless the student is under a form of guardianship imposed by law or court order that continues after the student turns 18 years of age. *Education Code*

PG.-2.301 SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS

Sec. 1. DEFINITIONS

“Full subject tier one instructional material” means instructional material designed to, if implemented as designed, provide a student with mastery of the essential knowledge and skills adopted by the board for a certain subject and grade level in the required curriculum under Section 28.002 or for prekindergarten without the need for supplementation. *Education Code 31.002(1)*.

“Instructional materials” means content that conveys the essential knowledge and skills of a subject in the school curriculum through a medium or a combination of media for conveying information to a student. The term includes (i) material used by a teacher, including a lesson plan, answer key, grading rubric, or unit plan; (ii) material used by a principal or campus instructional leader to support instruction; and (iii) material used by a student, including a book, supplementary materials, a combination of a book, workbook and supplementary materials, computer software, magnetic media, DVD, CD- ROM, computer courseware, online services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including open education resource instructional material, as defined by *Education Code 31.002(1-a)*.

“Open education resource instructional material” means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that allows for free use, reuse, modification, and sharing with others, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge. *Education Code 31.002(1- a)*.

“Partial subject tier one instructional material” means instructional material designed to, if implemented as designed, provide a student with mastery in a portion of the essential knowledge and skills adopted by the State Board of Education for a certain subject and grade level in the required curriculum under Section 28.002 or for prekindergarten without the need for supplementation in the essential knowledge and skills covered. *Education Code 31.002(1-c)*.

“Supplemental instructional material” means instructional material designed to assist in the instruction of one or more of the essential knowledge and skills adopted by the State Board of Education for a subject in the required curriculum under Section 28.002 or for prekindergarten. *Education Code 31.002(3)*.

“Technological equipment” is hardware, a device, or equipment necessary for instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or professional use by a classroom teacher. *Education Code 31.002(4)*.

Sec. 2. LOCAL SELECTION

a) Selection Team

Richard Milburn Academy shall establish a team, as needed, to select instructional materials and technological equipment to be purchased with Richard Milburn Academy’s instructional materials allotment. The team shall make selections based upon Richard Milburn Academy’s instructional needs and in accordance with administrative regulations.

The instructional materials allotment team shall ensure that selected materials, in combination with any other materials in use by Richard Milburn Academy, allow Richard Milburn Academy to certify that all students are provided with instructional materials that cover the essential knowledge and skills, as required by law.

The Board shall select instructional materials in an open meeting as required by the Texas Open Meetings Act, including public notice. *19 TAC 66.104(a)*.

i. Open Education Resource Instructional Materials

In selecting material each year, Richard Milburn Academy may consider but cannot be required to, adopt or the use of open education resource instructional materials. *Education Code 31.073(a)*.

Richard Milburn Academy may adopt state-developed open education resource instructional materials at any time, regardless of the instructional material review and adoption cycle. *Education Code 37.073(c)*.

ii. Special Education

Adopted instructional materials shall be supplied to a student in special education classes as appropriate to the level of the student's ability and without regard to the grade for which the instructional material is adopted or the grade in which the student is enrolled. *19 TAC 66.104(c)*.

b) Certification of Provision of Instructional Materials

Richard Milburn Academy shall annually certify to the State Board of Education ("SBOE") and the Commissioner of Education that,

1. For each subject in the required curriculum under Education Code 28.002, other than physical education, and each grade level, the school:
 - a. Provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject grade level and;
 - b. In the provision of instructional materials, protects students from obscene or harmful content as necessary for compliance with: (i) the Children's Internet Protection Act; (ii) Education Code 28.0022; (iii) Penal Code 43.22; and (iv) any other law or regulation that protects students from obscene or harmful content; and
2. Life School used money allocated to the school under the instructional materials and technology allotment only for purposes allowed under Education Code 31.0211.

Education Code 31.1011(a).

To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills, Richard Milburn Academy may consider:

1. Instructional materials adopted by the SBOE;
2. Instructional materials developed, purchased, or otherwise acquired by Richard Milburn Academy; and
3. Open education resource instructional materials and other electronic materials included in the state's open education resource instructional materials repository.

Education Code 31.1011(b).

Richard Milburn Academy shall annually report to the Texas Education Agency information regarding to the instructional materials used by Richard Milburn Academy during the previous school year, including the cost of each material, to assist the agency in ensuring compliance with Education Code 31.151(a). *Education Code 31.1012.*

Sec. 3. OWNERSHIP AND DISTRIBUTION OF INSTRUCTIONAL MATERIALS

Each instructional material purchased by Richard Milburn Academy is the property of Richard Milburn Academy. Electronic instructional material purchased by Richard Milburn Academy is the property of Richard Milburn Academy only to the extent of any applicable licensing agreement. The Board shall distribute printed instructional material to students in a manner that the Board determines is the most effective and economical. *Education Code 31.102.*

Sec. 4. CRIMINAL OFFENSE

A Board member, administrator, or teacher commits an offense if the person receives any commission or rebate on any instructional materials or technological equipment used in the schools with which the person is associated.

A Board member, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:

1. Is given to the person or the person's school;
2. Might reasonably tend to influence the person in the selection of instructional material or technological equipment; and
3. Could not be lawfully purchased with funds from the state textbook fund. "Gift,

favor, or service" does not include:

1. Staff development, in-service, or teacher training; or
2. Ancillary materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

Education Code 31.152.

Sec. 5. REQUESTS FOR SUPPLIES

Employees should initiate requests for instructional supplies through the Principal.

Sec. 6. EMPLOYEE TRAINING

The Board shall require the employee responsible for ordering instructional materials to complete TEA-developed training in the use of the Instructional Materials Allotment and the use of the instructional materials ordering system. Training shall be completed in accordance with 19 TAC 66.107(d).

PG.-2.302 LIBRARY MATERIALS

Sec. 1. DEFINITIONS

While “instructional materials” and “library materials” are both considered instructional resources, they are not the same, and the terms shall not be used interchangeably

a) Instructional materials

Instructional materials are defined as content in the school’s core educational program that conveys the essential knowledge and skills of a subject in the public school curriculum through a medium or a combination of media for conveying information to students, and as further defined by Education Code 31.002(1-a).

b) Library materials

For purposes of this policy, library materials, whether held in a formal school library or in a classroom, are defined as electronic, print, and nonprint resources, excluding textbooks, for independent use by students and faculty to supplement and support the Richard Milburn Academy’s core educational program.

c) Open-source instructional material

Open-source instructional material is electronic instructional material that is available for downloading from the Internet at no charge to a student and without requiring the purchase of an unlock code, membership, or other access or use charge, except for a charge to order an optional printed copy of all or part of the instructional material. Education Code 31.002(1-a).

d) Technological equipment

Technological equipment is hardware, a device, or equipment necessary for instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or professional use by a classroom teacher. Education Code 31.002(4).

Sec. 2. OBJECTIVES

This policy provides criteria for the selection, removal, and replacement of library materials, focused on maximizing transparency with parents and community members while meeting student needs to provide supplemental enrichment in their learning with appropriate materials. Through the provision of these library materials, Richard Milburn Academy shall recognize that parents hold an essential role in the education of their children and have the right to guide what their children read.

Richard Milburn Academy shall apply the standards, dimensions, and expectations as defined by rule 13 TAC §4.1, and any related guidance including the Texas State Library and Archives Commission’s Guidance for School Libraries on Collection Development, as well as the School Library Programs: Standards and Guidelines for Texas to evaluate and set goals for the school library collection in alignment with board-approved policies and procedures.

Sec. 3. AVOIDING INAPPROPRIATE MATERIAL

In addition to the above criteria for selection, all material should be appropriate for students. Texas Penal Code §43.24(a)(2) describes harmful material as material whose dominant theme taken as a whole: (1) appeals to the prurient interest of a minor, in sex, nudity, or excretion; (2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and (3) is utterly without redeeming social value for minors. It is an offense in Texas to distribute this material in violation of Texas Penal Code §43.24(b). No library material shall be used if it contains content that can meet the harmful material standard. Finally, the library collection development policies must demonstrate a commitment to compliance with the Children's Internet Protection Act (CIPA) as specified in 47 U.S.C. §254(h)(5), including technology protection measures.

