



# TCSA Model Board Policy Series

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## Module 3 – Students

### **Richard Milburn Academy**

13003 Jones Maltzberger Rd.

San Antonio, Texas 78247

830-557-6181

[www.rmaschools.org](http://www.rmaschools.org)

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## **PG-3.1 EQUAL EDUCATIONAL OPPORTUNITY**

### **Sec. 1. STATEMENT OF NONDISCRIMINATION**

Richard Milburn Academy does not exclude from participation in, deny the benefits of, or subject to discrimination on the basis of race, religion, color, national origin, sex, age, disability, or relationship or association with an individual with a disability in providing educational services, activities, and programs, including vocational and career technology programs, in accordance with Title VI of the Civil Rights Act of 1964, as amended; the Individuals with Disabilities Education Act, as amended; Title IX of the Educational Amendments of 1972, as amended; the Americans with Disabilities Act (“ADA”), as amended, and Section 504 of the Rehabilitation Act of 1973, as amended.

### **Sec. 2. GRIEVANCE PROCEDURES**

Richard Milburn Academy shall adopt and public grievance procedures for prompt and equitable resolution of student complaints alleging discrimination under applicable law. *34 CFR 106.8 (Title IX); 34 CFR 104.7 (Section 504)*. The Superintendent or designee shall ensure that such grievance procedures are distributed and otherwise made available to parents and students.

#### ***a) Title IX Coordinator***

Richard Milburn Academy designates the following person(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended: James Kirksey, Director of Special Populations, 13003 Jones Maltsberger, San Antonio, TX 78247, (830)557-6181 and [TitleIXCoordinator@rma-tx.org](mailto:TitleIXCoordinator@rma-tx.org).

#### ***b) ADA/Section 504 Coordinator***

Reports of discrimination based on disability may be directed to the ADA/Section 504 Coordinator. Richard Milburn Academy designates the following person(s) to coordinate its efforts to comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended: James Kirksey, Director of Special Populations 13003 Jones Maltsberger San Antonio, TX 78247, 830-557-6181 and [ADA/Section504Coordinator@rma-tx.org](mailto:ADA/Section504Coordinator@rma-tx.org).

#### ***c) Coordinator for Purposes of Compliance with Other Nondiscrimination Laws***

The following person(s) have been designated to coordinate Richard Milburn Academy’s compliance with all other antidiscrimination laws: Christina Averill, HR Specialist, 13003 Jones Maltsberger Road, San Antonio, TX 78247, (830) 557-6181, and [hr@rma-tx.org](mailto:hr@rma-tx.org).

### **Sec. 3. EQUAL EDUCATIONAL OPPORTUNITY**

Richard Milburn Academy shall provide necessary services and supports to provide students equal access to educational opportunities. Certain instructional or other accommodations, including on state-mandated assessments, may be made when necessary, when allowable, and when these

accommodations do not modify the rigor or content expectations of a subject, course, or assessment.

If Richard Milburn Academy has reason to believe that a student has a disability that may require additional services and supports in order for the student to receive an appropriate education as this term is defined by law, Section 504 and/or the Individuals with Disabilities Education Act (“IDEA”) shall govern the evaluation, services, and supports provided by Richard Milburn Academy.

#### **Sec. 4. COMPLAINTS**

Except as otherwise provided in Policy or Procedure, allegations of unlawful discrimination, prohibited harassment, or retaliation shall be made under PG-3.2 (Freedom from Discrimination, Harassment, and Retaliation).

Complaints concerning identification, evaluation, or educational placement of a student with a disability within the scope of Section 504 shall be filed under the General Provisions of PG-3.30, except that the deadline for filing an initial Level One grievance shall be fifteen (15) school days.

#### **Sec. 5. RETALIATION**

No RMA employee may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding under this policy. *34 CFR 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX).*

#### **Sec. 6. DISABILITY DISCRIMINATION**

Under the ADA, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of Richard Milburn Academy, or be subjected to discrimination by Richard Milburn Academy. *42 U.S.C.A. 12132; 28 CFR 35.130.*

Under Section 504, no otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

##### ***a) Student with a Disability***

A “student with a disability” is one who has a physical or mental impairment that substantially limits one or more of the student’s major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

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

A student meets the requirement of being “regarded as” having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory impairment one with an actual or expected duration of six months or fewer.

*29 U.S.C. 705(20)(B), 42 U.S.C. 12102(1), (3)–(4).*

***a) Qualified Individual with a Disability***

The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by Richard Milburn Academy. *42 U.S.C. 12131(2).*

***b) Major Life Activities***

“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activity” also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. *42 U.S.C. 12102(2).*

***c) Reasonable Modification***

Richard Milburn Academy shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless Richard Milburn Academy can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 CFR 35.130(b)(7).*

**d) Direct Threat**

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided below.

Richard Milburn Academy is not required to permit an individual to participate in or benefit from the services, programs, or activities of Richard Milburn Academy when that individual poses a direct threat to the health or safety of others.

In determining whether an individual poses a direct threat to the health or safety of others, Richard Milburn Academy must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and
3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

*28 CFR 35.139.*

**e) Free Appropriate Public Education (“FAPE”)**

Richard Milburn Academy shall provide a free appropriate public education to each qualified student with a disability within Richard Milburn Academy’s jurisdiction, regardless of the nature or severity of the student’s disability. A student with a disability is “qualified” if he or she is between the ages of three and 21. An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student’s individual educational needs as adequately as the needs of students who do not have disabilities are met; and
2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

*34 CFR 104.33(b).*

**f) Educational Setting**

Richard Milburn Academy shall place a student with a disability in the regular educational environment, unless Richard Milburn Academy demonstrates that education in the regular environment with the use of supplemental aids and services cannot be achieved satisfactorily.

*34 CFR 104.34(a).*

In providing or arranging for nonacademic and extracurricular services and activities, Richard Milburn Academy shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 CFR 104.34(b), 104.37.*

***g) Evaluation and Placement***

Richard Milburn Academy shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education and related services. Richard Milburn Academy shall conduct an evaluation before the initial placement, or any significant change in placement, of the student. *34 CFR 104.35.*

***h) Military Dependents***

In compliance with the requirements of Section 504, and with Title II of the ADA, Richard Milburn Academy shall make reasonable accommodations and modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude Richard Milburn Academy from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, C.*

***i) Procedural Safeguards***

Richard Milburn Academy shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.

The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. *34 CFR 104.36.*

**Sec. 7. HOMELESS CHILDREN**

Richard Milburn Academy shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status.

***a) Liaison***

Richard Milburn Academy shall designate an appropriate staff person as the liaison for homeless children. Richard Milburn Academy shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaison. *42 U.S.C. 11432(g)(1)(J)(i), (ii), (g)(6)(B).*

## **Sec. 8. DISCRIMINATION ON THE BASIS OF SEX**

No person shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by Richard Milburn Academy. *20 U.S.C. 1681(a)*.

Richard Milburn Academy shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, or require or refuse participation therein on the basis of sex, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses. *34 CFR 106.34*.

### ***a) Sexual Harassment***

Sexual harassment of students is discrimination on the basis of sex under Title IX.

### ***b) Separate Facilities***

Richard Milburn Academy may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex shall be comparable to the facilities provided for the other sex. *34 CFR 106.33*.

### ***c) Human Sexuality Classes***

Portions of classes in secondary school that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

### ***d) Vocal Music Activities***

Richard Milburn Academy may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.

*34 CFR 106.34*.

### ***e) Single-Sex Programs***

Richard Milburn Academy shall not, on the basis of sex, exclude any student from admission to an institution of vocational education operated by Richard Milburn Academy. *34 CFR 106.35*.

### ***f) Pregnancy and Marital Status***

Richard Milburn Academy shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. *34 CFR 106.40*

***g) Physical Education Classes and Contact Sports***

Richard Milburn Academy may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

Richard Milburn Academy may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

*34 CFR 106.34.*

***h) Athletic Programs***

Richard Milburn Academy shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.

*i. Single-Sex Teams*

Richard Milburn Academy may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport.

*ii. Equal Athletic Opportunities*

Richard Milburn Academy shall provide equal interscholastic and/or intramural athletic opportunity for members of both sexes. The following factors will be considered in determining whether Richard Milburn Academy provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. The provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms, practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

**Sec. 9. SECTION 504 COMMITTEES**

Richard Milburn Academy shall form Section 504 committees as necessary. The Section 504 coordinator and members of each Section 504 committee shall receive training in the procedures and requirements for identifying and providing educational and related services and supports to a student who has a disability that results in a substantial limitation of a major life activity.

Each Section 504 committee shall be composed of a group of persons knowledgeable about the student, the meaning of the evaluation data, placement options, and the legal requirements regarding least restrictive environment and comparable facilities for students with disabilities.

***a) Referrals***

If a teacher, school counselor, administrator, or other Richard Milburn Academy employee has reason to believe that a student may have a disability as defined by Section 504, Richard Milburn Academy shall evaluate the student. A student may also be referred for evaluation by the student's parent.

***b) Notice and Consent***

Richard Milburn Academy shall seek written parental consent prior to conducting a formal evaluation. Ordinary observations in the classroom or other school setting shall not require prior parental consent.

***c) Evaluation and Placement***

The results of an evaluation shall be considered before any action is taken to place a student with a disability or make a significant change in placement in an instructional program. The Superintendent shall ensure that Richard Milburn Academy's procedures for tests and other evaluation materials comply with the minimum requirements of law. In interpreting evaluation data and when making decisions related to necessary services and supports, each Section 504 committee shall carefully consider and document information from a variety of sources in accordance with law.

***d) Review and Reevaluation Procedure***

To address the periodic reevaluation requirement of law, Richard Milburn Academy shall adhere to the reevaluation timelines in the IDEA regulations.

A parent, teacher, or other Richard Milburn Academy employee may request a review of a student's services and supports at any time, but a formal reevaluation shall generally occur no more frequently than once a year.

***e) Examining Records***

A parent shall make any request to review his or her child's education records to the campus



principal or other identified custodian of records.

***f) Right to Impartial Hearing***

A parent shall be given written notice of the due process right to an impartial hearing if the parent has a concern or complaint about Richard Milburn Academy's actions regarding the identification, evaluation, or educational placement of a student with a disability. The impartial hearing shall be conducted by a person who is knowledgeable about Section 504 issues and who is not employed by Richard Milburn Academy or related to a member of the Board in a degree that would be prohibited under the nepotism statute. The impartial hearing officer is not required to be an attorney. Richard Milburn Academy and the parent shall be entitled to legal representation at the impartial hearing. *34 CFR 104.36.*

***g) Records Retention***

Records specific to identification, evaluation, and placement as these pertain to Section 504 shall be retained by Richard Milburn Academy in accordance with law and Richard Milburn Academy's local records retention schedules.

**Sec. 10. SERVICE ANIMALS (FEDERAL LAW REQUIREMENTS)**

“Service animal” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition, unless otherwise allowed by Board Policy. The work or tasks performed by a service animal must be directly related to the handler's disability. *28 C.F.R. 35.104.*

***a) Policies, Practices, or Procedures***

Richard Milburn Academy shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability, unless Richard Milburn Academy can demonstrate that the service animal is out of control and the service animal's handler does not take effective action to control it or the service animal is not housebroken. *28 C.F.R. 35.136(a), (b).*

b) *Access*

Individuals with disabilities shall be permitted to be accompanied by their service animal in all areas of Richard Milburn Academy facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go. 28 C.F.R. 35.136(g).

i. Exceptions

Richard Milburn Academy may ask an individual with a disability to remove a service animal from the premises if:

1. The service animal is out of control and the service animal's handler does not take effective action to control it; or
2. The service animal is not housebroken.

28 C.F.R. 35.136(b).

Richard Milburn Academy is not required to permit an individual to participate in or benefit from the services, programs, or activities of Richard Milburn Academy when that individual poses a direct threat to the health or safety of others. 28 C.F.R. 35.139.

If Richard Milburn Academy properly excludes a service animal, it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. 28 C.F.R. 35.136(c).

ii. Animal Under Handler's Control

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control, whether by voice control, signals, or other effective means. 28 C.F.R. 35.136(d).

c) *Inquiries*

Richard Milburn Academy shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. Richard Milburn Academy may ask if the animal is required because of a disability and what work or task the animal has been trained to perform.

Richard Milburn Academy shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, Richard Milburn Academy may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability). 28 C.F.R. 35.136(f).

***d) Care or Supervision of Animal***

Richard Milburn Academy is not responsible for the care or supervision of a service animal. 28 C.F.R. 35.136(e).

***e) Surcharges***

Richard Milburn Academy shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets.

An individual with a disability may be charged for damage caused by his or service animal if Richard Milburn Academy normally charges individuals for the damage they cause. 28 C.F.R. 35.136(h).

***f) Miniature Horses***

Richard Milburn Academy shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

*i. Assessment Factors*

In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, Richard Milburn Academy shall consider:

1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
2. Whether the handler has sufficient control of the miniature horse;
3. Whether the miniature horse is housebroken; and
4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

*ii. Other Requirements*

Provisions at 28 CFR 35.136(c) through (h) shall also apply to miniature horses.

*28 C.F.R. 35.136(i).*

**Sec. 11. ASSISTANCE ANIMALS (STATE LAW REQUIREMENTS)**

“Assistance animal” means a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability. *Human Resources Code 121.002(1).*

**a) Assistance Animal Access**

No person with a disability may be denied admittance to Richard Milburn Academy because of the person’s disability or may be denied the use of an assistance animal. Richard Milburn Academy may not limit the use of Richard Milburn Academy facilities to a designated class of persons and thereby prohibit the use of Richard Milburn Academy facilities by persons with disabilities who, except for their use of assistance animals, would fall within the designated class. An assistance animal in training shall not be denied admittance to Richard Milburn Academy when accompanied by an approved trainer. *Human Resources Code 121.003(c), (e), (i).*

**b) Harassment and Harm Prohibited**

A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal. “Harass” means any conduct that is directed at an assistance animal that impedes or interferes with, or is intended to impede or interfere with, the animal’s performance of its duties or places a person with a disability who is using an assistance animal, or a trainer who is training an assistance animal, in danger of injury.