Sec. 4. RESPONSIBILITY FOR SELECTION

While the legal responsibility for the purchase of all instructional materials is vested in the Richard Milburn Academy School Board, the responsibility for the selection of library materials is discharged to the Richard Milburn Academy Principal. The Board will provide final approval for all new materials added to the library.

Sec. 5 CRITERIA FOR SELECTION

All selected material shall be appropriate for students as described under Texas Penal Code §43.24(a)(2) which describes harmful material as material whose dominant theme taken as a whole: (1) appeals to the prurient interest of a minor, in sex, nudity, or excretion; (2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and (3) is utterly without redeeming social value for minors. It is an offense in Texas to distribute this material in violation of Texas Penal Code §43.24(b). No library material shall be used if it contains content that can meet the harmful material standard. Finally, collection development policies must demonstrate a commitment to compliance with the Children's Internet Protection Act (CIPA) as specified in 47 U.S.C. §254(h)(5), including technology protection measures.

The district-level library supervisor or designated administrator shall work cooperatively with library staff, faculty, and the administration to apply this policy in making selections for school library collections. To ensure parental engagement, Richard Milburn Academy shall make the selection process of library materials readily available for parental review, with a list of all library materials posted on-line on the district's website, and the content of all materials available for direct review during reasonable hours specified for such review.

Each item selected shall:

1. Support and enrich the curriculum and/or students' personal interests and learning;
2. Meet high standards in literary, artistic, and aesthetic quality; technical aspects; and physical format;
3. Be appropriate for the subject area and for the age, intellectual development, and ability level of the students for whom the materials are selected;

4. For non-fiction resources, incorporate accurate and authentic factual content from authoritative sources;
5. Earn favorable reviews in standard reviewing sources and/or favorable recommendations based on preview and examination of materials by professional personnel;
6. Balance cost with need.
7. Avoid inappropriate material as defined above.

In addition to the above criteria, fiction, narrative nonfiction (memoirs and biographies), and graphic novels must each meet the following selection criteria, with Richard Milburn Academy determining that such materials:

1. Are integral to the instructional program.
2. Reflect the interests and needs of the students and faculty.
3. Are appropriate for the reading levels and understanding of students.
4. Are included because of their literary or artistic value and merit.
5. If narrative nonfiction, present information with the greatest degree of accuracy and clarity.

The following selection objectives are adopted to ensure the selected material is aligned with Richard Milburn Academy educational program and curriculum

- To provide materials that enrich and support the curriculum and personal needs of the users, considering their varied interests, abilities and learning styles
- To provide materials that stimulate growth in factual knowledge, literary appreciation, aesthetic values, and ethical standards in the pluralistic society
- To provide a background of information which enables students to make intelligent judgments in their daily lives
- To provide materials on opposing sides of controversial issues that users may develop the practice of critical analysis
- To provide materials which realistically represent our pluralistic society and reflect the contributions made by all groups and individuals to our American heritage
- To principle above personal opinion and reason above prejudice in selection of materials of the highest quality to assure a comprehensive library media collection for all users.

The following criteria for selection addresses the educational goals of Richard Milburn Academy

- Relevance to today's world, reflecting problems, aspirations, attitudes and ideals of society
- Educational significance
- Need of, and value to the collection
- Contributions of the subject matter to the curriculum and to the interests of students
- Overall quality as based on preview and examination of materials by professional personnel
- Reputation and significance of the author, producer and publisher
- Validity, currency, and appropriateness of material
- Contribution the material makes to breadth of representative viewpoints on controversial issues
- Appeal of the material to the library's users
- Artistic quality and/or literary style

- Quality and variety of format
- Value commensurate with cost and/or need
- Timeliness or permanence
- Integrity
- Not inappropriate, as defined above.

Prior to any material being selected for inclusion, all library material shall have been read, reviewed, and recommended for inclusion by the district-level library supervisor or individual(s) designated by that supervisor/media specialist. If more support and/or resources are needed for this review, the Board may approve the engagement of a cooperative of other Texas public schools and rely upon the recommendation of that cooperative.

Sec. 6. ACQUISITION PROCEDURES

The district-level library supervisor or designated administrator/media specialist shall select material based on their own expertise and solicit recommendations from others. Recommendations for library acquisitions shall involve administrators, teachers, other Richard Milburn Academy personnel, parents, and community representatives, as appropriate.

Selection of materials is an ongoing process that includes the removal of collections deemed by the Board or the district-level library supervisor or designated administrator/media specialist to be no longer appropriate and the periodic replacement or repair of materials still of educational value.

School library materials orders shall be approved by the district-level library supervisor or designated administrator/media specialist for both orders at the district and campus level.

When acquiring new library material content not previously acquired, the district-level librarian or designee shall submit a list to the Superintendent for inclusion in a board agenda. The Board shall be provided the list at least thirty days prior to action.

Richard Milburn Academy may not purchase library material from a library material vendor who is listed on the Texas Education Agency's list of library material vendors who fail to comply with Education Code 35.003(b). *Education Code 35.003(d)*.

a) Individual board member review

If any board member questions or desires further information on any title or author, he/she shall contact the Superintendent at least thirty (30) days before board action. The Superintendent or designee shall then contact the district-level library supervisor to obtain copies of professional reviews of any library material in question. If so desired, the board member can obtain a copy of the library material from another source.

b) Board action

The order of purchase for library materials in its entirety, including any materials in question by individual board members, shall be presented to the Board following the 30-day review period.

Prior to voting, individual Board members shall have an opportunity to present their rationale for desiring to exclude certain books from the order, with amendments to the proposed list considered either as a group or individually, depending on board action. After Board approval, the final list shall be processed for order. As the new materials are received, they shall be checked against a master list of materials ordered.

The selection and acquisition of the digital library collection will follow the same policies and procedures as the physical library collection. The district shall ensure that the method by which students access the digital library will allow students only to access age/grade-appropriate content. The curator will apply access levels by consulting the peer-reviewed recommended age group, District librarians, and educators. Access levels shall be applied as:

Recommended Ages	Grade Span	Content Access Level
14+	9-12	High School
Adult	9-12	High School

c) TexQuest digital resources

TexQuest is the Texas State Library and Archives Commission’s (TSLAC’s) electronic instructional resources program for public schools. District participation in TexQuest is voluntary. TexQuest is supported by the Texas Legislature and by participation fees paid by school districts and open enrollment charter schools. TSLAC administers all aspects of the TexQuest program and coordinates with districts on the implementation and management of any TexQuest resources the district or school system selects to make available for its students.

TSLAC licenses resources for the TexQuest program following state procurement practices and with opportunities for community input. Professional librarians evaluate resources for inclusion in the program based on the TexQuest Collection Development Policy and actively manage the resulting contracts. Use of any or all TexQuest digital resources and e-books remains a Board decision.

Sec. 7. CHALLENGE PROCEDURES

A parent of a Richard Milburn Academy student or any Richard Milburn Academy resident may formally challenge library material used in the Richard Milburn Academy’s educational program on the basis of appropriateness. The school receiving a complaint about the appropriateness of a library material shall try to resolve the matter informally through a telephone/video conference or meeting between the complainant and the school librarian, designated campus administrator, or District-level library supervisor.

The conference may also include other necessary staff members as deemed appropriate by district-level library personnel.

If the complainant wishes to file a formal request for reconsideration, a copy of the “Request for Reconsideration of Library Materials” form shall be provided to the complainant by district-level Library supervisor or designated administrator/media specialist. The following shall apply:

[CHOOSE FROM ONE OF TWO OPTIONS]

[OPTION 1: USED THE NORMAL SCHOL GRIEVANCE PROCESS]

The Board’s grievance policies and process for parents (or employees if applicable) under Board Policy [INSERT CITE/POLICY NO] shall apply to any formal grievance.