A person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a Richard Milburn Academy facility except to determine the basic type of assistance provided by the service animal to a person with a disability. If a person’s disability is not readily apparent, a staff member or administrator may inquire about whether the service animal is required because the person has a disability and what type of work or task the service animal is trained to perform. *Human Resources Code 121.002, .003(j)-(l).*

**c) Transportation**

Richard Milburn Academy may not refuse to provide transportation to or from school and/or school related activities to a student solely because of the student’s disability, nor may a student be required to pay a fee because of his or her use of an assistance animal. *Human Resources Code 121.003(b).*

**d) Responsibilities of Students with Disabilities**

A student with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

A student with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals. *Human Resources Code 121.005.*

**PG-3.2 PROHIBITED DISCRIMINATION, RETALIATION, AND HARASSMENT**

**Sec. 1. NONDISCRIMINATION STATEMENT**

Richard Milburn Academy prohibits discrimination, including harassment, against any student on the basis of race, color, religion, sex, gender, national origin, disability, age, or any other basis prohibited by law. Richard Milburn Academy further prohibits retaliation against anyone involved in the complaint process.

**Sec. 2. GENERAL NON-DISCRIMINATION POLICY**

**a) Prohibited Conduct**

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

*i. Prohibited Discrimination*

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, sex, gender, national origin, disability, age, or on any other basis prohibited by law, that adversely affects the student.

*ii. Prohibited Harassment*

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student’s race, color, religion, sex, gender, national origin, disability, age, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

1. Affects a student’s ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student’s academic performance; or
3. Otherwise adversely affects the student’s educational opportunities.

Examples of prohibited harassment may include offensive or derogatory language directed at another person’s religious beliefs or practices, accent, skin color, or need for accommodation; threatening or intimidating conduct; offensive jokes; name calling, slurs, or rumors; physical

aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

*iii. Prohibited Gender-Based Harassment*

Gender-based harassment includes physical, verbal, or nonverbal conduct based on a student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of femininity or masculinity. Gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that it:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

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

*iv. Prohibited Retaliation*

Richard Milburn Academy prohibits retaliation against a student alleged to have experienced discrimination or harassment or another student who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

***b) False Claims***

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a Richard Milburn Academy investigation regarding discrimination or harassment is subject to appropriate discipline.

***c) Reporting Procedures (Non-Sexual Harassment)***

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a teacher, counselor, Principal, or the appropriate Compliance Coordinator designated by Richard Milburn Academy.

Any Richard Milburn Academy employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify

the appropriate Compliance Coordinator listed in this policy, and take any other steps required by this policy.

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

**d) *Definition of Compliance Coordinator***

For the purposes of this policy, Compliance Coordinators are the Title IX Coordinator, the ADA/Section 504 coordinator, and the Superintendent or designee.

v. *Title IX Coordinator*

The Title IX Coordinator is responsible for coordinating Richard Milburn Academy's efforts to comply with its responsibilities under Title IX with respect to discrimination based on sex, including sexual harassment. Richard Milburn Academy has designated as the following individual as the Title IX Coordinator: James Kirksey, 13003 Jones Maltsberger Road, San Antonio, TX 78247, (830) 557-6181, and [TitleIXCoordinator@rma-tx.org](mailto:TitleIXCoordinator@rma-tx.org).

vi. *ADA/Section 504 Coordinator*

Reports of discrimination based on disability may be directed to the ADA/Section 504 Coordinator. Richard Milburn Academy designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended: James Kirksey, Director of Special Populations, 13003 Jones Maltsberger Road, San Antonio, TX 78247, (830)557-6181 and [ADA/Section504Coordinator@rma-tx.org](mailto:ADA/Section504Coordinator@rma-tx.org).

vii. *Coordinator for Purposes of Compliance with Other Nondiscrimination Laws*

The following person(s) have been designated to coordinate Richard Milburn Academy's compliance with all other antidiscrimination laws; Christina Averill, HR Specialist, 13003 Jones Maltsberger Road, San Antonio, TX 78247, (830) 557-6181, and [hr@rma-tx.org](mailto:hr@rma-tx.org).

**e) *Alternate Reporting Procedures***

A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX Coordinator or ADA/Section 504 Coordinator, may be directed to the Superintendent or designee. Reports concerning prohibited conduct by the Superintendent or designee may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

***f) Timely Reporting***

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair Richard Milburn Academy's ability to investigate and address the prohibited conduct.

***g) Notice to Parents***

A Richard Milburn Academy official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a Richard Milburn Academy employee or another adult.

***h) Investigation***

Richard Milburn Academy may request, but shall not insist upon, a written report. If a report is made orally, the school official shall reduce the report to written form.

Upon receipt or notice of a report, the appropriate Compliance Coordinator shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the Compliance Coordinator shall immediately authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

If appropriate, Richard Milburn Academy shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

The investigation may be conducted by a Compliance Coordinator or designee, or by a third party designated by Richard Milburn Academy, such as an attorney. When appropriate, the Principal shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

***i) Concluding the Investigation***

Absent extenuating circumstances, the investigation should be completed within ten school business days from the date of the report. If the investigator determines that additional time is needed to complete a thorough investigation of the complaint and/or issue a report, he or she shall inform the complainant in writing of the necessity to extend the time for investigating or responding and a specific date by which the report will be issued.

The investigator shall prepare a written report of the investigation. The report shall be filed with the Compliance Coordinator overseeing the investigation.



***j) School Action***

If the results of an investigation indicate that prohibited conduct occurred, Richard Milburn Academy shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

Richard Milburn Academy may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

***k) Confidentiality***

To the greatest extent possible, Richard Milburn Academy shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

***l) Appeal***

A student who is dissatisfied with the outcome of the investigation may appeal through Board Policy Series Module 1-Governance PG-1.10 (Parent and Student Complaints and Grievances), beginning at the appropriate level. A student shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

***m) Records Retention***

Retention of records shall be in accordance with the applicable schedule published by the Texas State Library and Archives Commission.

**Sec. 3. SEXUAL HARASSMENT PROHIBITED – TITLE IX POLICY**

***a) Definitions for Title IX Terms***

*i. Actual Knowledge*

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to Richard Milburn Academy’s Title IX Coordinator or any Richard Milburn Academy official who has authority to institute corrective measures on behalf of Richard Milburn Academy, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of Richard Milburn Academy with actual knowledge is the respondent (as that term is defined below). The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of Richard Milburn Academy. “Notice” as used in this definition includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator. *34 C.F.R. 106.30(a)*.

*ii. Complainant*

“Complainant” means an individual who is alleged to be the victim of conduct that could

constitute sexual harassment. *34 C.F.R. 106.30(a)*.

iii. Consent

“Consent” is not currently defined by the Title IX regulations, nor do the regulations require Richard Milburn Academy to adopt a particular definition of consent with respect to sexual assault. *34 C.F.R. 106.30(a)*.

iv. Deliberate Indifference Standard

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

v. Education Program or Activity

For purposes of this Title IX policy, “education program or activity” includes locations, events, or circumstances over which Richard Milburn Academy exercised substantial control over both the respondent and the context in which sexual harassment occurs. *34 C.F.R. 106.44*.

vi. Formal Complaint

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that Richard Milburn Academy investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in Richard Milburn Academy’s education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information for the Title IX Coordinator provided by Richard Milburn Academy, and by any additional method designated by Richard Milburn Academy. As used in this definition, the term “document filed by a complainant” means a document or electronic submission (such as by email or through an online portal provided for this purpose by Richard Milburn Academy) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to the Title IX formal complaint, and must comply with the requirements of the Title IX formal process, including the informal resolution process. *34 C.F.R. 106.30(a)*.

vii. Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*.

viii. Sexual Harassment

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

1. An employee of Richard Milburn Academy conditioning the provision of an aid, benefit, or service of Richard Milburn Academy on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Richard Milburn Academy's education program or activity; or
3. "Sexual assault" as defined in [20 U.S.C. 1091\(f\)\(6\)\(A\)\(v\)](#); "dating violence" as defined in [34 U.S.C. 12291\(a\)\(10\)](#); "domestic violence" as defined in [34 U.S.C. 12291\(a\)\(8\)](#); or "stalking" as defined in [34 U.S.C. 12291\(a\)\(30\)](#).

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

*ix. Supportive Measures*

"Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to Richard Milburn Academy's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Richard Milburn Academy's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Richard Milburn Academy must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair Richard Milburn Academy's ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. *34 C.F.R. 106.30(a).*

***b) Requirement to Designate Title IX Coordinator***

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

***c) Notification of Title IX Policy***

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

Richard Milburn Academy must also notify the individuals noted above that Richard Milburn Academy does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required under Title IX not to discriminate in such a manner. The notification must also state that the requirement not to discriminate in the education program or

activity extends to admission and employment, and that inquiries about the application of Title IX to Richard Milburn Academy may be referred to the designated Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both.

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

***d) Handbook Information and Website Postings***

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

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

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

***e) Reporting Sex Discrimination / Sexual Harassment***

Any person may report sex discrimination, including sexual harassment, whether or not the reporting person is the person alleged to be the victim of conduct that may constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, or by email through the contact information listed for Richard Milburn Academy’s Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Reports may be made at any time (including during nonbusiness hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator. *34 C.F.R. 106.8(a).*

***f) Complaint Procedures***

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

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

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

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

***g) Response by Title IX Coordinator***

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

*x. Required Supportive Measures*

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

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

*xi. Response to Formal Complaint*

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

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

*xii. Emergency Removals*

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

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

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

*34 C.F.R. 106.44(c).*

*xiii. Administrative Leave*

Richard Milburn Academy is not prohibited from placing a nonstudent employee respondent on administrative leave during the pendency of a Title IX formal complaint. This does not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. *34 C.F.R. 106.44(d).*

#### ***h) Process for Title IX Formal Complaint***

For purposes of addressing formal complaints of sexual harassment, Richard Milburn Academy's process must comply with the requirements listed in this section. Any provisions, rules, or practices other than those required by the Title IX regulations or this policy that Richard Milburn Academy adopts as part of its process for handling formal complaints of sexual harassment must apply equally to both parties. *34 C.F.R. 106.45(b)*.

Richard Milburn Academy's Title IX formal complaint process must:

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

5. Include reasonably prompt timeframes for concluding the grievance process, including reasonably prompt timeframes for filing and resolving appeals and informal resolution processes if Richard Milburn Academy offers informal resolution processes, and a process that allows for the temporary delay of the Title IX formal complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
6. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that Richard Milburn Academy may implement following any determination of responsibility.
7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment.
8. Include the procedures and permissible bases for the complainant and respondent to appeal.
9. Describe the range of supportive measures available to complainants and respondents.
10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege, unless the person holding such privilege has waived the privilege.

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

xiv. Notice of Allegations

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

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

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

formal complaint process.

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

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

*xv. Dismissal of Formal Complaint*

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

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

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

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

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

*xvi. Consolidation of Formal Complaints*

Richard Milburn Academy may consolidate formal complaints as to allegations of sexual harassment against more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Title IX formal complaint process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable. *34 C.F.R. 106.45(b)(4).*

*xvii. Investigating Formal Complaints*

When investigating a formal complaint and throughout the Title IX formal complaint process, Richard Milburn Academy must:



1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Richard Milburn Academy and not on the parties, provided that Richard Milburn Academy cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Richard Milburn Academy obtains that party's voluntary, written consent to do so for a Title IX formal complaint. If a party is not an "eligible student," as defined in the FERPA regulations, Richard Milburn Academy must obtain the voluntary, written consent of a "parent," as defined in the FERPA regulations.
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any Title IX formal complaint proceeding, including the opportunity to be accompanied to any related or proceeding by the advisor of their choice, who may be, but is not required to be, and attorney, and not limit the choice or presence of the advisor for either the complainant or respondent in any meeting or Title IX formal complaint proceeding; however, Richard Milburn Academy may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings (if applicable), investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which Richard Milburn Academy does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, Richard Milburn Academy must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least five calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. Richard Milburn Academy must make all such evidence subject to the parties' inspection and review available at any hearing (if applicable) to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

7. Create an investigative report that fairly summarizes relevant evidence and, at least five calendar days prior to a hearing (if a hearing is required or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

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

*xviii. Hearings*

Richard Milburn Academy's Title IX formal complaint process may, but need not, provide for a hearing. With or without a hearing, after Richard Milburn Academy has sent to the investigate report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant. *34 C.F.R. 106.45(b)(6)(ii).*

*xix. Determination Regarding Responsibility*

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

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

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

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

The Title IX Coordinator is responsible for effective implementation of any remedies identified in a determination regarding responsibility. *34 C.F.R. 106.45(b)(7)(iv).*

xx. Appeals

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

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

Richard Milburn Academy may offer an appeal equally to both parties on additional

bases. As to all appeals, Richard Milburn Academy must:

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

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

***i) Informal Resolution***

Richard Milburn Academy may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with Title

IX. Similarly, Richard Milburn Academy may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, Richard Milburn Academy may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.

With respect to informal resolution, Richard Milburn Academy must provide written notice to the parties disclosing:

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

Richard Milburn Academy also must obtain the parties' voluntary, written consent to the informal resolution process.

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

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

***j) Recordkeeping***

Richard Milburn Academy must maintain for a period of seven years records of:

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

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

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

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

***k) Retaliation Prohibited***

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

Intimidation, threats, coercion, or discrimination, including charges against an individual for Code of Conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

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

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

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

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

***l) Confidentiality***

Richard Milburn Academy must keep confidential the identity of any individual who has

made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and nay witness, except as may be permitted by the Family Educational Rights and Privacy Act (“FERPA”) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of the Title IX regulations at 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a)*.

#### ***m) Relationship to General Non-Discrimination Policy***

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

#### **Sec. 4. ACCESS TO POLICY**

Information regarding this policy shall be distributed annually to Richard Milburn Academy employees and distributed to parents and students through the Student Handbook. Copies of the policy shall be readily available at each campus and the Richard Milburn Academy administrative offices.

### **PG-3.3 PROHIBITED BULLYING**

#### **Sec. 1. BULLYING PROHIBITED**

Richard Milburn Academy prohibits bullying, including cyberbullying, as defined by the Texas Education Code. Retaliation against anyone involved in the complaint process is also prohibited.

“Bullying” means a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that satisfies the applicability requirements in Section 2 below, and that:

1. Has the effect or will have the effect of physically harming a student, damaging a student’s property, or placing a student in reasonable fear of harm to the student’s person or of damage to the student’s property;
2. Is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
3. Materially and substantially disrupts the educational process or the orderly operation of a classroom or Richard Milburn Academy; or
4. Infringes on the rights of the victim at school.

Bullying also includes “cyberbullying,” which means bullying done through the use of any electronic communication device, including through the use of a cellular or other type of

telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.

## **Sec. 2. APPLICABILITY OF POLICY**

This policy applies to:

1. Bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;
2. Bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and
3. Cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying:
  - a. Interferes with a student's educational opportunities or
  - b. Substantially disrupts the orderly operation of a classroom, Richard Milburn Academy, or a school-sponsored or school-related activity.