[OPTION 2: STAND ALONE PROCESS FOR THIS SPECIFIC ISSUE]

1. All formal concerns regarding library materials shall be submitted on the form provided by the Richard Milburn Academy and shall submit the completed and signed form to district-level library supervisor or designated administrator/media specialist.
2. The District-level library supervisor/media specialist shall appoint a reconsideration committee within ten business days that shall review the challenged material and determine whether it conforms to the principles of selection set out in this policy.
3. The reconsideration committee shall include both district and campus-level professional staff, including at least one member who has experience using the challenged resource with students or is familiar with the content of the challenged material, and two parents of students. The Superintendent or designee shall chair the committee.
4. The total voting committee membership shall be an uneven number. The complainant will not be a member of the committee, but the complainant’s written submission will be thoughtfully considered by the committee.
5. Prior to the committee meeting, each committee member will read a copy of the library material in question.
6. All committee members shall review the submitted written concern.
7. The committee will review all items on the Checklist for Re-consideration of Library Materials.
8. After working through the checklist for reconsideration of library materials and any deliberations the committee feels necessary, committee members will vote on the disposition of the library material being considered.

The major criterion for the final decision on challenged library material is the appropriateness of the resource for its intended educational use. The plurality opinion in *Bd. of Educ. v. Pico*, 457 U.S. 853 (1982) uses the standard that no challenged instructional resource shall be removed solely because of the ideas expressed therein. The opinion allows the removal of materials because they are pervasively vulgar or based upon the lack of educational suitability of the library material. Further, making a determination of appropriateness will include a review of and compliance with 47 U.S.C. §254(h)(5), Texas Penal Code §43.24(a)(2), and Texas Penal Code §43.24(b).

When the committee has reached a decision, the appropriate District-level administrator/media specialist shall notify the complainant. The decision shall be in written form, dated, and provided to the complainant within ten (10) District business days of the committee's meeting. All other appropriate staff members will be informed of the reconsideration and the outcome.

A specific library material that completes the formal challenge process and remains in the library will not be reconsidered within one year of final determination, and any material removed will not be eligible for consideration to be added again for at least 10 years. The district shall verify previous decisions prior to convening a reconsideration committee.

As noted above, TSLAC administers all aspects of the TexQuest program and has adopted policies for the selection and management of TexQuest resources. Challenges to material provided through the program would follow the TSLAC TexQuest Content review process.

Appeal of Reconsideration Committee. The complainant may appeal the decision of the reconsideration committee by filing the appropriate district grievance form.

[END OPTION 2]

The decision of the Board, if appealed to the Board, is final and non-appealable.

Sec. 8. OPPORTUNITY FOR PARENT REVIEW

In recognizing that parents hold an essential role in the education of their children and have the right to guide what their children read, each library shall maintain a printed list of materials onsite and on the school library website that shows what has been selected as well as what is slated for acquisition. The Superintendent, or designated District-level administrator/media specialist, will offer a "Parent Preview" at least ten days before books are to be placed on the shelves, once in the fall and once in the spring. Audio-visual materials are to be made available to parents for in-person review, upon request, on the same basis as printed materials are made available.

Sec. 9. OTHER PARENTAL CONSIDERATIONS

In school libraries, students are afforded the opportunity to self-select texts as part of literacy development. While librarians are trained in selecting materials in accordance with Board policy and the outlined selection criteria and may provide guidance to students in selecting texts, the ultimate determination of appropriateness lies with the student and parent.

School librarians, or designated campus administrators, are to encourage parents to share any considerations regarding their students' book selections. Parents may contact the campus librarian directly and/or complete an online form for library book opt-out decisions. School librarians will accommodate individual requests by parents, within reason, which may include restricting specific titles or books.

Richard Milburn Academy may not allow an enrolled student to reserve, check out, or otherwise use outside the school library any library materials rated as sexually relevant material unless the school first

obtains written consent from the student's parent or person standing in parental relation. *Education Code 35.005.*

Sec. 10. CRITERIA FOR GIFTS AND DONTATIONS

Gifts and donations to the school library or classroom libraries are accepted with the understanding that the decision for use and disposition of the materials and/or funds will be determined using the same selection criteria as purchased materials. All materials should support the curriculum and needs of library users. Gifts and donations, like purchased resources, will be removed from the collection at the end of their useful life. Gifts and donations will be subject to the acquisition policy and process for approval before including in the school library collection or in a classroom library.

Sec. 11. ROUTINE REVIEW AND REMOVAL OF MATERIALS

Bi-annually OR Annually, the District-level library supervisor/media specialist shall collaborate with campus library personnel and administration to conduct an inventory of the school library collection and equipment. The inventory can be used to determine losses and remove damaged or worn materials which can then be considered for replacement. The inventory can also be used to deselect and remove materials that are no longer relevant to the curriculum or of interest to students. Additionally, the District-level library supervisor/media specialist should develop a collection maintenance plan that includes systematic inspection of materials that would result in removing outdated, damaged, or irrelevant materials from the collection. All materials removed from the collection shall be disposed of in accordance with the District's property disposal procedures. Incorporated into this routine review and removal of existing inventory, the District shall create an ongoing cycle to review content existing in circulation.

Sec. 12. REVIEW AND REPORTING OF CERTAIN LIBRARY MATERIALS

Not later than January 1 of every odd-numbered year, Richard Milburn Academy shall:

1. Review the content of each library material in the catalog of a school library that is rated as sexually relevant material under Education Code 35.002(a) by the library material vendor;
2. Determine in accordance with the school's policies regarding the approval, review, and reconsideration of school library materials whether to retain each library material reviewed in the school library catalog; and
3. Either (i) post in a conspicuous place on the Internet website maintained by the school a report; or (ii) provide physical copies of the report at the Richard Milburn Academy central administrative office.

The report must include:

1. The title of each library material reviewed;
2. Richard Milburn Academy's decision regarding the library. Material ; and
3. The school or campus where the library material is currently located.

Education Code 35.006.

LIBRARY REQUEST FOR RECONSIDERATION OF MATERIAL

School: _____

Title: _____

Media Format (Book/video): _____

Author/Producer: _____

Request Initiated By

Name: _____

Address: _____

Telephone: _____

Does the person making this request represent a group or organization? Yes/No

If so, please identify the name of the organization: _____

Please answer the following questions:

1. Have you read, viewed, or listened to the material in its entirety? Yes/No
2. Please cite specific pages to which you objected. (Explain your objections
3. What do you identify as the theme of the material?
4. What good features do you identify?
5. For what age group would you recommend this material?
6. In place of this material, please recommend other material, which you consider to be of equal or superior quality for the educational purpose intended.
7. Do you wish to make an oral presentation to the Library Media Committee? Yes/No

Signature: _____ Date: _____

PG.-2.401 HOMEBOUND SERVICES

Sec. 1. GENERAL HOMEBOUND EDUCATION

In accordance with the Texas Education Agency's *Student Attendance Accounting Handbook* (SAAH), a student may be eligible for general education homebound services if the student is to be confined for a minimum of four weeks to a hospital or homebound for medical reasons specifically documented by a physician licensed to practice in the United States. The weeks of confinement need not be consecutive. A parent request for such services shall be made through the Principal in accordance with the SAAH and administrative procedures.

The Principal or designee shall convene a placement committee composed of at least a campus administrator, a teacher of the student, and the student's parent or guardian to consider the necessity of providing general education homebound instruction to the student. If the committee determines that such instruction is appropriate, the committee shall determine the type and amount of instruction to be provided and the length of the transition period when the student is able to return to the regular educational setting, based on current medical information.

19 TAC 89.63(c)(2).

Sec. 2. SPECIAL EDUCATION STUDENTS

Consistent with state rule and the SAAH, a student receiving special education services may be eligible for special education homebound services if the student is to be confined for a minimum of four weeks to hospital or homebound setting for medical reasons specifically documented by a physician licensed to practice in the United States. If a student is chronically ill, the student's admission, review, and dismissal committee shall determine whether the weeks of confinement need be consecutive.

If the ARD committee determines that homebound instruction is appropriate, the committee shall determine the type and amount of instruction to be provided in accordance with law and, if applicable, the length of the transition period based on current medical information.

Sec. 3. DOCUMENTATION OF SERVICES

Richard Milburn Academy shall maintain full documentation regarding students receiving homebound services in accordance with administrative procedures, the SAAH, and the student's individualized education program, as applicable.