Bullying can occur by physical contact or through electronic means and may include, by way of example, teasing, name-calling, inappropriate sexual comments, taunting, threatening to cause harm, leaving someone out on purpose, spreading rumors, embarrassing someone in public, hitting,

kicking, tripping, destruction of property, taking someone's property, or making mean or rude hand gestures.

## **Sec. 3. RETALIATION**

Richard Milburn Academy prohibits retaliation against any person, including a victim, witness, or another person who, in good faith, provides information concerning an incident of bullying.

Examples of retaliation include threats, rumor spreading, ostracism, assault, destruction of property, or unwarranted grade reductions / unjustified punishment by staff members.

## **Sec. 4. REPORTING PROCEDURES**

Reports of bullying shall be made as soon as possible after the alleged act or knowledge of the alleged act. Reports should generally be made to the Principal or to a student's teacher. Failure to immediately report may impair Richard Milburn Academy's ability to investigate and address the prohibited conduct.

Any Richard Milburn Academy employee who suspects or receives notice that a student or group of students has or may have experienced bullying and/or cyberbullying shall immediately notify the Principal or Principal's designee.

A report may be made orally or in writing. The Principal or Principal's designee shall reduce any oral reports to written form. The Superintendent or designee shall develop a written form on which incidents of suspected bullying may be reported. The form shall allow for the

anonymous submission of reports of suspected bullying.

**a) False Claim**

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a Richard Milburn Academy investigation regarding bullying and/or cyberbullying shall be subject to appropriate disciplinary action.

**b) Notice to Parent or Guardian**

The Principal or Principal's designee shall provide notice of an incident of bullying to:

1. A parent or guardian of the alleged victim on or before the third school day after the date the incident is reported; and
2. A parent or guardian of the alleged bully, within a reasonable amount of time after the incident.

*Education Code 37.0832.*

**Sec. 5. INVESTIGATION OF REPORT**

The Principal or Principal's designee shall determine whether the allegations in the report, if proven, would constitute prohibited discrimination and/or harassment, and if so proceed under Board Policy PG-3.2 (Prohibited Discrimination, Harassment, and Retaliation) instead.

The Principal or Principal's designee shall conduct an appropriate investigation based on the allegations in the report, and shall take prompt interim action calculated to prevent bullying during the course of the investigation, if appropriate.

Absent extenuating circumstances, the investigation should be completed within ten Richard Milburn Academy business days from the date of the initial report. However, the Principal or Principal's designee shall take additional time if necessary to complete a thorough investigation.

Following completion of the investigation, the Principal or Principal's designee will prepare a written decision regarding the complaint. If the results of an investigation indicate that bullying and/or cyberbullying occurred, Richard Milburn Academy shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct in accordance with the Student Code of Conduct. Richard Milburn Academy may take action based on the results of an investigation, even if Richard Milburn Academy concludes that the conduct did not rise to the level of bullying and/or cyberbullying as defined in this policy.

Richard Milburn Academy may not impose disciplinary measures on a student who, after an investigation, is found to be a victim of bullying on the basis of that student's use of reasonable self-defense in response to the bullying.

Discipline for bullying of a student with disabilities must comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act.



**a) Confidentiality**

To the greatest extent possible, Richard Milburn Academy shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation.

**b) Appeal**

A parent or student who is dissatisfied with the outcome of the investigation may appeal under Board Policy PG-3.30 (Parent and Student Complaints and Grievances).

**Sec. 6. ASSISTANCE FROM PRINCIPAL**

Any student who feels that he or she may be the victim of bullying should contact the Principal or Principal's designee to obtain assistance and intervention in response to the potential bullying.

The Principal or Principal's designee shall notify the victim, the student who engaged in bullying, and any student(s) who witnessed the bullying of available counseling options.

**Sec. 7. ACCESS TO POLICY**

Information regarding this policy shall be distributed annually to Richard Milburn Academy employees and included in the Student Handbook. Copies of the policy shall be readily available at each campus and the Richard Milburn Academy administrative offices.

**Sec. 8. REPORT TO LOCAL LAW ENFORCEMENT**

A Principal or the Principal's designee may make a report to local law enforcement officials if, after an investigation is completed, the Principal or Principal's designee has reasonable grounds to believe that a student engaged in conduct that constitutes an offense under Section 22.01 (Assault) or 42.07(a)(7) (Harassment) of the Texas Penal Code.

A Principal's designee may include any employee under the supervision of the Principal, other than a school counselor.

A report to local law enforcement officials may include the name and address of each student the Principal or Principal's designee believes may have participated in the conduct.

## **PG-3.4 ADMISSION AND ENROLLMENT**

### **Sec. 1. NON-DISCRIMINATION IN ADMISSIONS**

It is the policy of Richard Milburn Academy to comply with all state and federal regulations regarding admission and not to discriminate during the admission and the lottery process on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. *Education Code 12.111(a)(5)*.

### **Sec. 2. GENERAL ELIGIBILITY FOR ADMISSION**

Richard Milburn Academy shall generally admit all persons who reside within Richard Milburn Academy's geographic boundaries and for whom Richard Milburn Academy operates a grade level sought and who, as of September 1 of any school year, are at least five years of age and under 21 years of age, or are at least 21 years of age and under 26 years of age and admitted by Richard Milburn Academy to complete the requirements for a high school diploma, if the person meets any of the following conditions:

1. The applicant and either parent reside in Richard Milburn Academy's geographic boundaries.
2. The applicant does not reside in Richard Milburn Academy's geographic boundaries, but one of the parents resides within Richard Milburn Academy's geographic boundaries and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the applicant.
3. The applicant and his or her guardian or other person having lawful control under a court order reside within Richard Milburn Academy's geographic boundaries.
4. The applicant is under the age of 18 and has established a separate residence in Richard Milburn Academy's geographic boundaries separate and apart from his or her parent, guardian, or other person having lawful control under an order of a court and has established that the applicant's presence in Richard Milburn Academy is not for the primary purpose of participation in extracurricular activities. However, Richard Milburn Academy is not required to admit an applicant under this provision if the applicant:
  - a. Has engaged in conduct or misbehavior within the preceding year that has resulted in removal to a disciplinary alternative education program or expulsion;
  - b. Has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct; or
  - c. Has been convicted of a criminal offense and is on probation or other conditional release.
5. The applicant is homeless, regardless of the residence of the applicant, of either parent of the applicant, or of the applicant's guardian or other person having lawful control of the applicant.
6. The applicant is a foreign exchange student placed with a host family that resides in Richard Milburn Academy's geographic boundaries by a nationally recognized foreign exchange program, unless Richard Milburn Academy has applied for and been granted a waiver by the Commissioner because:
  - a. Admission would impose a financial or staffing hardship on Richard Milburn Academy;
  - b. Admission would diminish Richard Milburn Academy's ability to provide high-quality education services for Richard Milburn Academy's domestic students; or
  - c. Admission would require domestic students to compete with foreign exchange students for educational resources.
7. The applicant resides at a residential facility, as defined in Education Code 5.001, located within Richard Milburn Academy's boundaries.
8. The applicant resides in Richard Milburn Academy's boundaries and is 18 or older or the applicant's

disabilities of minority have been removed.

9. The applicant does not reside in Richard Milburn Academy's boundaries, but a grandparent resides in Richard Milburn Academy's boundaries and provides a substantial amount of after-school care for the applicant as determined by the Board.
10. The applicant and either parent of the applicant reside in a residence homestead that is located on a parcel of property any part of which is located in Richard Milburn Academy's geographic boundaries.

*Education Code 25.001.*

### **Sec. 3. APPLICATION REQUIREMENT**

Richard Milburn Academy requires applicants to submit a complete application form in order to be considered for admission. The Superintendent or designee shall set a beginning and closing date for the application window for each school year.

In order to be eligible for admission, the applicant or qualifying occupant specified by Education Code 25.001(b) must generally reside in the geographic boundaries set by the Richard Milburn Academy/ Texas, Inc. charter, and satisfy any other admissions criteria specified in this policy. See Sec. 10 below.

### **Sec. 4. LOTTERY PROVISIONS**

A "lottery" for purposes of this policy is a non-weighted, random selection process that determines the order of enrollment of student applicants. A lottery is to be conducted if the number of applicants exceeds the maximum enrollment. The lottery shall take place within 15 days after the closing date of the application period. The lottery will be conducted via lottery selection software. The principal or designee of each campus will conduct the computerized lottery, with supervision by at least one member of the sponsoring entity or his or her designee and a representative from the list are selected randomly. Results of the lottery shall be certified by a notary public.

### **Sec. 5. DEVELOPMENT OF WAITING LIST**

The lottery will be paused momentarily after all available seats are filled. The drawing will then continue, and the randomly-selected numbers will be used to create a waiting list. As space becomes available, applicants will be called from the waiting list beginning with applicants with the lowest number assignment. Applicants selected by lottery will be "deemed admitted" and may proceed from provisional admission (Texas Education Code Section 25.002) to enrollment.

### **Sec. 6. ADMISSION PROCESS OF RETURNING STUDENTS**

Returning students (students who currently attend Richard Milburn Academy and intend to return the next school year) are exempted from the lottery if they notify Richard Milburn Academy of their intent to return for the next school year by the deadline designated by the Superintendent or designee for the then-current school year.

## **Sec. 7. SIBLINGS POLICY AND CHILDREN OF THE SCHOOL'S FOUNDERS AND EMPLOYEES**

Siblings of returning students currently enrolled at a Richard Milburn Academy campus and who timely notify Richard Milburn Academy of their intent to return for the next school year are exempt from the lottery and, space permitting, are automatically enrolled. For this policy "sibling" shall mean a biological or legally adopted brother or sister residing in the same household as the applicant. Cousins, nieces, nephews and unrelated children sharing an address with the applicant are not siblings. Sibling enrollment is dependent on available space and does not guarantee enrollment of each listed sibling.

Children of Richard Milburn Academy's founders, teachers, and staff (so long as the total number of students allowed constitutes only a small percentage of the total enrollment) are exempt from lottery requirements, as permitted by federal guidance on the Charter Schools Program.

## **Sec. 8. APPLICATIONS SUBMITTED OUTSIDE THE DESIGNATED APPLICATION PERIOD**

If a student applies to Richard Milburn Academy outside of the designated application period, the student will be placed on a waiting list in the order of the date in which the application is received.

## **Sec. 9. STUDENTS WITH DOCUMENTED HISTORIES OF A CRIMINAL OFFENSE AND/OR MISCONDUCT**

As authorized by Education Code § 12.111(a)(5)(A), Richard Milburn Academy shall exclude from enrollment those students who have a documented history of a criminal offense, a juvenile court adjudication, or other discipline problems under Subchapter A, Chapter 37 of the Education Code.

## **Sec. 10. DOCUMENTS AND INFORMATION APPLICANTS ARE REQUIRED TO PROVIDE**

Applicants must complete and submit the common admission application form developed and made available by the Texas Education Agency ("TEA") under Education Code 12.1173.

Applicants are not required to provide transcripts or other academic records until after they are offered admission.

## **Sec. 11. VERIFICATION OF RESIDENCY AND IMMUNIZATION RECORDS FOR ENROLLMENT**

Verification of residency and current immunization records are required for all students enrolling. Every student enrolling for the first time must present a signed statement from a physician or documentation of immunizations as required by the Texas Department of Health, no later than 30 days after enrolling. Students who submit an affidavit from a physician stating immunizations should not be administered for medical reasons, and students who submit an affidavit signed by the student's parent or guardian declining immunizations for reasons of conscience, will be excepted from this requirement. The parent or guardian must furnish records that verify the identity of the student.

A person's "residence," for the purpose of this policy is the true, fixed and permanent place where the qualifying occupant ordinarily lives and sleeps, not less than four nights during the school week and to which, when temporarily absent from the residence, the occupant intends to return. The qualifying occupant specified by Education Code 25.001(b) must generally reside in the authorized geographic boundaries of Richard Milburn

Academy, as described in the Richard Milburn Academy charter. A person who is homeless, as defined by 42 U.S.C. 11302, need not reside within the geographic boundaries of Richard Milburn Academy. In order to verify residency for enrollment, acceptable evidence of residency includes:

- Current property tax bill with parent/guardian's name and property address;
- Current rental or lease agreement with parent/guardian's name, student name, and address, as well as manager or owner's name and telephone number;
- Documents related to the purchase of the residence with the parent/guardian's name and property address;
- Mail dated within 60 days before the application date from the following sources:
  - Social Security Administration;
  - A Texas State government agency;
  - Utility companies;
  - Credit card bill;
  - Financial institutions; including checking or savings;
  - Insurance companies;
  - State and Federal Revenue documents;
  - Paycheck information; and
  - Other sources or documents demonstrating residency.

If, at any time, a student's or qualifying occupant's residence is in question, Richard Milburn Academy may ask for additional documents for verification. If the parent or legal guardian cannot provide evidence of residency because the parent or legal guardian is living with a relative or friend, a notarized statement by the relative or friend may be accepted by Richard Milburn Academy with the following stipulation:

- Notarized statement must state that the parent or legal guardian and child are living with the relative/friend;
- Notarized statement must state the name of the relative or friend who is on the relative or friend's proof of residence;
- Notarized statement must state the same address of the relative or friend who is on the relative or friend's proof of residence;
- A copy of the relative or friend's proof of residence must be attached to the notarized statement (meeting the documentation criteria described above); and
- The notarized statement must be signed by the same name of relative or friend who is on the relative or friend's proof of residence.

A person whose parent or guardian is an active-duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, may establish residency by providing to Richard Milburn Academy a copy of a military order requiring the parent's or guardian's transfer to a military installation in or adjacent to Richard Milburn Academy's attendance zone. Such proof of residence shall be provided to Richard Milburn Academy not later than the 10th day after the arrival date specified in the military order requiring the parent's or guardian's transfer. For purposes of this provision, the term "residence" includes residence in a military temporary lodging facility. *Education Code 25.001(c-1)-(c-2)*.

Subsequently, within 60 days, at least two current documents, Richard Milburn Academy must be provided confirmation of residency from one or more of the following sources:

- Credit card companies;
- U. S. Treasury;
- Social Security Administration, including benefits letter;
- Texas State government agencies (including city and county agencies);
- Utility companies;
- Financial institutions including checking, savings, or investment account statements;
- Insurance companies; or
- State and Federal Revenue departments.

Richard Milburn Academy may conduct home-visits, at any time, to confirm residency of applicants and enrolled students. Falsification of residence on an enrollment form is a criminal offense.

#### **Sec. 12. ADULT STUDENT ATTENDANCE REQUIREMENT FOR CONTINUED ADMISSION**

A person who voluntarily attends school after his or her 19th birthday shall attend school each school day for the entire period the program of instruction is offered. Richard Milburn Academy may revoke, for the remainder of the school year, the enrollment of a person who has more than five absences in a semester that are not excused under Education Code 25.087, except that Richard Milburn Academy may not revoke the enrollment on a day on which the person is physically present at school. A person whose enrollment is revoked under this subsection may be considered an unauthorized person on school grounds and a criminal trespass warning may be issued. Prior to revoking the person’s enrollment, Richard Milburn Academy shall issue a warning letter to the person, after the third unexcused absence, stating that the person’s enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester. As an alternative to revoking enrollment, Richard Milburn Academy may impose a behavior improvement plan. *Education Code 25.085(e)*.

#### **Sec. 13. STUDENT RESIDENCY SEPARATE FROM PARENT/GUARDIAN**

In order to protect the best interests of students enrolled, for purposes of students under the age of 18 who have established a residence apart from the person’s parent, guardian, or other person having lawful control, such persons must establish their separate residency and verify it with documentation acceptable to Richard Milburn Academy in the same manner as other students. However, a student under 18 and not living with parents or guardian, who has engaged in conduct in the preceding year that has resulted in a disciplinary removal, alternative placement or expulsion, or who has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct, or has been convicted of a criminal offense and is on probation or other conditional release, shall not be admitted to Richard Milburn Academy. The Superintendent or designee shall follow “Students with Documented Histories of a Criminal Offense and/or Misconduct,” above, in making such determination.

#### **Sec. 14. ADMISSION OF HOMELESS STUDENTS**

##### ***a) Definitions***

“Enroll” and “enrollment” include attending classes and participating fully in school activities.

“Homeless child” or “homeless children” means children or youths who lack a fixed, regular, and adequate nighttime residence and includes:

1. Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
2. Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
3. Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
4. Migratory children living in circumstances described above. "Migratory child" means a child who made a qualifying move in the preceding 36 months (a) as a migratory agricultural worker or a migratory fisher; or (b) with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.

"School of origin" means the school that the child attended when permanently housed or the school in which the child was last enrolled. When a child completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools, as applicable.

"Unaccompanied youth" includes a homeless child or youth not in the physical custody of a parent or guardian.

***b) General Requirements***

As a condition of receiving federal funds under the McKinney-Vento Homeless Assistance Act, Richard Milburn Academy shall, according to a homeless child's best interest:

1. Continue the child's education in the school of origin for the duration of homelessness;
  - a. If the child's family becomes homeless between academic years or during an academic year; and
  - b. For the remainder of the academic year, if the child becomes permanently housed during an academic year; or
2. Enroll the child in any Richard Milburn Academy school that non-homeless students who live in Richard Milburn Academy's geographic boundaries are eligible to attend.

*42 U.S.C. 11432(g)(3)(A).*

In determining the best interest of a homeless child, Richard Milburn Academy shall:

1. Presume that keeping the child in the school of origin is in the child's best interest, except when doing so is contrary to the request of the child's parent or guardian, or in the case of an unaccompanied youth the youth;
2. Consider student-centered factors related to the child's best interest, including factors related to the impact of mobility on achievement, education, health, and safety of homeless children, giving priority to the request of the child's parent or guardian or the unaccompanied youth;
3. If, after conducting the best interest determination based on consideration of the presumption in item 1 above and the student-centered factors in item 2 above, v determines that it is not in the child's best interest to attend the school of origin or the school requested by the parent or guardian or the unaccompanied youth, provide the parent, guardian, or unaccompanied youth with a written explanation of the reasons for its determination, in a manner and form understandable to such parent, guardian, or unaccompanied youth, including information regarding the right to appeal as set forth in Sec. 13-f below; and

4. In the case of an unaccompanied youth, ensure that the homeless liaison assists in placement and enrollment decisions under these provisions, gives priority to the views of such unaccompanied youth, and provides the notice to such youth of the right to appeal as set forth in Sec. 13-f below.

*42 U.S.C. 11432(g)(3)(B).*

Richard Milburn Academy shall not stigmatize or segregate a student who is homeless.

***c) Information from Parents***

Richard Milburn Academy may require the parent or guardian of a homeless child to submit contact information. *42 U.S.C.*

*11432(g)(3)(H).*

***d) Enrollment***

Richard Milburn Academy shall immediately enroll a homeless child, depending on available seats, even if the child:

1. Is unable to produce records normally required for enrollment, such as previous academic record, records of immunization and other required health records, proof of residency, or other document; or
2. Has missed application or enrollment deadlines during any period of homelessness.

*42 U.S.C. 11432(g)(3)(C).*

***e) Enrollment in School of Origin***

In determining the best interest of the student for the purpose of continuing the student's education in the school of origin, Richard Milburn Academy shall presume that keeping the student in his or her school of origin is in the student's best interest, except when doing so is contrary to the request of the parent, guardian, or unaccompanied youth. Richard Milburn Academy shall also consider the best interests of the student with regard to the impact of moving schools on the student's achievement, education, health, and safety, including such relevant factors as:

1. Continuity of instruction;
2. Age and grade placement of the student;
3. Distance of the commute and its impact on the student's education or special needs;
4. Personal safety of the student;
5. The student's eligibility and need for any specialized services and supports, such as Section 504, special education and related services, or bilingual or English as a second language services;
6. Length of anticipated stay in a temporary shelter or other temporary location, if applicable;
7. Likely area of the family's or youth's future housing;
8. Time remaining in the school year; and
9. School placement of siblings.

Services, including transportation, that Richard Milburn Academy is required to provide shall not be considered in determining the student's school of attendance.



***f) Disputes Concerning Enrollment***

If a dispute arises over eligibility, or school selection or enrollment in a school:

1. The child shall be immediately enrolled in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals;
2. The parent or guardian of the child or an unaccompanied youth shall be provided with a written explanation of any decisions related to school selection or enrollment made by Richard Milburn Academy, including the rights of the parent, guardian, or unaccompanied youth to appeal such decisions.
3. The parent, guardian, or unaccompanied youth shall be referred to the homeless liaison, who shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute; and
4. In the case of an unaccompanied youth, the liaison shall ensure that the youth is immediately enrolled in the school in which the youth seeks enrollment pending resolution of such dispute.

*42 U.S.C. 11432(g)(3)(E).*

***g) Comparable Services***

Richard Milburn Academy shall provide a homeless child with services comparable to those offered to other student in the school in which the child is enrolled. *42 U.S.C. 11432(g)(4).*

**Sec. 15. ADMISSION OF MILITARY DEPENDENTS**

***a) Applicability***

The provisions of Sec. 14 of this policy shall apply to the children of:

1. Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;
2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

Sec. 14 of this policy shall not apply to the children of:

1. Inactive members of the national guard and military reserves;
2. Members of the uniformed services now retired, except as provided above;
3. Veterans of the uniformed services, except as provided in this policy; and
4. Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

*Education Code 162.002 Article III.*

***b) Definitions***

“Active duty” means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211.

“Children of military families” means a school-aged child, enrolled in kindergarten through twelfth grade, in the household of an active duty member.

“Deployment” means the period one month prior to the service members’ departure from their home station on military orders through six months after return to their home station.

“Transition” means:

1. The formal and physical process of transferring from school to school; or
2. The period of time in which a student moves from one school in the sending state to another school in the receiving state.

“Uniformed services” means the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

“Veteran” means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

*Education Code 162.002 Article II.*

***c) Eligibility for Enrollment***

Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

*i. Continued  
Acceptance*

A transitioning military child, placed in the care of a non-custodial parent or other person standing *in loco parentis* who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the child was enrolled while residing with the custodial parent.

*Education Code 162.002 art. VI, § A.*

***d) Education Records***

*i. Unofficial Records*

In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parents a complete set of unofficial education records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records, Richard Milburn Academy shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

ii. Official Records

Simultaneous with the enrollment and conditional placement of the student, Richard Milburn Academy shall request the student's official education record from the sending district.

*Education Code 162.002 art. IV, §§ A–B.*

e) **Tuition**

Richard Milburn Academy is prohibited from charging tuition to:

1. A transitioning military child placed in the care of a non-custodial parent or other person standing *in loco parentis* who lives in a jurisdiction other than that of the custodial parent; or
2. A student who is domiciled in another state and resides in military housing that is located within Richard Milburn Academy's boundaries.

*Education Code 25.004, 162.002 art. VI, § A.*

f) **Grade-Level Placement**

Students shall be allowed to continue their enrollment at grade level in Richard Milburn Academy commensurate with their grade level, including kindergarten, from the sending district at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level shall be eligible for enrollment in the next highest grade level in Richard Milburn Academy, regardless of age. A student transferring after the start of the school year shall enter Richard Milburn Academy on his or her validated level from an accredited school in the sending state. *Education Code 162.002 art. IV, § D.*

g) **Course Placement**

When the student transfers before or during the school year, Richard Milburn Academy shall initially honor placement of the student in educational courses based on the student's enrollment in the sending district and/or educational assessments conducted at the sending district if the courses are offered. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude Richard Milburn Academy from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s). *Education Code 162.002 art. V, § A.*

h) **Educational Program Placement**

Richard Milburn Academy shall initially honor placement of the student in educational programs based on current educational assessments conducted at the sending district or participation/placement in like programs in the sending state. Such programs include, but are not limited to:

1. Gifted and talented programs; and
2. English as a second language (ESL).

This does not preclude Richard Milburn Academy from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, § B.*

*i) Waivers*

Richard Milburn Academy administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered by Richard Milburn Academy. *Education Code 162.002 art. IV, §§ A–B, D.*

**Sec. 16. DISCREPANCIES IN STUDENT NAME**

The Superintendent or designee shall notify the Missing Children and Missing Persons Information Clearinghouse if a child is enrolled under a name other than the name that appears on the identifying documents. If a student’s records have not been received within 30 days of a request, the Superintendent or designee shall notify local law enforcement for a determination of whether the child has been reported as missing. *Education Code 25.002(b).*

**Sec. 17. FOOD ALLERGY INFORMATION**

The parent of each student enrolled with Richard Milburn Academy must complete a form provided by Richard Milburn Academy that discloses (1) whether the child has a food allergy or a severe food allergy that should be disclosed to Richard Milburn Academy to enable Richard Milburn Academy to take any necessary precautions regarding the child’s safety and (2) specifies the food(s) to which the child is allergic and the nature of the allergic reaction.

For purposes of this requirement, the term “severe food allergy” means a dangerous or life- threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention.

Richard Milburn Academy may also require information from a child’s physician if the child has food allergies.

Food allergy information forms will be maintained in the child’s student records, and shall remain confidential. Information provided on food allergy information forms may be disclosed to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with Board policy and as permissible under the Family Educational Rights and Privacy Act of 1974 (“FERPA”).

*Education Code 25.0022(a)-(c).*

## **PG-3.5 COMPULSORY ATTENDANCE**

### **Sec. 1. COMPULSORY ATTENDANCE**

A student who is at least six years of age, or who is younger than six and has previously been enrolled in first grade, and who has not yet reached his or her 19th birthday shall attend school, as well as any applicable accelerated instruction program, extended year program, or tutorial session, unless the student is otherwise excused from attendance or legally exempt. On enrollment in kindergarten or prekindergarten, a student shall attend school. *Education Code 25.085(a)-(c)*.

### **Sec. 2. STUDENTS 19 AND OVER: VOLUNTARY ENROLLMENT**

A student who voluntarily enrolls in school or voluntarily attends school after the student's 19th birthday shall attend school each school day for the entire period the program of instruction is offered. If a student 19 or older has more than five unexcused absences in a semester, Richard Milburn Academy may revoke the student's enrollment, except that Richard Milburn Academy may not revoke the enrollment on a day on which the student is physically present at school. The student's presence on school property thereafter is unauthorized and may be considered trespassing.

Prior to revoking the student's enrollment, Richard Milburn Academy shall issue a warning letter to the student, after the student's third unexcused absence, stating that the student's enrollment may be revoked for the remainder of the school year if the student has more than five unexcused absences in a semester. As an alternative to revoking enrollment, Richard Milburn Academy may impose a behavior improvement plan described by Education Code 29.0915.

*Education Code 25.085(e), (g)*.

### **Sec. 3. ACCELERATED INSTRUCTION**

Unless exempted by law, a student must also attend:

1. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g); or
2. An accelerated instruction program to which the student is assigned under Education Code 28.0211.

### **Sec. 4. EXCUSED ABSENCES**

Richard Milburn Academy will excuse a student from attending school for the following purposes:

## **Observing Religious Holy Days**

A student who is observing holy days is allowed up to one day of excused travel for travelling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site.

## **Court Appearances**

A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site.

## **Citizenship Paperwork**

A student who is appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship is allowed up to one day of excused travel for travelling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site.

## **Citizenship Proceedings**

A student who is taking part in a United States naturalization oath ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site.

## **Election Clerks**

A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site.

## **Children in Conservatorship of DFPS**

Student absence will be excused for a student who is in the conservatorship of the Department of Family and Protective Services who misses school:

1. To participate in an activity ordered by a court under Family Code Chapter 262 or 263, provided that it is not practicable to schedule the participation outside of school hours; or
2. To attend a mental health or therapy appointment or family visitation as ordered by a court under Family Code Chapter 262 or 263.

## **Health Care Appointments**

Temporary absence resulting from an appointment with a health-care professional if the student commences classes or returns to school on the same day of the appointment. The appointment

should be supported by a document such as a note from the health-care professional. “Temporary absence” includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student’s appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavior analysis, speech therapy, and occupational therapy.

### **Taps at Military Funeral**

Richard Milburn Academy may excuse a student in grades 6–12 for the purpose of sounding “Taps” at a military honors funeral held in Texas for a deceased veteran.

### **Higher Education Visits**

Richard Milburn Academy may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student’s junior and senior year for the purposes of determining the student’s interest in attending the institution of higher learning. Richard Milburn Academy may not excuse for this purpose more than two days during the student’s junior year and two days during the student’s senior year. The student must obtain approval from the Principal or designee to visit an institution of higher education, follow campus procedures to verify such a visit, and make up any work missed.

### **Military Dependents**

Richard Milburn Academy shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian regularly resides, to visit with the student’s parent, stepparent, or guardian. Richard Milburn Academy may not excuse a student under this provision more than five days in a school year. An excused absence for this reason must be taken not earlier than the 60th day before the date of deployment or not later than the 30th day after the date of return from deployment.

### **Military Enlistment.**

Richard Milburn Academy shall excuse a student who is 17 years of age or older from attending school to pursue enlistment in a branch of the armed services of the United States or the Texas National Guard. Richard Milburn Academy may not excuse a student for this purpose more than four days of school during the period the student is enrolled in high school. Richard Milburn Academy shall verify the student’s activities are related to pursuing enlistment in a branch of the armed services or the National Guard.