PG.-2.402 SPECIAL EDUCATION

Sec. 1. NONDISCRIMINATION POLICY

No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any service, program, or activity provided or offered by Richard Milburn Academy/Texas, Inc. *42 U.S.C. 12132; 29 U.S.C. 794(a); 34 CFR 104.4(a).*

Sec. 2. FREE APPROPRIATE PUBLIC EDUCATION

Eligible students with disabilities shall enjoy the right to a free appropriate public education (“FAPE”), which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate. *Education Code 29.003(a).*

FAPE means special education and related services that:

- 1) Have been provided at public expense, under public supervision and direction, and without charge;
- 2) Meet standards set out by the Texas Education Agency (“TEA”);
- 3) Include an appropriate preschool, elementary school, or secondary school education; and
- 4) Are provided in conformity with the student’s individualized education program (“IEP”).

20 U.S.C. 1401(9); 34 CFR 300.13, 300.17, 300.36.

Sec. 3. LEAST RESTRICTIVE ENVIRONMENT

Richard Milburn Academy shall ensure that, to the maximum extent possible, students with disabilities shall be educated with students who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the student’s disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved. *20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2).*

Sec. 4. DISCIPLINE

All disciplinary actions regarding students with disabilities shall be determined in accordance with applicable federal regulations, Education Code Chapter 37, and 19 Administrative Code 89.1053. *19 TAC 89.1050(k).*

Sec. 5. INSTRUCTIONAL ARRANGEMENTS AND SETTINGS

Instructional arrangements and settings shall be based on the individual needs and IEPs of eligible students receiving special education services. Instructional arrangements and settings include:

1. Mainstream: services provided in the regular classroom in accordance with the student’s IEP;

2. Homebound: services provided at home or hospital bedside;
3. Hospital class: services provided in a classroom, hospital facility, or residential care and treatment facility not operated by Richard Milburn Academy;
4. Speech therapy: speech therapy services provided, whether in a regular education classroom or other setting;
5. Resource room/services: services provided in a setting other than the regular classroom for less than 50% of the regular school day;
6. Self-contained (mild, moderate, or severe) regular campus: services provided to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus;
7. Off home campus: services provided in an inter-district program, through Richard Milburn Academy personnel in a non-Richard Milburn Academy facility, or at a Richard Milburn Academy campus that provides only special education and related services.
8. Nonpublic day school: services provided through a contractual agreement with a nonpublic school;
9. Vocational adjustment class/program: services provided to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP;
10. Residential care and treatment facility (not Richard Milburn Academy resident): services provided to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of Richard Milburn Academy;
11. State supported living center: services provided to a student who resides at a state supported living center when the services are provided at the state supported living center location; or
12. Other program options, including contracts with other districts and programs approved by TEA.

19 TAC 89.63(c), (f).

Sec. 6. RELATED SERVICES

“Related services” means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including the early identification and assessment of disabling conditions in students.

The term includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a student with a disability to receive a FAPE as described in the student's IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that medical services shall be for diagnostic and evaluation purposes only.

The term does not include a medical device that is surgically implanted, the optimization of the device's functioning, or the replacement of such device.

20 U.S.C. 1401(26); 34 CFR 300.34.

PG.-2.403 IDENTIFICATION, EVALUATION, AND ELIGIBILITY OF SPECIAL EDUCATION STUDENTS

Sec. 1. CHILD FIND

Richard Milburn Academy shall ensure that all students residing within the Richard Milburn Academy

boundaries who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to all students with disabilities, including:

1. Homeless students;
2. Children who are wards of the state;
3. Students attending private schools;
4. Highly mobile students (including migrant students); and
5. Students who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. 1412(a)(3)(A); 34 CFR 300.111(a)(1)(i), (c).

a) Private School Students

Richard Milburn Academy shall coordinate with home school districts, who are primarily responsible for consulting with private school representatives regarding the student find process and the provision of special education and related services to students enrolled in private schools within the Richard Milburn Academy boundaries.

Richard Milburn Academy shall undertake activities similar to those undertaken for public school students and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending the public schools within the Richard Milburn Academy boundaries. *20 U.S.C. 1412(a)(10)(A)(ii)–(iv).*

Sec. 2. REFERRAL

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. *20 U.S.C. 1414(a)(1)(E).*

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of Richard Milburn Academy’s overall general education referral or screening system. Either a parent, the Texas Education Agency (“TEA”), another state agency, or Richard Milburn Academy may initiate a request for an initial evaluation.

a) Obligation to Refer

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions, Richard Milburn Academy personnel must refer the student for a full and individual initial evaluation. *20 U.S.C. § 1414(a)(1); 34 C.F.R. § 300.301; 19 TEX. ADMIN. CODE § 89.1011*

b) Parent or Adult Student Request

If a parent or adult student submits a written request for a full individual and initial evaluation of a student, Richard Milburn Academy shall, not later than the 15th school day after the date Richard Milburn Academy receives the request:

1. Provide the parent or adult student with prior written notice of its proposal to conduct an evaluation consistent with 34 C.F.R. § 300.503, a copy of the procedural safeguards notice required by 34 CFR 300.504, and an opportunity to give written consent for the evaluation; or
2. Provide the parent or adult student with prior written notice of its refusal to conduct an evaluation consistent with 34 C.F.R. § 300.503, and a copy of the procedural safeguards notice required by 34 C.F.R. § 300.504.

20 U.S.C. 1414(a)(1); 34 C.F.R. 300.301; 19 TAC 89.1011(a), (b); Education Code 29.004(c).

Sec. 3. NOTICE OF RIGHTS

Richard Milburn Academy shall provide written notice to a student's parent or guardian within a reasonable time before proposing or refusing to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education ("FAPE"). *20 U.S.C. 1415(b)(3); 34 CFR 300.503(a).*

Sec. 4. INITIAL EVALUATION

Richard Milburn Academy shall conduct a full and individual initial evaluation before the initial provision of special education and related services to a student with a disability. *20 U.S.C. 1414(a)(1)(A).*

a) Consent for Initial Evaluation

If the parent does not provide consent for an initial evaluation or fails to respond to a request to provide consent, Richard Milburn Academy may, but is not required to, pursue the initial evaluation by utilizing due process procedures, except to the extent inconsistent with state law relating to such parental consent.

Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services. *20 U.S.C. 1414(a)(1)(D)(i)(1); 34 CFR 300.300.*

b) Wards of the State

If the child is a ward of the state and is not residing with the child's parent, Richard Milburn Academy shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

1. Richard Milburn Academy cannot discover the whereabouts of the parent, despite reasonable efforts to do so;
2. The rights of the parent have been terminated in accordance with State law; or
3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

20 U.S.C. 1414(a)(1)(D)(iii); 34 CFR 300.300(a)(2).

c) Completion of Written Report

Richard Milburn Academy must complete the written report of a full individual and initial evaluation:

Not later than the 45th school day following the date on which Richard Milburn Academy in accordance with 20 USC 1414(a) receives written consent for the evaluation signed by the student's parent, adult student or legal guardian. If a student has been absent from school during that period on three or more school days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or

If Richard Milburn Academy receives written consent for the evaluation from the student's parent or adult student at least 35 but less than 45 school days before the last instructional day of the school year, the written report of a full individual and initial evaluation of a student must be provided to the student's parent or adult student not later than June 30 of that year.

If Richard Milburn Academy receives written consent signed by a student's parent or adult student less than 35 school days before the last instructional day of the school year or if Richard Milburn Academy receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the report must be completed not later than the 45th school day following the date Richard Milburn Academy received written consent, except that the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent.

A student is considered absent for the school day if the student is not in attendance at the official Richard Milburn Academy attendance taking time or at the alternate attendance taking time set for that student. A student is considered in attendance if the student is off campus participating in an activity that is approved by the Board and is under the direction of a professional staff member of Richard Milburn Academy or an adjunct staff member who has a minimum of a bachelor's degree and is eligible for participation in the Teacher Retirement System of Texas.

“School day” does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term.

These time frames shall not apply if the parent or adult student repeatedly fails or refuses to produce the student for the evaluation.

d) Transfer Students

Richard Milburn Academy shall ensure that evaluations of students who transfer from one public school to another in the same academic year are coordinated with the student's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations.

If a student was in the process of being evaluated for special education eligibility by another public school and enrolls in Richard Milburn Academy before the previous school completed the full individual and initial evaluation, Richard Milburn Academy must coordinate with the previous school as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation in accordance with 34 C.F.R. 300.301(d)(2) and (e) and 300.304(c)(5).

The time lines above do not apply in such a situation if:

1. The new school is making sufficient progress to ensure a prompt completion of the evaluation; and
2. The parent and the new school agree to a specific time when the evaluation will be completed.

20 U.S.C. 1414(a)(1)(C), (b)(3)(D); 34 C.F.R. 300.301(c)–(e); Education Code 29.004; 19 TAC

89.1011.

Sec. 5. PSYCHOLOGICAL EXAMS

If Richard Milburn Academy determines that an additional examination or test is required for the evaluation, Richard Milburn Academy shall provide the information required by Education Code 29.0041(a) and shall obtain parental or adult student consent. If a parent or adult student does not give consent within 20 calendar days after the School provides the information, the parent's or adult student's consent is considered denied.

The time required for Richard Milburn Academy to provide information and seek consent may not be counted toward the 60 calendar days for completion of an evaluation. *Education Code 29.0041.*

Sec. 6. ELIGIBILITY AND REEVALUATIONS

A student is eligible to participate in Richard Milburn Academy's special education program if:

1. The student is between the ages of 13 and 21, inclusive;
2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and
3. The student is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in the public schools without the provision of special services.

20 U.S.C. 1401(3); Education Code 29.003(b); 19 TAC 89.1035, .1040.

a) Determination of Initial Eligibility

Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent or adult student shall make the determination of whether the student has a disability and of the educational needs of the student.

Richard Milburn Academy shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent or adult student. *20 U.S.C. 1414(b)(4)(B); 34 CFR 300.306(a).*

The admission, review, and dismissal ("ARD") committee must make its decisions regarding a student's initial eligibility determination and, if appropriate, individualized education program ("IEP") and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year (ESY) services during that summer.

When a report is provided to a parent or adult student not later than June 30 as described at Timeframe for Completion of Written Report, above, the ARD committee must meet not later than the 15th school day of the following school year to consider the evaluation. If, however, an evaluation indicates that a student will need ESY services, the ARD committee must meet as expeditiously as possible. *19 TAC 89.1011(d), (e).*

b) Consent: Initial Provision of Services

Richard Milburn Academy must obtain informed consent from the parent or adult student for the initial provision of special education and related services. If the parent or adult student of a student fails to respond to a request for, or refuses to consent to, the initial provision of services, Richard Milburn Academy:

1. May not use the procedures in 34 C.F.R. part 300 subpart E (including the mediation and due process procedures) in order to obtain agreement or a ruling that the services may be provided to the student;
2. Will not be considered to be in violation of the requirement to make FAPE available to the student for the failure to provide the services for which Richard Milburn Academy requests consent; and
3. Is not required to convene an ARD meeting or develop an IEP for the student for the services.

c) Consent: Revoking Consent

If, at any time after the provision of initial services, the parent of a child or adult student revokes consent in writing for the continued provision of services, Richard Milburn Academy:

1. May not continue to provide services to the child or adult student, but must provide prior written notice in accordance with 34 CFR 300.503 before ceasing services;
2. May not use the procedures in 34 CFR part 300 subpart E in order to obtain agreement or a ruling that the services may be provided to the child or adult student;
3. Will not be considered to be in violation of the requirement to make FAPE available to the child or adult student because of the failure to provide the child with further services; and
4. Is not required to convene an IEP Team meeting or develop an IEP for further provision of services.

34 CFR 300.300(b).

d) Reevaluations

Richard Milburn Academy shall ensure that each child or adult student with a disability is reevaluated if Richard Milburn Academy determines that the educational or related service needs of the child or adult student, including improved academic achievement and functional performance, warrant a reevaluation, or if the child's parent or adult student or teacher requests a reevaluation.

Reevaluation shall occur:

1. No more than once a year, unless the parent and Richard Milburn Academy agree otherwise; and
2. At least once every three years, unless the parent or adult student and Richard Milburn Academy agree that a reevaluation is unnecessary.

Richard Milburn Academy shall obtain informed parental or adult student consent before conducting a reevaluation, except that informed parental consent is not needed if Richard Milburn Academy can demonstrate that it has taken reasonable measures to obtain consent and the child's parent or adult student has failed to respond. *20 U.S.C. 1414(a)(2), (c)(3); 34 CFR 300.303.*

e) Evaluation for Change in Eligibility

Richard Milburn Academy shall evaluate a child or adult student before determining that the child or adult

student is no longer a child or adult student with a disability. However, an evaluation is not required before the termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for FAPE under state law; a summary of academic achievement and functional performance must be provided in these circumstances. *20 U.S.C. 1414(c)(5); 34 CFR 300.305(e); 19 TAC 89.1070(g)*.

***f)* Independent Evaluation**

Parents or adult student have a right to obtain an independent educational evaluation of the student. Upon such a request, Richard Milburn Academy shall provide the parents or adult student with information regarding where one can be obtained and Richard Milburn Academy's criteria for independent evaluations.

i. At Public Expense

If a parent or adult student requests an independent evaluation at public expense, Richard Milburn Academy shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that its evaluation is appropriate; or
2. Ensure that an independent evaluation is provided at public expense, unless Richard Milburn Academy demonstrates in a hearing pursuant to 34 CFR 300.507 through 300.513 that the evaluation obtained by the parent or adult student did not meet Richard Milburn Academy's criteria for independent evaluations.

ii. At Private Expense

If Richard Milburn Academy initiates a hearing, and the final decision is that Richard Milburn Academy's evaluation is appropriate, the parent or adult student still has a right to an independent evaluation, but not at public expense. If the parent or adult student obtains an independent evaluation at private expense, Richard Milburn Academy shall consider the results of the evaluation, if it meets Richard Milburn Academy's criteria, in any decision made with respect to providing FAPE to the student. *34 CFR 300.502*.

Sec. 7. REQUIRING PRESCRIPTION MEDICATION

Richard Milburn Academy employees are prohibited from requiring a student to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 *et seq.*) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

Richard Milburn Academy employees are not prohibited from consulting or sharing classroom-based observations with parents or adult student regarding the student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services. *20 U.S.C. 1412(a)(25)*.

PG.-2.404 TRANSITION SERVICES

Sec. 1. DEFINITIONS

"Transition services" means a coordinated set of activities for a child with a disability that:

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes:
 - a. Instruction;
 - b. Related services;
 - c. Community experiences;
 - d. The development of employment and other post-school adult living objectives; and
 - e. If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

20 U.S.C. 1401(34); 34 CFR 300.43.

Sec. 2. INDIVIDUAL TRANSITION PLANNING

In accordance with Education Code 29.011 and 29.0111, not later than when a student reaches 14 years of age, the admission, review, and dismissal ("ARD") committee must consider, and if appropriate, address the following issues in the individualized education program ("IEP"):

1. Appropriate student involvement in the student's transition to life outside the public school system;
2. If the student is younger than 18 years of age, appropriate involvement in the student's transition by the student's parents and other persons, if the parent or other persons invited to participate by the student's parents or Richard Milburn Academy;
3. If the student is at least 18 years of age, involvement in the student's transition and future by the student's parents and other persons, if the parent or other person is invited to participate by the student or Richard Milburn Academy or has the student's consent to participate pursuant to a supported decision-making agreement under Texas Estates Code, Chapter 1357;
4. Appropriate postsecondary education options, including preparation for postsecondary- level coursework;
5. An appropriate functional vocational evaluation;
6. Appropriate employment goals and objectives;
7. If the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives;
8. Appropriate independent living goals and objectives;
9. Appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits; and
10. The use and availability of appropriate supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills and supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Texas Estates Code, Chapter 157.

In accordance with 34 C.F.R. 300.320(b), beginning not later than the first IEP to be in effect when the student turns 16 years of age, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the IEP must include the following:

1. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
2. The transition services, including courses of study, needed to assist the student in reaching the postsecondary goals developed under paragraph (1) of this subsection.