### **Other Excused Absences**

A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, Principal, or Superintendent.

*Education Code 25.087.*

#### **Sec. 5. PARENTAL CONSENT FOR ABSENCE**

A student absent from school for any portion of a school day shall provide a note to the campus office upon return, signed by the parent or medical provider (see below) that describes the reason for the absence. A note signed by the student, even with the parent's permission, will not be accepted unless the student is 18 or older.

#### **Sec. 6. FAILURE TO PROVIDE NOTE**

Upon return to school, a student who has been absent and who fails within three days of the student's absence to bring a statement from a parent or medical provide verifying the illness or condition that caused the student's absence, the absence will be unexcused.

#### **Sec. 7. MAKE-UP WORK**

The student shall be allowed a reasonable time to make up schoolwork missed on the days describe above. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance. The student shall not be penalized for the absence. The Superintendent or designee shall prepare procedures for acceptance of make-up work.

#### **Sec. 8. NOTICES TO PARENTS**

Richard Milburn Academy shall notify a student's parents in writing at the beginning of the school year that, if a student is absent from school on ten or more days or parts of days within a six-month period in the same school year, the student's parent is subject to prosecution under Education Code 25.093; and the student is subject to referral to a truancy court for truant conduct under Family Code 65.003(a). *Education Code 25.095(a)*.

#### **Sec. 9. NOTICE OF ABSENCES**

Richard Milburn Academy shall notify a student's parent if the student has been absent from school, without excuse under Education Code 25.087, on three days or parts of days within a four- week period. The notice must:

1. Inform the parent that:
  - a. It is the parent's duty to monitor the student's school attendance and require the student to attend school,
  - b. The student is subject to truancy prevention measures under Education Code 25.0915; and
2. Request a conference between school officials and the parent to discuss the absences.

*Education Code 25.095(b)*.

#### **Sec. 10. FAILURE TO COMPLY WITH COMPULSORY ATTENDANCE**

Richard Milburn Academy employees must investigate and report violations of the state compulsory attendance law. A student absent without permission from school; from any class; from required special programs, such as additional special instruction, termed "accelerated instruction" by the state; or from required tutorials will be considered in violation of the



compulsory attendance law and subject to disciplinary action.

If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, Richard Milburn Academy shall, within ten school days of the student's tenth absence, refer the student to a truancy court for truant conduct under Family Code 65.003(a). Richard Milburn Academy may also file a complaint against the student's parent in a county, justice, or municipal court for an offense under Education Code 25.093 if Richard Milburn Academy provides evidence of the parent's criminal negligence.

*Education Code 25.0951.*

Richard Milburn Academy may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if Richard Milburn Academy is applying truancy prevention measures to the student under Education Code 25.0915 and determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made. *Education Code 25.0951(d).*

Richard Milburn Academy shall initiate truancy prevention measures under Education Code 25.0915 on a student, if the student fails to attend school without excuse on three or more days or parts of days within a four-week period, but does not fail to attend school for the time specified above. *Education Code 25.0915(a-4).*

#### **a) *Truancy Prevention Measures***

In an effort to prevent truancy and to reduce the need for referrals to truancy court, Richard Milburn Academy will take one or more of the following truancy prevention measures applicable to students identified as potential truants, designed to address student conduct related to truancy in the school setting before the student engages in truancy:

1. Impose a behavior improvement plan on the student signed by a Richard Milburn Academy employee, that Richard Milburn Academy has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:
  - a. Specific description of the behavior that is required or prohibited for the student;
  - b. The period for which the plan will be effective, not to exceed 45 school days after the date the contract; or
  - c. The penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or
2. Impose school-based community service; or
3. Refer the student to counseling, mediation, mentoring, a teen court program, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy.

*Education Code 25.0915(a-1).*

Richard Milburn Academy shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

1. Pregnancy;

2. Being in the state foster program;
3. Homelessness; or
4. Being the primary income earner for the student's family.

*Education Code 25.0915(a-3).*

#### **b) Filing Requirements**

Each referral to a truancy court must include a statement from Richard Milburn Academy certifying that Richard Milburn Academy applied truancy prevention measures to the student and that the truancy prevention measures failed to meaningfully address the student's school attendance. The referral must also specify whether the student is eligible for or receives special education services. *Education Code 25.0915(b).*

#### **Sec. 11. PARENTAL CONSENT FOR A STUDENT TO LEAVE CAMPUS**

Richard Milburn Academy operates a closed campus. Students are not allowed to leave for any reason during the school day without properly checking out in accordance with campus rules and procedures.

### **PG-3.6 ATTENDANCE ACCOUNTING**

#### **Sec. 1. RECORDS**

Richard Milburn Academy shall maintain records to reflect the average daily attendance for the allocation of Foundation School Program ("FSP") and other funds allocated by the Texas Education Agency ("TEA"). Richard Milburn Academy must maintain records and make reports concerning student attendance and participation in special programs as required by the Commissioner of Education ("Commissioner"). The Superintendent, Principals, and teachers are responsible to the Board and the state to maintain accurate, current attendance records. *19 TAC 129.21(a), (e).*

Richard Milburn Academy shall use the student attendance accounting standards established by the Commissioner to maintain records and make reports on student attendance and student participation in special programs. The official standards are described in TEA's *Student Attendance Accounting Handbook* ("SAAH"). *19 TAC 129.1025.*

The Superintendent is responsible for the safekeeping of all attendance records and reports. The Superintendent may determine whether the properly certified attendance records or reports for the school year are to be stored in the central office, on the respective school campuses, or at another secure location. Regardless of where such records are filed or stored, they must be readily available for audit by the TEA. *19 TAC 129.21(d).*

#### **Sec. 2. MINIMUM ENROLLMENT**

A student must be enrolled for at least two hours of instruction to be considered in membership for one half day, and for at least four hours of instruction to be considered in membership for one full day. *19 TAC 129.21(g).*

#### **a) Full-Day Students**

Students enrolled on a full-day basis may earn one full day of attendance each school day. *19 TAC 129.21(h)(1)*.

b) Half-Day Students

Students enrolled on a half-day basis may earn only one half day attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day they are scheduled to be present. *19 TAC 129.21(h)(1)*.

c) Alternative Attendance Accounting Program

Students who are enrolled in and participating in an alternative attendance accounting program approved by the Commissioner shall earn attendance according to the statutory and rule provisions applicable to that program. *19 TAC 129.21(h)(2)*.

**Sec. 3. ATTENDANCE FOR STATE FUNDING PURPOSES**

Attendance for all grades shall be determined by the absences recorded in the second or fifth period of the day, unless Richard Milburn Academy has obtained permission from the TEA for an alternate period to record absences, unless the Board adopts a policy for recording absences in an alternate period or hour, or unless the students for which attendance is being taken are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.

The established period in which absences are recorded may not be changed during the school year.

Students absent during the daily period selected by Richard Milburn Academy for taking attendance shall be counted absent for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program. Students present at the time attendance is taken shall be counted present for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.

*19 TAC 129.21(h)*.

**a) Funding for Off-Campus Programs**

Funding eligibility for a student participating in an off-campus program will include time instructed in the off-campus program. A campus may choose an alternate attendance-taking time for a group of students that is scheduled to be off-campus during the regular attendance-taking time. The alternate attendance-taking time will be in effect for the period of days or weeks for which the group is scheduled to be off-campus during the regular attendance-taking time (for example, for the semester or for the duration of employment). This alternate attendance-taking time may not be changed once it is selected for a particular group of students. If attendance is taken at an off-campus location, Richard Milburn Academy must ensure that attendance is taken in accordance with the attendance accounting handbook adopted under 19 TAC 1025.

For Richard Milburn Academy to receive FSP funding for a student participating in an off-campus program, Richard Milburn Academy must have documentation of an agreement between Richard Milburn Academy and the college. *19 TAC 129.1031(c), (d)*.

#### **Sec. 4. EXCEPTIONS**

A student not actually on campus when attendance is taken may be considered in attendance for FSP purposes if:

##### ***a) Board-Approved Activities***

The student is participating in a Board-approved activity under the direction of a member of Richard Milburn Academy’s professional staff, or an adjunct staff member who has a bachelor’s degree and is eligible for participation in Teacher Retirement System of Texas (“TRS”).

##### ***b) Mentorships***

The student is participating in a mentorship approved by Richard Milburn Academy personnel to serve as one or more of the advanced measures needed to complete the Advanced/Distinguished Achievement Program.

##### ***c) Excused Absences***

The student is absent for one of the purposes listed in “Excused Absences for Compulsory Attendance Determinations” in Board Policy PG-3.5 (Compulsory Attendance).

##### ***d) Other Absences***

The student’s absence is permitted by other conditions related to off-campus instruction described in the TEA’s SAAH.

*19 TAC 129.21.*

#### **Sec. 5. PARENT CONSENT TO LEAVE CAMPUS**

A student absent from school for any portion of a school day shall provide a note that describes the reason for the absence. The note shall be signed by the student’s parent or, if the student is 8 or older or is an emancipated minor, by the student.

#### **Sec. 6. REPORTS TO TEA**

In accordance with Commissioner rule, Richard Milburn Academy will report the following through the Public Education Information Management System (PEIMS) information disaggregated by campus and grade regarding:

1. The number of students subject to compulsory attendance under TEC 25.085, who are not exempted from attendance under TEC 25.086, and fail to attend school without

- excuse on 10 or more days or parts of days within a six-month period in the same school year;
2. The number of students for whom Richard Milburn Academy initiates a truancy prevention measure under TEC 25.0915(a-4); and
  3. The number of parents of students against whom an attendance officer or other appropriate school official has filed a complaint of parent contributing to non-attendance under TEC 25.093.

*Education Code 42.006(a-6).*

## **PG-3.7 ATTENDANCE ENFORCEMENT**

### **Sec. 1. ATTENDANCE OFFICER**

The Board has designated Richard Milburn Academy's campus principals to serve as Richard Milburn Academy's Attendance Officer(s).

### **Sec. 2. POWERS AND DUTIES**

The Attendance Officer(s) have the following powers and duties with respect to enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of the compulsory school attendance requirements referred to the Attendance Officer(s);
2. To enforce compulsory school attendance requirements by:
  - a. Applying truancy prevention measures adopted under Education Code 25.0915 to a student; and
  - b. If the truancy prevention measures fail to meaningfully address the student's conduct:
    - i. Referring a student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); and
    - ii. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;
3. To monitor school attendance compliance by each student investigated by the Attendance Officer(s);
4. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the Board, or the Commissioner of Education, to provide a record to the individual or entity requesting the record;
5. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the Attendance Officer(s) may not enter a residence without permission of the parent of the student or the owner or tenant of the residence; and
6. At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements.

*Education Code 25.091(a), (b-1).*

## **PG-3.8 ATTENDANCE FOR CREDIT**

### **Sec. 1. ATTENDANCE FOR CREDIT**

Except as provided below and in accordance with Richard Milburn Academy's Charter, a student shall not be given credit or a final grade for a class unless the student is in attendance 90% of the days the class is offered. This restriction does not affect a student's right to excused absences to observe religious holy days.

This attendance requirement includes both excused and unexcused absences. A student who attends fewer than 90% percent of the days the class is offered may be referred to the Attendance Review Committee ("Committee") to determine whether the absences were due to extenuating circumstances and how the student may regain credit or earn a final grade.

### **Sec. 2. ATTENDANCE REVIEW COMMITTEE**

The Board shall appoint one or more Committees to hear petitions for class credit by students who have not met the 90% rule to determine whether there are extenuating circumstances for the absences and how the student can regain credit, if appropriate.

#### ***a) Extenuating Circumstances***

In determining whether there were extenuating circumstances for the absences, the Committee will use the following guidelines:

1. All absences will be considered in determining whether a student has attended the required percentage of days.
2. If makeup work is completed, absences for the reasons listed at Board Policy PG-3.5 (Compulsory Attendance) will be considered days of attendance for this purpose.
3. A transfer or migrant student begins to accumulate absences only after he or she has enrolled in Richard Milburn Academy.
4. For a student transferring into Richard Milburn Academy after school begins, only those absences after enrollment will be considered.
5. In reaching a decision about the student's absences, the Committee will attempt to ensure that it is in the best interest of the student.
6. The Committee will consider the acceptability and authenticity of documented reasons for the student's absences.
7. The Committee will consider whether the absences were for reasons over which the student or the student's parent could exercise any control.
8. The Committee will consider the extent to which the student has completed all assignments, mastered the essential knowledge and skills, and maintained passing grades in the course or subject.
9. The student, parent will be given an opportunity to present any information to the Committee about the absences and to talk about ways to earn or regain credit.

***b) Conditions for Awarding Credit or a Final Grade***

The Committee may utilize any of the following conditions for regaining credit or earning a final grade for students with excessive absences:

1. Attending summer school.
2. Attending tutorial sessions, including Saturday school or before- or after-school programs.
3. Completing additional assignments, as determined by the Committee or teacher.
4. Maintaining attendance standards for the remainder of the semester.
5. Taking an examination to earn credit.

A student must earn a passing grade in order to receive credit or earn a passing grade.

***c) Appeal***

The student or parent may appeal the Committee's decision to the Board by filing a written request with the Superintendent in accordance with Board Policy PG-3.30 (Parent and Student Complaints and Grievances).

***Sec. 3. WITHDRAWAL FOR NONATTENDANCE***

Richard Milburn Academy may initiate withdrawal of a student under the age of 19 for nonattendance under the following conditions:

1. The student has been absent on ten or more consecutive school days; and
2. No less than three documented unsuccessful attempts by the attendance officer and/or principal to locate the student.

Additionally, Richard Milburn Academy may revoke the enrollment of a student 19 years of age or older who has more than five unexcused absences in one semester.

## **PG-3.9 ALCOHOL AND DRUG USE**

### **Sec. 1. ALCOHOL**

To provide a safe and alcohol-free environment for students and employees, all alcoholic beverages are prohibited on Richard Milburn Academy property at all times, and at all school-sanctioned activities occurring on or off school property. Student violators are subject to possible prosecution, as allowed by law, as well as the disciplinary terms of the Student Code of Conduct.

The Board of Directors may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide an alcohol-free environment and in enforcing the alcohol-free zone provisions in the Alcoholic Beverage Code.

*Education Code 38.007(b).*

A person commits an offense if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

1. on the grounds or in a building of a public school; or
2. entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school of this state is being held.

*Education Code 37.122.*

### **Sec. 2. DRUG-FREE ZONES**

In order to provide a safe drug-free environment for students and employees, Richard Milburn Academy prohibits drugs and/or controlled substances (as defined in Health and Safety Code, Chapter 481) on Richard Milburn Academy property at any time, and at all school-sanctioned activities occurring on or off Richard Milburn Academy property.