The student's ARD committee shall annually review and, if necessary, update relevant portions of the student's IEP.

20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 C.F.R. 300.320(b); Education Code 29.0111; 19 TAC 89.1055(h), (j).

Sec. 3. TRANSITION AND EMPLOYMENT GUIDE

Richard Milburn Academy shall utilize the transition and employment guide developed by the Texas Education Agency for use with students enrolled in special education programs and their parents, as appropriate. Specifically, Richard Milburn Academy shall:

1. Post the transition and employment guide on the Richard Milburn Academy website;
2. Provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at:
 - a. The first ARD committee meetings at which transition is discussed; and
 - b. The first ARD committee meeting at which transition is discussed that occurs after the guide is updated; and
3. On request, provide a printed copy of the guide to a student or parent.

Education Code 29.0112(a)(3).

Sec. 4. GRADUATION

Graduation with a regular high school diploma under 19 TAC 89.1070(b)(1), (b)(2)(D), (g)(1), (g)(2), or (g), or (g)(4)(D) terminates a student's eligibility for special education services. For students who receive a diploma according to 19 TAC 89.1070(b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C), the ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age requirements.

Graduation from high school with a regular diploma constitutes a change in placement that requires written prior notice to parents.

Richard Milburn Academy is not required to conduct an evaluation before termination of eligibility due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for a free appropriate public education under state law.

Richard Milburn Academy shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

20 U.S.C. 1414(c)(5); 34 CFR 300.102(a)(3), 300.305(e)(2); 19 TAC 89.1070(a), (k).

PG.-2.405 DYSLEXIA AND RELATED DISORDERS

Sec. 1. DYSLEXIA AND RELATED DISORDERS

The Board shall ensure that procedures are implemented for identifying and providing appropriate, evidence-based instructional services to students for dyslexia and related disorders. These procedures shall be implemented in accordance with the State Board of Education's *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* and its subsequent amendments ("Dyslexia Handbook"). Richard Milburn Academy shall further ensure compliance with all rules and standards adopted by the State Board of Education to implement the dyslexia program, including the Dyslexia Handbook and guidance published by the commissioner to assist Richard Milburn Academy in implementing the program. *Education Code 38.003(b)*.

Sec. 2. REFERRALS

Anytime a child is suspected to have dyslexia or a related disorder and may need dyslexia intervention services, the LEA must seek parental consent for a Full Individual Initial Evaluation (FIIE) under the Individuals with Disabilities Education Act (IDEA). The process of seeking informed parental consent under the IDEA must include proper prior written notice and be accompanied by the notice of procedural safeguards.

If Richard Milburn Academy suspects or has a reason to suspect that a student may have dyslexia, including after evaluation or use of a reading diagnosis under Sections 28.006 or 38.003 of the Education Code, and that the student may be a child with a disability under the IDEA, Richard Milburn Academy must:

1. Seek parental consent for a FIIE under the IDEA and provide prior written notice and notice of procedural safeguards;
2. Provide to the student's parent or a person standing in parental relation to the student a form developed by the Texas Education Agency explaining the rights available under the IDEA that may be additional to the rights available under Section 504 of the Rehabilitation Act of 1973;
3. Comply with all federal and state requirements, including the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*, as adopted by the State Board of Education (SBOE), and its subsequent amendments, regarding any evaluation of the student; and
4. If the student is evaluated for dyslexia or a related disorder, also evaluate the student in any other areas in which the district suspects the student may have a disability.

Education Code 29.0031(a).

Richard Milburn Academy shall also provide to parents of children suspected to have dyslexia or a related disorder a copy of or link to the electronic version of the State Board of Education's *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)*. *19 TAC 74.28(m)*.

Parents and guardians of students with dyslexia or a related disorder must be informed of all services and options available to the student, including general education interventions under response to intervention and multi-tiered systems of support modules as required by Section 26.0081 of the Education Code.

Sec. 3. IDENTIFICATION AND TESTING

A process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available, as outlined in the *Dyslexia Handbook*. The program must include a screening at the end of each school year for all kindergarten students and by January 31st for first grade students.

Richard Milburn Academy may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder.

Sec. 4. EVALUATION TEAM AND ARD COMMITTEE

The multidisciplinary evaluation team and any subsequent ARD committee convened to determine a student's eligibility for special education and related services as a child with dyslexia or a related disorder must include at least one member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction. The member must:

1. Hold a licensed dyslexia therapist license under Chapter 403, Occupations Code;
2. Hold the most advanced dyslexia-related certification issued by an association recognized by the State Board of Education, and identified in, or substantially similar to an association identified in, the program rules adopted under Sections 7.102 and 38.003; or
3. If a person qualified under 1 or 2 above is not available, meet the applicable training requirements adopted by the State Board of Education pursuant to Sections 7.102 and 38.003.

The member of a multidisciplinary evaluation team or subsequent ARD committee convened to determine a student's eligibility for special education and related services as described above must sign a document describing the member's participation in the evaluation and any resulting Individualized Education Program (IEP) developed for the student.

Education Code 29.0031(b), (c).

Sec. 5. PERSONNEL QUALIFICATIONS

Highly trained individuals must deliver dyslexia instruction. Teachers who provide dyslexia intervention for students are not required to hold a specific license or certification. However, these educators must at a minimum have additional documented dyslexia training aligned to 19 TAC §74.28(c) and must deliver the instruction with fidelity.

A provider of dyslexia instruction to students with dyslexia and related disorders must also be fully trained in Richard Milburn Academy's adopted instructional materials for students with dyslexia. The completion of a literacy achievement academy under Section 21.4552 of the Education Code by an educator who participates in the evaluation or instruction of students with dyslexia and related disorders does not satisfy this training requirement.

A provider of dyslexia instruction does not have to hold a certificate or permit in special education issued under Subchapter B, Chapter 21 of the Education Code, unless the provider is employed in a special education position that requires the certification.

Education Code 29.0032.

Sec. 6. TREATMENT AND SERVICES

Richard Milburn Academy shall provide each identified student access at his or her campus to instructional

programs and to the services of a teacher trained in dyslexia and related services. Richard Milburn Academy may, with the approval of each adult student or student's parents or guardians, offer additional services at a centralized location, so long as such centralized services do not preclude each student from receiving services at his or her campus. *19 TAC 74.28(i)*.

a) Reading Program

Richard Milburn Academy shall purchase a reading program or develop its own reading program for students with dyslexia and related disorders that is aligned with the descriptors found in the *Dyslexia Handbook*.

Teachers who screen and treat these students must be trained in instructional strategies that utilize individualized, intensive, multi-sensory, phonetic methods and a variety of writing and spelling components described in the *Dyslexia Handbook*. The professional development activities specified by each school and/or campus planning committee shall include these instructional strategies.

19 TAC 74.28(e).

b) Reassessment

Unless otherwise provided by law, a student determined to have dyslexia during testing or accommodated because of dyslexia may not be retested for dyslexia for the purpose of reassessing the student's need for accommodations until Richard Milburn Academy reevaluates the information obtained from previous testing of the student.

Sec. 7. PARENT EDUCATION PROGRAM

Richard Milburn Academy shall provide a parent education program for parents of students or adult students with dyslexia and related disorders. This program must include:

1. Awareness of characteristics of dyslexia and related disorders;
2. Information on testing and diagnosis of dyslexia;
3. Information on effective strategies for teaching dyslexic students;
4. Information on qualifications of those delivering services to students with dyslexia and related disorders;
5. Awareness of information on modification, especially modifications allowed on standardized testing;
6. Information on eligibility, evaluation requests, and services available under IDEA and Section 504; and
7. Contact information for the relevant regional and/or district specialists.

Education Code 38.003; 19 TAC 74.28(l).

Sec. 8 Reporting

Richard Milburn Academy must report through the Public Education Information Management System to the Texas Education Agency the number of students enrolled who are identified as having dyslexia.

Sec. 9. Progress Reports

At least once each grading period, or more often if provided for in a student's IEP, Richard Milburn Academy must provide the parent of or person standing in parental relation to a student receiving dyslexia instruction with information regarding the student's progress as a result of receiving that instruction. *Education Code 29.0031(d)*.

PG.-2.406 BILINGUAL EDUCATION AND ESL

Sec. 1. REQUIREMENTS UNDER TITLE III OF ESEA

Richard Milburn Academy shall comply with the statutory requirements regarding English learners¹ and immigrant students upon receipt of funds under Title III of the Every Student Succeeds Act. *20 U.S.C. 6801-7014*.

Sec. 2. STATE POLICY

It is the policy of the state that every student who has a primary language other than English and who is identified as an English learner shall be provided a full opportunity to participate in a bilingual education or English as a second language (ESL) program.

Sec. 3. RICHARD MILBURN ACADEMY/TEXAS, INC. RESPONSIBILITIES

Richard Milburn Academy shall:

1. Identify English learners based on criteria established by the state;
2. Provide bilingual education and ESL programs, as integral parts of its regular program;
3. Seek certified teaching personnel to ensure that English learners students are afforded full opportunity to master the essential skills and knowledge required by the state; and
4. Assess achievement for essential knowledge and skills in accordance with Chapter 29, Education Code to ensure accountability for English learners and the schools that serve them.

19 TAC 89.1201(a).

Sec. 4. IDENTIFYING ENGLISH LEARNER STUDENTS

Within the first four weeks following the first day of school, the language proficiency assessment committee (LPAC) shall determine and report to the Board the number of English learner students at each campus and shall classify each student according to the language in which the student possesses primary proficiency. The Board shall report that information to the Texas Education Agency ("TEA") before November 1 every year. *Education Code 29.053(b)*.

Sec. 5. LANGUAGE PROFICIENCY ASSESSMENT COMMITTEES

Richard Milburn Academy shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four weeks of the enrollment of English learner students.

¹ In this policy, the term “English learner” is synonymous with “emergent bilingual” student, as that term is used in Subchapter B, Chapter 29, Education Code.

a. LPAC Membership

Each LPAC shall include:

1. An appropriately certified bilingual educator (for students served through bilingual education);
2. An appropriately certified English as a second language (ESL) educator (for students served through an ESL program);
3. A parent of the English learner participating in a bilingual or ESL program; and
4. A campus administrator.

Richard Milburn Academy may add other trained members to the committee in any of the required categories. If Richard Milburn Academy does not have an individual in one or more of the job classifications required, another professional staff member shall be designated to serve on the LPAC.

No parent serving on the LPAC shall be an employee of Richard Milburn Academy.

All members of the LPAC, including parents, shall observe all laws and guidelines concerning student confidentiality. Richard Milburn Academy will provide orientation and training for all members of the LPAC, including parents.

Education Code 29.063; 19 TAC 89.1220(a)-(f).

b. Duties of LPAC

The LPAC shall have the duties set forth at Education Code 29.063(c) and 19 TAC 89.1220(g)– (j), (l).

c. Home Language Survey

Within four weeks of each student’s enrollment, Richard Milburn Academy shall conduct a home language survey to determine the language normally used in the home and the language normally used by the student, whenever possible. The home language survey shall be conducted in English and in the home language, and signed by the student’s parents if the student is in prekindergarten through grade 8, or by the student if the student is in grades 9 through 12. The original copy of the survey shall be kept in the student’s permanent record.

Richard Milburn Academy shall conduct only one home language survey of each student.

The home language survey shall be administered in English, Spanish, and Vietnamese; for students of other language groups, the home language survey shall be translated into the primary language whenever possible. The home language survey shall contain the following questions:

1. “What language is spoken in the child’s home most of the time?”
2. “What language does the child speak most of the time?”

If the response on the home language survey indicates that a language other than English is used, the student shall be tested in accordance with 19 Texas Administrative Code § 89.1226.

19 TAC 89.1215.

d. Classification as emergent bilingual students

The LPAC may classify a student as an English learner if:

1. The student's ability in English is so limited or the student's disabilities are so severe that assessment procedures cannot be administered;
2. The student's score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;
3. The student's primary language proficiency score as measured by a TEA-approved test is greater than the student's proficiency in English; or
4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

Education Code 29.056(c).

e. Parent Notice and Consent

Not later than the 10th day after the LPAC's classification of a student as an emergent bilingual student, the LPAC shall give written notice of the classification to the student's parent. The notice must be in English and in the parent's primary language. The parents of students eligible to participate in the required bilingual education program shall be informed of the benefits of the bilingual education or special language program and that it is an integral part of the school program.

Placement of a student in the bilingual education or ESL program must be approved in writing by the student's parent.

Education Code 29.056(a); 19 TAC 89.1040(a).

Pending parent approval, Richard Milburn Academy shall place the student in the recommended program, but may count only emergent bilingual students with parental approval for bilingual education allotment.
Education Code 29.056(a), (d); 19 TAC 89.1220(j).

Richard Milburn Academy may identify, exit, or place a student in a program without written parent approval if:

1. The student is 18 years of age or has had the disabilities of minority removed;
2. The parent provides approval by telephone or email that is documented in writing and retained; or
3. An adult recognized by Richard Milburn Academy as standing in parental relation to the student provides written approval. This may include a foster parent, or employee of a state or governmental agency with temporary possession or control of the student.

19 TAC 89.1220(j), (m), .1240(a).

f. Participation of Non- Emergent Bilingual Students

With the approval of Richard Milburn Academy and a student's parent, a student who is not an English learner may participate in a bilingual education program. The number of participating students who are not English learners may not exceed 40% of the number of students enrolled in the program.

Education Code 29.058; 19 TAC 89.1233(c).

g. Students with Disabilities

Richard Milburn Academy shall implement assessment procedures that differentiate between language proficiency and disabling conditions in accordance with 19 Administrative Code Chapter 89, Subchapter AA, and shall establish placement procedures that ensure that placement in a bilingual education or ESL program is not refused solely because a student has a disability.

LPAC members shall meet in conjunction with admission, review, and dismissal committee members to review and provide recommendations with regard to the educational needs of each emergent bilingual student who qualifies for services in the special education program.
19 TAC 89.1230.

Sec. 6. BILINGUAL AND ESL PROGRAMS

Upon the enrollment of 20 or more emergent bilingual students in any language classification in the same grade, Richard Milburn Academy shall offer a bilingual education or special language program as follows:

Instruction in English as a second language in grades 9–12.

Education Code 29.053(c)-(d), 29.054(a).

a. Program Content

Richard Milburn Academy’s bilingual education program shall be a full-time program of dual- language instruction that provides for learning basic skills in the primary language of the students enrolled in the program and for carefully structured and sequenced mastery of English language skills. An ESL program shall be an intensive program of instruction in English from teachers trained in recognizing and dealing with language differences. The bilingual or ESL program shall be designed to consider the students’ learning experiences and shall incorporate the cultural aspects of the students’ backgrounds.

Emergent bilingual students shall participate fully with English-speaking students in regular classes provided in subjects such as art, music, and physical education. Richard Milburn Academy shall provide students enrolled in the bilingual or ESL program a meaningful opportunity to participate fully with other students in all extracurricular activities. Elective courses may be taught in a language other than English.

Education Code 29.055, .057(b); 19 TAC 89.1210(f).

b. Classes and Facilities

Students enrolled in the bilingual or ESL programs shall be placed in classes with other students of approximately the same age and level of educational attainment. Richard Milburn Academy shall ensure that each student’s instruction is appropriate to the student’s level of educational attainment, and Richard Milburn Academy shall keep adequate records of the educational level and progress of each student enrolled in the program.

Bilingual education and special language programs shall be located in each regular Richard Milburn Academy campus rather than in separate facilities. Richard Milburn Academy may concentrate the programs at a limited number of schools. Recent immigrant emergent bilingual students shall not remain

enrolled in newcomer centers for longer than two years.

Education Code 29.057; 19 TAC 89.1235.

Sec. 7. COOPERATION AMONG DISTRICTS

Richard Milburn Academy may join with one or more other public schools to provide the required bilingual and special language programs. The availability of the programs shall be publicized throughout the schools involved.