### **Sec. 3. ENFORCEMENT**

Richard Milburn Academy personnel shall enforce this policy on Richard Milburn Academy property. Any student found in violation of these Policy shall be subject to disciplinary action in accordance with the Student Code of Conduct.



### **PG-3.10 TOBACCO USE AND POSSESSION**

Richard Milburn Academy prohibits students from smoking, using, or possessing e-cigarettes, vapor products, and tobacco products at school-related or school-sanctioned activities on or off Richard Milburn Academy property.

**E-Cigarette or electronic cigarette** means an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device. The term also includes any device that is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe; a dab pen; a vapor product; or any other similar device under another product name or description. Also included is any component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device. The term does not include a prescription medical device unrelated to the cessation of smoking.

The term includes:

1. A device regardless of whether it is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description; and
2. A component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

*Health and Safety Code 161.081(1-a).*

**Vapor product** means electronic cigarettes (e-cigarettes) or any other device that uses a mechanical heating element, battery, or electronic circuit to deliver vapor that may include nicotine to the individual inhaling from the device, or any substance used to fill or refill the device.

Richard Milburn Academy personnel shall enforce this policy on Richard Milburn Academy property. Any student found in violation of this Policy shall be subject to disciplinary action in accordance with the Student Code of Conduct. *Education Code 38.006.*

## **PG-3.11 CHILD ABUSE AND NEGLECT**

### **Sec. 1. ANTIVICTIMIZATION PROGRAM**

Richard Milburn Academy shall provide child abuse anti-victimization programs in secondary schools. *Education Code 38.004.*

### **Sec. 2. DUTY TO REPORT**

#### ***a) General Duty to Report***

Any person who has cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. *Family Code 261.101(a)*. Richard Milburn Academy may not require that school personnel report suspicions of child abuse or neglect to a school administrator prior to making a report to one of the agencies identified in Sec. 4 below. *19 TAC 61.1051(b)(5)*.

#### ***b) Reporting Abuse or Neglect of Persons with Disabilities***

Any person who has cause to believe that a person with a disability who is over the age of 18 or who has had the disabilities of minority removed is in a state of abuse, neglect, or exploitation shall report the information immediately to the Texas Department of Family and Protective Services ("DFPS").

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose. *Human Resources Code 48.051, .054.*

#### ***c) Reporting Abuse or Neglect By A Professional***

Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect. A professional may not delegate to or rely on another person to make the report.

A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, and juvenile probation, detention or correctional officers. *Family Code 261.101(b)*.

***d) Reporting Adult Victims of Abuse***

A person or professional shall make a report in the manner required above if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly person or person with a disability. *Family Code 261.101(b-1)*.

***e) Refusal of Psychiatric or Psychological Treatment of a Child***

An employee may not use the refusal of a parent, guardian, or managing or possessory conservator of a child to administer or consent to the administration of a psychotropic medication to a child, or to consent to any other psychiatric or psychological treatment of a child, as the sole basis for making a report of neglect of the child unless the refusal to consent:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

*Education Code 26.0091; Family Code 261.111.*

**Sec. 3. CONTENTS OF REPORT**

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

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and
3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

*Family Code 261.102, .104.*

**Sec. 4. ENTITIES TO WHOM REPORTS MUST BE MADE REPORTED**

If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to the DFPS, unless the report is made under item 3, below, or the report involves a juvenile justice program or facility.

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. The DFPS, including a local office where available;

3. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
4. The agency designated by the court to be responsible for the protection of children.

*Family Code 261.103(a); 19 TAC 61.1051(a)(1).*

#### **Sec. 5. IMMUNITIES**

A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106(a).*

Richard Milburn Academy may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of abuse or neglect. *Family Code 261.110(b).*

#### **Sec. 6. CRIMINAL OFFENSES**

##### ***a) Failure to Report***

A person commits a Class A misdemeanor if he or she has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report it as provided by law. Failure to report child abuse or neglect violates the Educator's Code of Ethics and may result in sanctions against an educator's certificate, as addressed in 19 TAC 249. *Family Code 261.109; 19 TAC 61.1051(b)(2)(A).*

##### ***b) False Report***

A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. *Family Code 261.107(a).*

##### ***c) Coercion***

A school employee who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency may be subject to Class C misdemeanor penalties. *Penal Code 39.06.*

#### **Sec. 7. POTENTIAL SBEC PENALTIES**

The State Board for Educator Certification (SBEC) may take action as allowed under 19 TAC 249.15(a) based on satisfactory evidence that a person has failed to report or has hindered the reporting of child abuse as required under Family Code 261.001, or has failed to notify the SBEC

or the Superintendent or designee under the circumstances and in the manner required by Education Code 21.006 and 19 TAC 249.14(d)-(f). *19 TAC 249.15(b)(4)*.

## **Sec. 8. CONFIDENTIALITY**

A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act). Such information may be disclosed only for purposes consistent with federal or state law or under rules adopted by an investigating agency. *Family Code 261.201*.

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d)*.

## **Sec. 9. INVESTIGATIONS**

### ***a) Reports to the School***

If the DFPS initiates an investigation and determines that the abuse or neglect involves a Richard Milburn Academy employee, and that the child is a student at Richard Milburn Academy, the department shall orally notify the Superintendent. *Family Code 261.105(d)*.

The DFPS shall, upon request, send a written report of its investigation, as appropriate, to the Principal, unless the Principal is alleged to have committed the abuse or neglect, to the Board, and to the Superintendent. *Family Code 261.406(b)*.

### ***b) Interviewing Students***

The investigating agency shall be permitted to interview the child at any reasonable time and place, including the child's school. *Family Code 261.302(b)*.

### ***c) Interfering with Investigation Confidentiality***

A person may not interfere with an investigation of a report of child abuse or neglect conducted by the DFPS. *Family Code 261.303(a)*.

A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. *Human Resources Code 42.004*.

## **Sec. 10. ANNUAL REVIEW**

The Board shall annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261, 19TAC 61.1051, and 40 TAC Chapter 700 with respect to investigations by DFPS.

## **Sec. 11. VIOLATIONS OF POLICY**

Any Richard Milburn Academy employee who violates the reporting requirements under Chapter 261, Family Code is subject to disciplinary action, up to and including termination of employment.

## **Sec. 12. ANNUAL DISTRIBUTION AND STAFF DEVELOPMENT**

The Superintendent or designee shall develop additional guidelines concerning the reporting of suspected child abuse and neglect. Such guidelines shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals determined by the Board. *19 TAC 61.1051(c)*.

Each school year, Richard Milburn Academy shall provide training as required by Education Code 38.0041 to all new school employees as part of new employee orientation. *Education Code 38.0041; 19 TAC 61.1051(d)*.

## **Sec. 13. REQUIRED POSTER**

Richard Milburn Academy shall place a poster of the following specifications at every campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The poster must:

1. Be in a format and language that is clear, simple, and understandable to students;
2. Be in English and in Spanish;
3. Be 11x17 inches or larger;
4. Be in large print;
5. Be placed at eye-level to the student for easy viewing; and
6. Include the following information:
  - a. In bold print, the current toll-free DFPS abuse Hotline telephone number (1-800-252- 5400);
  - b. Instructions to call 911 for emergencies; and
  - c. Directions for accessing the DFPS website (<http://www.txabusehotline.org>) for more information on reporting abuse, neglect, and exploitation.

*Education Code 38.0042; 19 TAC 61.1051(e), (f)*.

**PG-3.12 SEXUAL ABUSE, SEX TRAFFICKING, AND OTHER MALTREATMENT OF CHILDREN**

The Superintendent shall develop and publish a plan for addressing sexual abuse, sex trafficking, and other maltreatment of children as required by Texas Education Code 38.0041. Such plan shall include:

1. Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, sex trafficking, and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse, sex trafficking, or other maltreatment, using resources developed by the Texas Education Agency (“TEA”);
2. Actions that a child who is a victim of sexual abuse, sex trafficking, or other maltreatment should take to obtain assistance and intervention; and
3. Available counseling options for students affected by sexual abuse, sex trafficking, or other maltreatment.

Richard Milburn Academy shall provide employee training concerning prevention techniques for and recognition of sexual abuse, sex trafficking, and all other maltreatment of children, including the sexual abuse, sex trafficking, and other maltreatment of children with significant cognitive disabilities. The training:

1. Must be provided, as part of a new employee orientation, to new Richard Milburn Academy employees, including counselors and coaches, and other professional staff members according to a schedule adopted by the TEA until all employees have taken the training; and
2. Must include training concerning:
  - a. Factors indicating a child is at risk for sexual abuse, sex trafficking, or other maltreatment;
  - b. Likely warning signs indicating a child may be a victim of sexual abuse, sex trafficking, or other maltreatment;
  - c. Internal procedures for seeking assistance for a child who is at risk for sexual abuse, sex trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
  - d. Techniques for reducing a child’s risk of sexual abuse, sex trafficking, or other maltreatment; and
  - e. Community organizations that have relevant existing research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff members, students, and parents.

Richard Milburn Academy shall maintain records that include the name of each staff member who participated in the training.

If the Superintendent or designee determines that Richard Milburn Academy does not have sufficient resources to provide the training required under this policy, Richard Milburn Academy shall work in conjunction with a community organization to provide the training at no cost to Richard Milburn Academy.

*Education Code 38.0041.*

## **PG-3.13 IMMUNIZATION REQUIREMENT**

### **Sec. 1. IMMUNIZATION REQUIREMENTS**

Each student shall be fully immunized against diphtheria, rubeola (measles), rubella, mumps, tetanus, and poliomyelitis, unless exempted under applicable law. The Texas Department of State Health Services (“TDSHS”) may modify or delete any of these immunizations or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school. *Education Code 38.001(a), (b)*.

Students in kindergarten through twelfth grade shall have the following additional vaccines, according to the immunization schedules set forth in TDSHS regulations: pertussis, hepatitis B, hepatitis A, and varicella (chickenpox). TDSHS requires students enrolling in seventh through twelfth grades to have one dose of meningococcal vaccine on or after the student’s 11th birthday. *25 TAC 97.63*.

Under Health and Safety Code Chapter 81, Subchapter E, additional vaccinations may be required by TDSHS and/or the local health authority in specific situations under the mechanism of a control order containing control measures. *25 TAC 97.72*.

### **Sec. 2. IMMUNIZATION AWARENESS PROGRAM**

Richard Milburn Academy shall post prominently on its Web site:

1. A list, in English and Spanish, of:
  - a. The immunizations required by TDSHS for admission to public school;
  - b. Any immunizations or vaccines recommended for public school students by TDSHS. The list must include the influenza vaccine, unless TDSHS requires the influenza vaccine for admission to public school; and
  - c. Health clinics in Richard Milburn Academy’s geographic boundaries that offer the influenza vaccine, to the extent those clinics are known to Richard Milburn Academy; and
2. A link to the TDSHS Internet Web site where a person may obtain information relating to the procedures for claiming an exemption from the immunization requirements. The link must be presented in the same manner as the information provided under paragraph 1.

*Education Code 38.019*.

### **Sec. 3. APPLICABILITY OF IMMUNIZATION REQUIREMENTS**

The vaccine requirements discussed in this policy apply to all students entering, attending, enrolling in, and/or transferring to Richard Milburn Academy. *25 TAC 97.61(a)*.

#### **a) *Exceptions to Immunization Requirements***

Immunization is not required for admission if the student submits to Richard Milburn Academy any of the following:

- i. *Medical Reasons*



An affidavit or a certificate signed by the student's physician (M.D. or D.O.) who is duly registered and licensed to practice medicine in the United States and who has examined the student. The affidavit or certificate must state that, in the physician's opinion, the immunization required is medically contraindicated or poses a significant risk to the health and well-being of the student or any member of the student's household. Unless it is written in the statement that a lifelong condition exists, the exemption statement is valid for only one year from the date signed by the physician.

*ii. Reasons of Conscience*

An affidavit signed by the student or, if a minor, the student's parent or legal guardian stating that the student declines immunization for reasons of conscience, including a religious belief. The affidavit will be valid for a two-year period. The affidavit must be on a form obtained from the TDSHS and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized. A student who has not received the required immunizations for reasons of conscience may be excluded from school in times of emergency or epidemic declared by the commissioner of state health services.

*iii. Military Duty*

If the student can prove that he or she is a member of the armed forces of the United States and is on active duty.

*Education Code 38.001(c), (c-1), (f); Health and Safety Code 161.004(a), (d), .0041; 25 TAC 97.62.*

**Sec. 4. PROVISIONAL ENROLLMENT**

A student may be provisionally admitted or enrolled if the student has begun the required immunizations. The student must have an immunization record that indicates the student has received at least one dose of each age-appropriate vaccine specified in the regulations.

**a) Completion of Vaccinations**

To remain enrolled, the student must continue to receive the necessary immunizations as rapidly as medically feasible. The student must complete the required subsequent doses in each vaccine series on schedule and as rapidly as is medically feasible and provide acceptable evidence of vaccination to Richard Milburn Academy.

**b) Status Review**

Richard Milburn Academy shall review the immunization status of a provisionally enrolled student every 30 days to ensure continued compliance in completing the required doses of vaccination. If, at the end of the 30-day period, a student has not received a subsequent dose of vaccine, the student is not in compliance and Richard Milburn Academy shall exclude the student from school attendance until the required dose is administered.

*Education Code 38.001(e); 25 TAC 97.66(a).*

**c) Homeless Students**

A student who is homeless, as defined in the McKinney-Vento Homeless Assistance Act, shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. Richard Milburn Academy shall promptly refer the student to appropriate health provider to obtain the required vaccinations. *25 TAC 97.66(b); 42 U.S.C. 11302.*

**d) Child in Foster Care**

A student who is a “child in foster care” as defined by 45 C.F.R. 1355.20(a) shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. Richard Milburn Academy shall promptly refer the student to an appropriate health provider to obtain the required vaccinations. *25 TAC 97.66(c).*

**e) Transfer Students**

A student can be enrolled provisionally for no more than 30 days if the student transfers from one Texas school to another, and is awaiting the transfer of the immunization record. *25 TAC 97.69(a).*

**f) Military Dependents**

A military dependent can be enrolled provisionally for no more than 30 days if the student transfers from one school to another and is awaiting the transfer of the immunization record. The collection and exchange of information pertaining to immunizations shall be subject to confidentiality provisions prescribed by federal law. *Education Code 162.002 art. IV, C; 25 TAC 97.69(b).*

## **Sec. 5. EVIDENCE OF IMMUNIZATION**

A student shall show acceptable evidence of vaccination before entry, attendance, or transfer to Richard Milburn Academy.