Richard Milburn Academy may allow a nonresident emergent bilingual student to enroll in or attend its bilingual education or special language program if the student's district of residence does not provide an appropriate program. The district of residence shall pay the tuition for the student. *Education Code 29.059; 19 TAC 89.1205(e).*

Sec. 8. PERSONNEL

Teachers assigned to bilingual education and ESL programs must be appropriately certified in bilingual education or ESL, respectively. *Education Code 29.061(b), (c).*

If Richard Milburn Academy is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates, Richard Milburn Academy may file an application for exception with TEA in accordance with 19 TAC 89.1207. *Education Code 29.054; 19 TAC 89.1207.*

Sec. 9. EMERGENT BILINGUAL STUDENTS AND STATE ASSESSMENTS

In 9 through grade 12, an emergent bilingual student shall participate in state assessments in accordance with Commissioner's rules at 19 TAC Chapter 101, subchapter AA.

Sec. 10. PROGRAM EXIT

Richard Milburn Academy may transfer an emergent bilingual student out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

1. TEA-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in English;
2. Satisfactory performance on the reading assessment instrument under Education Code 39.023(a) or an English language arts assessment instrument under Education Code 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by the TEA; and
3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

Education Code 29.056(g).

a. Notice to Parents

Richard Milburn Academy shall notify the student's parent or adult student in writing of the student's reclassification as English proficient and his or her exit from the bilingual education or English as a second language program and acquire written approval as required under Education Code 29.056(a). Students meeting exit requirements may continue in the bilingual or English as a second language program with parental approval but are not eligible for inclusion in Richard Milburn Academy's bilingual education allotment. *19 TAC 89.1240(b)*.

b. Evaluation of Transferred Students and Reenrollment

The LPAC committee shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under the Student Code of Conduct.

After the evaluation, the LPAC may require intensive instruction for the student or reenroll the student in a bilingual education or special language program. *Education Code 29.0561*.

Sec. 11. PEIMS REPORTING REQUIREMENTS

If required to offer bilingual education or special language programs, Richard Milburn Academy shall include the following information in its PEIMS report as required by Education Code 29.006(a):

1. Demographic information on students enrolled in Richard Milburn Academy's bilingual education or special language programs;
2. The number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by Richard Milburn Academy; and
3. The number and percentage of students identified as emergent bilingual students who do not receive specialized instruction.

Sec. 12. PROGRAM EVALUATION

If Richard Milburn Academy is required to conduct a bilingual education or ESL program, it shall conduct an annual evaluation in accordance with Education Code 29.053, collecting a full range of data to determine program effectiveness to ensure student academic success. The annual evaluation report shall be presented to the Board before November 1 of each school year, and the report shall be retained at the administrative level in accordance with Education Code 29.062.

Richard Milburn Academy shall report to parents the progress of their child in acquiring English as a result of participation in the program offered to emergent bilingual students..

PG.-2.407 TITLE I SERVICES

Sec. 1. RECEIPT OF TITLE I FUNDS

Richard Milburn Academy may receive funds under Title I, Part A only if Richard Milburn Academy conducts outreach to all parents and family members and implements programs, activities, and procedures for the involvement of parents in programs assisted under Title I, Part A, consistent with 20 U.S.C. 6318. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children. 20 U.S.C. 6318(a)(1).

a. Richard Milburn Academy Policy

If Richard Milburn Academy receives Title I, Part A funds, Richard Milburn Academy shall develop jointly with, agree on with, and distribute to parents and family members of participating children a written parent and family engagement policy. The policy shall be incorporated into a school plan developed under 20 U.S.C. 6312, establish Richard Milburn Academy's expectations and objectives for meaningful parent and family involvement, and describe how Richard Milburn Academy will:

1. Involve parents and family members in jointly developing the district plan under 20 U.S.C. 6312, and the development of support and improvement plans under paragraphs (1) and (2) of 20 U.S.C. 6311(d);
2. Provide the coordination, technical assistance, and other support necessary to assist and build the capacity of all participating schools within Richard Milburn Academy in planning and implementing effective parent and family involvement activities to improve student academic achievement and school performance, which may include meaningful consultation with employers, business leaders, and philanthropic organizations, or individuals with expertise in effectively engaging parents and family members in education;
3. Coordinate and integrate parent and family engagement strategies under Title I, Part A with parent and family engagement strategies, to the extent feasible and appropriate, with other relevant federal, state, and local laws and programs;
4. Conduct, with the meaningful involvement of parents and family members, an annual evaluation of the content and effectiveness of the parent and family engagement policy in improving the academic quality of all schools served under Title I, Part A, including identifying:
 - a. Barriers to greater participation by parents in activities authorized by section 6318 (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background);
 - b. The needs of parents and family members to assist with the learning of their children, including engaging with school personnel and teachers; and
 - c. Strategies to support successful school and family interactions;
5. Use the findings of the above evaluation to design evidence-based strategies for more effective parental involvement, and to revise, if necessary, the parent and family engagement policies described in section 6318; and
6. Involve parents in the activities of the schools served under Title I, Part A, which may include establishing a parent advisory board comprised of a sufficient number and representative group of parents or family members served by Richard Milburn Academy to adequately represent the needs of the population served by Richard Milburn Academy for the purposes of developing, revising, and reviewing the parent and family engagement policy.

20 U.S.C. 6318(a)(2).

b. Campus Policy

Each Richard Milburn Academy campus served under Title I, Part A shall jointly develop with, and distribute to, parents and family members of participating children a written parent and family involvement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of 20 U.S.C. 6318(c)–(f). Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school. *20 U.S.C. 6318(b).*

c. Comparability of Services

Richard Milburn Academy may receive Title I, Part A funds for any fiscal year only if the Texas Education Agency (TEA) finds that Richard Milburn Academy has maintained its fiscal effort in accordance with 20 U.S.C. 7901. *20 U.S.C. 6321(a).*

Richard Milburn Academy shall use federal funds received under Title I, Part A only to supplement, not supplant, the funds that would, in the absence of such federal funds, be made available from state and local sources for the education of students participating in programs assisted under Part A. *20 U.S.C. 6321(b).*

Richard Milburn Academy may receive Title I, Part A funds only if state and local funds will be used in Title I, Part A schools to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving Title I, Part A funds. Richard Milburn Academy may meet this requirement on a grade-span basis or a school-by-school basis.

For purposes of determining comparability, Richard Milburn Academy may exclude state and local funds expended on language instruction educational programs and the excess costs of providing services to children with disabilities as determined by Richard Milburn Academy.

Richard Milburn Academy will be considered to have met the comparability requirements if Richard Milburn Academy has filed with TEA a written assurance that Richard Milburn Academy has established and implemented:

1. A district-wide salary schedule;
2. A policy to ensure equivalence among schools in teachers, administrators, and other staff; and
3. A policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

20 U.S.C. 6321(c).

d. Prohibited Use of Funds

No funds received through the Elementary and Secondary Education Act (ESEA) may be used:

1. For construction, renovation, or repair of any school facility, except as authorized under ESEA;
2. For transportation unless otherwise authorized under ESEA;
3. To develop or distribute materials, or operate programs or courses of instruction directed at youth,

- that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;
4. To distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;
 5. To provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or
 6. To operate a program of contraceptive distribution in schools.

20 U.S.C. 7906.

Sec. 2. HOMELESS CHILDREN

As a condition of receiving funds under the McKinney-Vento Homeless Education Assistance Improvements Act, Richard Milburn Academy shall serve homeless children according to their best interests. *42 U.S.C. 11432.*

Sec. 3. FOSTER CARE TRANSPORTATION

As a condition to receiving funds under Title I, Part A, Richard Milburn Academy shall collaborate with the state or local child welfare agency to:

1. Ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. 675(4)(A) and to the extent required by law; and
2. Ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, Richard Milburn Academy will, to the extent required by law, provide transportation to the school of origin if:
 - a. The local child welfare agency agrees to reimburse Richard Milburn Academy for the cost of transportation;
 - b. Richard Milburn Academy agrees to pay the cost of transportation; or
 - c. Richard Milburn Academy and the local welfare agency agree to share the cost of such transportation.

20 U.S.C. 6312(c)(5).