Vaccines administered after September 1, 1991, shall include the month, day, and year each vaccine was administered. The following documentation is acceptable:

1. Documentation of vaccines administered that includes the signature or stamp of the physician or his or her designee, or public health personnel (immunization records generated from electronic health record systems must include clinic contact information and the provider's signature/stamp);
2. An official immunization record generated from a state or local health authority; or
3. An official record received from school officials including a record from another state.

*25 TAC 97.68.*

Serologic confirmations of immunity to measles, rubella, mumps, hepatitis A, hepatitis B, or varicella are acceptable. Evidence of measles, rubella, mumps, hepatitis A, hepatitis B, or varicella illnesses must consist of a valid laboratory report that indicates either confirmation of immunity or infection. A written statement from a parent, legal guardian, managing conservator, school nurse, or physician attesting to a child's positive history of varicella disease (chickenpox) or varicella immunity is acceptable in lieu of a vaccine record for that disease. *25 TAC 97.65.*

## **Sec. 6. IMMUNIZATION RECORDS**

Richard Milburn Academy shall keep an individual immunization record during the period of attendance for each student admitted. The records shall be sufficient for a valid audit or other assessment to be completed. The records shall be open for inspection at all reasonable times by the Texas Education Agency, local health departments, or the TDSHS. Immunization records may be maintained in paper and/or electronic form. *Education Code 38.002(a); 25 TAC 97.67.*

### ***a) Transfer of Records***

Richard Milburn Academy shall cooperate in transferring students' immunization records to other schools. Specific approval from students, parents, or guardians is not required before transferring those records. *Education Code 38.002(b).*

### ***b) Annual Report***

Richard Milburn Academy shall submit annual reports of the immunization status of students, in a format prescribed by and at the time and in the manner indicated by TDSHS, to monitor compliance with immunization requirements. *Education Code 38.002(c); 25 TAC 97.71.*

## **Sec. 7. CONSENT TO IMMUNIZATION**

In addition to persons authorized to consent to immunization under Family Code Chapters 151 (parents) and 153 (conservators), the following persons may consent to the immunization of a child:

1. A guardian of the child; and
2. A person authorized under the law of another state or a court order to consent for the child.

*Family Code 32.101(a).*

Richard Milburn Academy may give consent to the immunization if:

1. The persons listed above are not available; and
2. Richard Milburn Academy has written authorization to consent from a person listed above.

*Family Code 32.101(b)(5).*

Richard Milburn Academy may not consent for the child if it has actual knowledge that a person listed above has:

1. Expressly refused to give consent to the immunization;
2. Been told not to consent for the child; or
3. Withdrawn a prior written authorization for Richard Milburn Academy to consent.

*Family Code 32.101(c).*

### **a) Consent by Child**

A child may consent to the child's own immunization for a disease if the child is pregnant or is the parent of a child and has actual custody of that child, and the Centers for Disease Control and Prevention recommend or authorize the initial dose of an immunization for that disease to be administered before seven years of age. Consent by a child to immunization is not subject to disaffirmance because of minority.

*Family Code 32.1011.*

### **b) Duty to Provide Information**

If Richard Milburn Academy consents to immunization of a child, it shall provide the health-care provider with sufficient and accurate health history and other information necessary for the health-care provider to determine adequately the risks and benefits inherent in the proposed immunization and to determine whether immunization is advisable.

### **c) Form of Consent**

Consent to immunization must be in writing, signed by the person giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment.

The consent must include:

1. The name of the child;
2. The name of one or both parents, if known, and the name of any managing conservator or guardian of the child; the name of the person giving consent and the person's relationship to the child;
3. A statement of the nature of the medical treatment to be given; and
4. The date the treatment is to begin.

Richard Milburn Academy has the responsibility to ensure that the consent, if given, is an informed consent. Richard Milburn Academy is not required to be present when the immunization is requested if a consent form has been given to the health-care provider.

*Family Code 32.101(f), .002, .102.*

***d) Liability***

Richard Milburn Academy is not liable for damages arising from an immunization administered to a child authorized under Family Code Subchapter B except for injuries resulting from Richard Milburn Academy's own acts of negligence. *Family Code 32.103.*

## **PG-3.14 MEDICAL TREATMENT**

### **Sec. 1. CONSENT TO MEDICAL TREATMENT**

Richard Milburn Academy may consent to medical, dental, psychological, and surgical treatment of an enrolled student provided all of the following conditions are met:

1. The person having the power to consent as otherwise provided by law cannot be contacted.
2. Actual notice to the contrary has not been given by that person.
3. Written authorization to consent has been received from that person.

*Family Code 32.001(a)(4).*

#### **a) Form of Consent**

Consent to medical treatment shall be in writing, signed by the school official giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment. The consent must contain:

1. The name of the student;
2. The name of one or both parents or legal guardians, if known, and the name of the managing conservator or guardian of the student, if either has been appointed;
3. The name of the person giving consent and the person's relation to the student;
4. A statement of the nature of the medical treatment to be given; and
5. The date on which the treatment is to begin.

*Family Code 32.002.*

#### **b) Minor's Consent to Treatment**

A minor may consent to medical, dental, psychological, and surgical treatment furnished by a licensed physician or dentist if the minor:

1. Is on active duty with the armed services of the United States of America;
2. Is 16 years of age and residing separate and apart from the minor's parents, managing conservator, or guardian, with or without the consent of the parents, managing conservator, or guardian and regardless of the duration of the residence, and is managing his or her own financial affairs, regardless of the source of the income;
3. Consents to the diagnosis and treatment of any infectious, contagious, or communicable disease required to be reported to the Texas Department of State Health Services, including all reportable diseases under Health and Safety Code 81.041;
4. Is unmarried and pregnant, and consents to hospital, medical, or surgical treatment, other than abortion, related to her pregnancy;
5. Consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use; or
6. Is unmarried, is the parent of a child, and has actual custody of his or her child and consents to medical, dental, psychological, or surgical treatment for the child.

*Family Code 32.003.*

## ***a) Purchasing Medication***

Richard Milburn Academy shall not purchase nonprescription medication to administer to a student.

### **Sec. 2. SUNSCREEN PRODUCTS**

A student may possess and use a topical sunscreen product while on school property or at a school-related event or activity to avoid overexposure to the sun and not for the medical treatment of an injury or illness if the product is approved by the federal Food and Drug Administration for over-the-counter use. *Education Code 38.021.*

### **Sec. 3. SELF-ADMINISTRATION OF ASTHMA OR ANAPHYLAXIS MEDICINE**

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

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

The physician's statement must be kept on file in the school nurse's office, or, if there is no school nurse, in the office of the Principal of the school the student attends.

*Education Code 38.015.*

### **Sec. 4. DIETARY SUPPLEMENTS**

A Richard Milburn Academy employee commits a Class C misdemeanor offense if the employee:

1. Knowingly sells, markets, or distributes a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school duties; or
2. Knowingly endorses or suggests the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's school duties.

*Education Code 38.011(a), (c).*

#### **Sec. 5. PRESCRIPTION MEDICATION AND SPECIAL EDUCATION STUDENTS**

A Richard Milburn Academy employee is prohibited from requiring a child 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. An employee is not prohibited from consulting or sharing classroom-based observations with parents or guardians regarding a 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).*

#### **Sec. 6. STUDENT ILLNESS**

The Superintendent or designee shall establish procedures to ensure that proper attention is given to a student who becomes ill during the school day.

#### **Sec. 7. ACCIDENTS INVOLVING STUDENTS**

The Superintendent or designee shall establish emergency procedures to ensure appropriate attention for a student injured at school. Richard Milburn Academy shall maintain records on all accidents requiring the attention of a medical doctor.

#### **Sec. 8. EMERGENCY TREATMENT FORMS**

Each year, students and parents shall complete and sign a form that provides emergency information and authorizes school officials to obtain emergency medical treatment, as provided by law.



## **PG-3.15 ADMINISTERING MEDICATION AT SCHOOL**

### **Sec. 1. STANDARDS FOR ADMINISTERING MEDICATION AT SCHOOL**

All medications administered to students shall be FDA-approved pharmaceuticals administered within their approved dosage and within standards of acceptable medical regimen. Research pharmaceuticals may be administered if they are a part of a University Institutional Review Board- approved protocol. Intravenous (IV) medications and treatments shall not be administered by Richard Milburn Academy personnel.

### **Sec. 2. AUTHORIZED PERSONNEL**

Richard Milburn Academy employees shall not give any student prescription medication, nonprescription medication, herbal substances, or dietary supplements of any type, except as provided below. Employees authorized by the Superintendent or designee may administer to students:

#### ***a) Administering Prescription Medication***

Prescription medication upon written request to administer the medication from the student's parent, guardian, or other person having legal control of the student. When administering prescription medication, the medication must be administered either:

1. From a container that appears to be from the original container and properly labeled; or
2. From a properly labeled unit dosage container filled by a registered nurse from a container that appears to be the original container and to be properly labeled.

All prescription medications shall have been prescribed by a physician licensed to practice medicine in the United States. All medications shall have been manufactured in the United States.

*Texas Department of State Health Services Guide to Medication Administration in the School Setting*

#### ***b) Administering Nonprescription Medication***

##### *i. Nonprescription Medication Administered upon Parent Request*

Nonprescription medication may be administered by authorized Richard Milburn Academy personnel upon a parent's written request, when properly labeled and in the original container; or if required by the individualized education program ("IEP") or Section 504 plan of a student with disabilities.

##### *ii. Nonprescription Medication Administered by Richard Milburn Academy*

Authorized Richard Milburn Academy personnel may administer nonprescription medication on an emergency basis and consistent with protocols established by Richard Milburn Academy's medical adviser and parent consent given on an emergency treatment form.

***c) Herbal Substances or Dietary Supplements***

Herbal substances or dietary supplements may be administered by authorized Richard Milburn Academy personnel **only if** required by the IEP or Section 504 plan of a student with disabilities.

***d) Provision of Medication Off-Campus at School-Sponsored Events***

For any Richard Milburn Academy student attending a field trip or off-campus school-sponsored event, any prescription medication that Richard Milburn Academy is required to administer under this policy shall be sent with the student's teacher or another staff member trained in the proper administration of medication and who has been authorized to administer medication by the Superintendent or designee, along with instructions on the administration of the medication.

In addition to trained and authorized Richard Milburn Academy teacher(s) and/or nurse(s), a licensed physician in Texas, a registered nurse licensed in Texas, or a vocational nurse licensed in Texas may serve as a Richard Milburn Academy volunteer to administer prescription and non-prescription medication in accordance with this policy when on field trips and/or off-campus or on school-sponsored events. Prior to being allowed to do so, such individuals must meet with the school nurse for instruction and training on administration of medication for applicable students.

Nonprescription medication(s) generally are not administered by Richard Milburn Academy during field trips and/or off-campus or on school-sponsored events.

In the event of an emergency medical situation involving a Richard Milburn Academy student for which no Richard Milburn Academy employee was previously aware and that occurs during a field trip and/or during an off-campus, school-sponsored event when no school nurse is present, emergency medical services shall immediately be notified by any Richard Milburn Academy employee in attendance.

**Sec. 3. PSYCHOTROPICS**

Except as permitted by Education Code 38.016, a Richard Milburn Academy employee shall not:

1. Recommend to a student, parent that the student use a psychotropic drug;
2. Suggest a particular diagnosis; or
3. Exclude the student from a class or a school-related activity because of the parent's refusal to consent to psychiatric evaluation or examination or treatment of the student.

*Education Code 38.016.*

## **PG-3.16 COMMUNICABLE DISEASES**

### **Sec. 1. REPORTS**

Richard Milburn Academy authorities, including the Superintendent, Principals, teachers, school health officials, or counselors, shall report to the local health authority those students attending school who are suspected of having a notifiable condition, as defined by state law and the Texas Department of State Health Services (“TDSHS”). If there is no local health authority appointed or if PC is outside the jurisdiction of a local health authority, the report shall be made to the regional director. *25 TAC 97.2(d), .5(a); Health and Safety Code 81.041–.042.*

#### ***a) Sexually Transmitted Diseases and HIV***

In addition to the reporting requirements identified above, the Superintendent or designee shall report cases and suspected cases of sexually transmitted diseases in the manner outlined in *25 TAC 97.133. 25 TAC 97.132(a)(1).*

#### ***b) Penalties***

A person commits a Class B misdemeanor if the person knowingly fails to report a reportable disease or health condition under Health and Safety Code Chapter 81, Subchapter B. *Health and Safety Code 81.049.*

### **Sec. 2. EXCLUSION FROM SCHOOL**

Principals shall exclude from attendance any student suffering from a communicable condition listed in *25 TAC 97.7(a)* until the readmission criteria for the condition are satisfied. *25 TAC 97.7(a).*

Additionally, Principals shall exclude from attendance any student having or suspected of having a communicable disease designated by the Commissioner of State Health Services as a cause for exclusion. A child excluded for such reason may be readmitted, as determined by the health authority, by:

1. Submitting a certificate of an attending physician, advanced practice nurse, or physician assistant attesting that the child does not currently have signs or symptoms of a communicable disease or to the disease’s non-communicability in a school setting;
2. Submitting a permit for readmission issued by a local health authority; or
3. Meeting readmission criteria set by the Commissioner of State Health Services.

*25 TAC 97.7(b)-(c).*

### **Sec. 3. BACTERIAL MENINGITIS**

In accordance with guidelines provided by the Texas Education Agency, Richard Milburn Academy shall provide information relating to bacterial meningitis to its students and their parents each school year in a manner ensuring that the information is reasonably likely to come to the attention of the parents of each student. *Education Code 38.0025.*

#### **Sec. 4. ISSUES RELATED TO HEAD LICE**

##### ***a) No Exclusions from School***

Students should not be excluded from school due to the presence of head lice. The Centers for Disease Control and Prevention (“CDC”), the American Academy of Pediatrics, and the TDSHS have noted that there is little evidence that exclusion from school reduces the transmission of head lice.

The goal of lice prevention and control in Richard Milburn Academy is to limit the spread of lice from one student to another through accurate diagnosis and meaningful and consistent communication and education.

##### ***b) Students with Head Lice***

When a student is suspected of having head lice, the school nurse or another school official shall inspect the child. Children shall be inspected by the school nurse or another school official with consideration for privacy and confidentiality.

Any student identified with live lice will be sent home after Richard Milburn Academy contacts the parent. The parent will be advised to treat the child for head lice. Educational materials about treatment and prevention may be given to the parent/guardian.

##### ***c) Parent Notice***

When the school nurse or other school official determines or otherwise becomes aware that a child enrolled in an elementary grade has lice, Richard Milburn Academy shall provide written or electronic notice of that fact to:

1. The parent of the child with lice as soon as practicable, but not later than 48 hours after Richard Milburn Academy, determines or becomes aware of that fact; and
2. The parent of each child assigned to the same classroom as the child with lice not later than the fifth school day after the date on which Richard Milburn Academy determines or becomes aware of that fact.

The notices provided to parents will include the recommendations of the CDC for the treatment and prevention of lice, and the notice to the parent of each child assigned to the same classroom as the child with lice (as described in item 2 above) may not identify the child with lice.

*Education Code 38.031.*

## **PG-3.17 STUDENTS AT RISK FOR ANAPHYLAXIS AND SEIZURE MANAGEMENT PLANS**

### **Sec. 1. STUDENTS AT RISK FOR ANAPHYLAXIS**

#### ***a) Welfare Plan***

The Board shall adopt and implement a plan for the care of students with a diagnosed food allergy at risk for anaphylaxis based on “*Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis*,” as developed by the Commissioner of State Health Services.

The Board shall annually review and, as necessary, revise its policy for the care of students with a diagnosed food allergy risk for anaphylaxis to ensure the policy is consistent with the most current version of the “*Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis*.”

The adoption and implementation of such plan does not waive any liability or immunity of Richard Milburn Academy or its officers or employees, or create any liability for or cause of action against Richard Milburn Academy or its officers or employees.

#### ***b) Required Website Posting***

Each school year, Richard Milburn Academy shall post a summary of the “*Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis*” on the Richard Milburn Academy website, including instructions on obtaining access to the complete guidelines document. The Richard Milburn Academy website must be accessible by each enrolled student and a parent or guardian of each student.

Any forms used by Richard Milburn Academy requesting information from a parent or guardian enrolling a child with a food allergy must include information to access on Richard Milburn Academy’s website a summary of the guidelines and instructions on obtaining access to the complete guidelines document.

*Education Code 38.0151(b).*

### **Sec. 2. FOOD ALLERGY MANAGEMENT**

The Superintendent or designee shall develop and implement a student food allergy management plan for students at risk for anaphylaxis that incorporates the following components:

#### **General Procedures**

Procedures to limit the potential health risks to students with food allergies will include:

1. Specialized training for the employees responsible for the development, implementation, and monitoring of Richard Milburn Academy’s food allergy management plan;

2. Training for employees regarding signs and symptoms of food allergies and emergency response in the event of an anaphylactic reaction;
3. General strategies to reduce the risk of exposure to common food allergies;
4. Methods for requesting and obtaining food allergy information from the parent of a student with a diagnosed food allergy; and
5. The annual review of Richard Milburn Academy's food allergy management plan.

#### Students at Risk for Anaphylaxis

Procedures for the care of students with diagnosed food allergies who are at risk for anaphylaxis will include:

1. Development and implementation of food allergy action plans, emergency action plans, and Section 504 plans, as appropriate;
2. Training, as necessary, for employees, including strategies for reducing student risk of exposure to diagnosed allergens; and
3. Periodic review of general procedures to limit the potential health risks to students.

#### Distribution

The Superintendent shall distribute information regarding this policy and Richard Milburn Academy's food allergy management plan annually in the student handbook. Information will also be made available at each Richard Milburn Academy campus.

### **Sec. 3. SEIZURE MANAGEMENT AND TREATMENT PLANS**

#### ***a) General Requirements***

The parent or guardian of a student with a seizure disorder may seek care for the student's seizures while the student is at school or participating in a school activity by submitting to Richard Milburn Academy a copy of a seizure management and treatment plan developed by the student's parent or guardian and the physician responsible for the student's seizure treatment. The plan must be submitted to and reviewed by Richard Milburn Academy:

1. Before or at the beginning of the school year;
2. On enrollment of the student if the student enrolls after the beginning of the school year; or
3. As soon as practicable following a diagnosis of a seizure disorder for the student.

*Education Code 38.032(a).*

#### ***b) Seizure Management and Treatment Plan Requirements***

A seizure management and treatment plan must:

1. Identify the health care services the student may receive at school or while participating in a school activity;
2. Evaluate the student's ability to manage and level of understanding of the student's seizures; and

3. Be signed by the student’s parent or guardian and the physician responsible for the student’s seizure treatment.

*Education Code 38.032(b).*

**c) Immunity Protections**

The care of a student with a seizure disorder by a Richard Milburn Academy employee under a seizure management plan is incident to or within the scope of the duties of the employee’s position of employment and involves the exercise of judgment or discretion on the part of the employee for purposes of Education Code 22.0511. *Education Code 38.032(c).*

The immunity from liability provided by Education Code 22.0511 applies to an action or failure to act by a Richard Milburn Academy employee in administering a medication, assisting with self- administration, or otherwise providing for the care of a student under a seizure management plan submitted for the student. *Education Code 38.032(d).*

**PG-3.18 HEALTH SCREENINGS AND PHYSICAL EXAMINATIONS**

**Sec. 1. PHYSICAL FITNESS ASSESSMENT**

Richard Milburn Academy shall annually assess the physical fitness of students in grades 9 or higher using an assessment instrument adopted by the Commissioner of State Health Services (“CSHS”) (currently FitnessGram®). *Education Code 38.101(a), .102(a).*

Richard Milburn Academy is not required to assess a student for whom, as a result of disability or other condition identified by CSHS rule, the assessment instrument is inappropriate. *Education Code 38.101(b).*

**a) Report to Texas Education Agency (“TEA”)**

Richard Milburn Academy shall compile the results of the physical fitness assessment and provide summary results, aggregated by grade level and any other appropriate category identified by CSHS rule, to the TEA. The summary results may not contain the names of individual students or teachers, or a student’s date of birth or social security number.

**b) Assessment Confidentiality**

The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law. *Education Code 38.103.*

**Sec. 2. SCREENINGS: VISION AND HEARING**

As soon as possible after admission and within a period set by CSHS rule, a student required to be screened shall undergo approved screening for vision and hearing disorders and any other special senses and communication disorders specified by the Texas Department of State Health Services (the “TDSHS”). *Health and Safety Code 36.005(a).*

**a) Superintendent's Responsibility**

The Superintendent shall ensure that each student admitted to Richard Milburn Academy complies with the screening requirements set by the TDSHS or submits an affidavit of exemption. *Health and Safety Code 36.005(c)*.

**b) Screening Schedule: Screening on Enrollment**

Students thirteen years of age and older, who are enrolled in Richard Milburn Academy for the first time, must be screened for possible vision and hearing problems within 120 calendar days of enrollment. If the student is enrolled within 60 days of the date school closes for the summer, the student must be tested within 120 days of the beginning of the following school year. Students enrolled who turn thirteen years of age after September 1 of that year are exempt from screening until the following September. *25 TAC 37.25(a)(1), (5)*.

**c) Outside Screening**

Except for students enrolled in prekindergarten, kindergarten, or first grade, Richard Milburn Academy shall exempt a student from screening if the student's parent, managing conservator, or legal guardian, or the student under scenarios described at Family Code 32.003 submits a record showing that a professional examination was properly conducted during the grade year in question or during the previous year. The record must be submitted during the grade year for which the screening would otherwise be required. *25 TAC 37.25(a)(4)*.

**d) Provisional Admission**

A parent, managing conservator, or legal guardian, or the student under scenarios described at Family Code 32.003 may execute an affidavit stating that a person, other than the screener used by Richard Milburn Academy, shall conduct the screening (or that a licensed professional shall conduct an examination) as soon as is feasible. Richard Milburn Academy may admit the student on a provisional basis for up to 60 days, or may deny admission until the screening record(s) are provided to Richard Milburn Academy. *25 TAC 37.25(b)*.

**e) Exemption – Religions Beliefs**

A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit on or before the day of admission an affidavit stating the objections to screening. *Health and Safety Code 36.005(b); 25 TAC 37.25(c)*.

**f) Records**

The Superintendent shall maintain on a form prescribed by the TDSHS in accordance with TDSHS rules, screening records for each student in attendance, and the records are open for inspection by the TDSHS or the local health department. *Health and Safety Code 36.006; 25 TAC 37.26*.



A student's screening records may be transferred among districts without the consent of the student or minor student's parent, managing conservator, or guardian. *Health and Safety Code 36.006(c); 25 TAC 37.26(b)(4).*

**g) Annual Report**

On or before June 30 of each year, Richard Milburn Academy shall submit to the TDSHS a report on the vision and hearing screening status of its aggregate population screened during the reporting year. Richard Milburn Academy shall report in the manner specified by the TDSHS. *Health and Safety Code 36.006(d); 25 TAC 37.26(b)(6).*

**Sec. 3. SCREENINGS: RISK ASSESSMENT FOR TYPE 2 DIABETES**

As soon as possible after admission and as required by rule, each student required to be assessed shall undergo approved risk assessment for type 2 diabetes. The risk assessment should:

1. Identify students with acanthosis nigricans; and
2. Further assess students identified under paragraph 1 to determine the students':
  - a. Body mass index; and
  - b. Blood pressure.

The risk assessment shall be performed at the same time hearing and vision screening or spinal screening is performed.

*Health and Safety Code 95.002(d), .003(a).*

**a) Superintendent's Responsibility**

The Superintendent shall ensure that each student admitted to Richard Milburn Academy complies with the risk assessment requirements or submits an affidavit of exemption. *Health and Safety Code 95.003(c).*

**b) Applicability**

Students who attend public schools located in the TEA Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, and 20 shall be subject to risk assessment. *Health and Safety Code 95.002(b).*

**c) Outside Screening**

The student or minor student's parent, managing conservator, or guardian may substitute a professional examination for the risk assessment.

**d) Exemption – Religious Beliefs**

A student is exempt from risk assessment if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or

guardian must submit to the Superintendent on or before the day of the risk assessment process, an affidavit stating the objections to the risk assessment. *Health and Safety Code 95.003(b)*.

**e) Records**

The Superintendent shall maintain the risk assessment records for each student in attendance and enter the risk assessment information for each student on the surveillance software selected by the University of Texas—Pan American Border Health Office (the Office). The risk assessment records are open for inspection by the Office or the local health department. *Health and Safety Code 95.004(a)*.

A student's risk assessment records may be transferred among schools without the consent of the student or, if the student is a minor, the student's parent, managing conservator, or guardian. *Health and Safety Code 95.004(c)*.

**f) Annual Report**

Richard Milburn Academy shall submit to the Office an annual report on the risk assessment status of the students in attendance during the reporting year and shall include in the report any other required information. *Health and Safety Code 95.004(e)*.

**Sec. 4. SCREENINGS: SPINAL SCREENING**

Each student required by the TDSHS rule to be screened shall undergo approved screening for abnormal spinal curvature. *Health and Safety Code 37.002(a)*.

**a) Superintendent's Responsibility**

The Superintendent shall ensure that each student admitted to Richard Milburn Academy complies with the screening requirements or submits an affidavit of exemption. *Health and Safety Code 37.002(c), 25 TAC 37.144(b)*.

The Superintendent is also responsible for notifying a parent, guardian, or managing conservator of the requirement to conduct spinal screenings, the purpose and reasons for spinal screenings, the potential risk to the child if declined, the method used to perform a spinal screening, and the method to decline a spinal screening based on a religious belief exemption. *25 TAC 37.144(a)*.

**a) Screening Schedule: Routine Screening**

Students who meet the criteria outlined in TDSHS policy shall be screened for abnormal spinal curvature before the end of the school year. *25 TAC 37.144(c)(1)*.

**b) Screening Schedule: Screening at Enrollment**

If a student is enrolled within 60 days of the date Richard Milburn Academy closes for the summer, the student's screening must be conducted within 120 days of the beginning of the

following school year. Richard Milburn Academy may offer a student the opportunity for a spinal screening if the student has no record of having been screened previously. 25 TAC 37.144(c)(2), (3).

**c) *Outside Screening***

The screening requirements may also be met by a professional examination as defined in 25 TAC 37.142(7). 25 TAC 37.144(c)(1).

**d) *Provisional Admission***

A parent, managing conservator, or legal guardian, or the student under Family Code 32.003 may execute an affidavit stating that a person, other than the screener used by Richard Milburn Academy, shall conduct the screening as soon as is feasible. Richard Milburn Academy may admit the student on a provisional basis for up to 60 days, or may deny admission until the screening records are provided to Richard Milburn Academy. The 60-day time period is from November 30 to January 30 of each school year. 25 TAC 37.144(d).

**e) *Exemption – Religious Beliefs***

A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or member. To qualify for the exemption, the student's parent, managing conservator, or guardian must submit to the Superintendent on or before the day of the screening procedure an affidavit stating the objections to screening. *Health and Safety Code 37.002(b)*; 25 TAC 37.144(e).

**f) *Records***

Richard Milburn Academy must comply with recordkeeping and reporting requirements set out in 25 TAC 37.145(b).

**g) *Transfer of Records***

Spinal screening records are transferrable between schools without the consent of the individual or, if the individual is a minor, the minor's parent, managing conservator, or legal guardian. 25 TAC 37.145(b)(3).

**h) *Annual Report***

On or before June 30 of each year, Richard Milburn Academy shall submit to the TDSHS a complete and accurate annual report on the spinal screening status of its aggregate population screened during the reporting year. Richard Milburn Academy shall report in the manner specified by the TDSHS (currently found at <http://chrstx.dshs.state.tx.us>). 25 TAC 37.145(b)(5).

**Sec. 5. UNIVERSITY INTERSCHOLASTIC LEAGUE (“UIL”) PARTICIPATION**

A student desiring to participate in the UIL athletic program shall submit to Richard Milburn Academy a statement from a health care provider authorized under UIL rules indicating that

the student has been examined and is physically able to participate in the athletic program. This examination is required for the first year of middle school competition and grades 9 and 11 of high school competition. In other years, the student shall complete a medical appraisal form. A student may be required to have a physical examination based on answers to the appraisal form.

#### **Sec. 6. REFERRALS**

Parents of students identified through screening programs as needing treatment or further examination shall be referred to health agencies as appropriate.

#### **Sec. 7. ADDITIONAL POLICIES**

As a condition of receiving funds under a program funded in whole or in part by the U.S. Department of Education (DOE), Richard Milburn Academy shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the administration of physical examinations or screenings that Richard Milburn Academy may administer to the student. Richard Milburn Academy shall provide notice of the policies at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies.

At least annually at the beginning of the school year, Richard Milburn Academy shall directly notify the parent of a student of the specific or approximate dates during the school year when any nonemergency, invasive physical examination or screening, described below, is scheduled or expected to be scheduled. The required notification applies to nonemergency, invasive physical examinations or screenings that are:

1. Required as a condition of attendance;
2. Administered and scheduled by Richard Milburn Academy in advance; and
3. Not necessary to protect the immediate health and safety of the student or of other students.

At a minimum, Richard Milburn Academy shall offer an opportunity for the parent to opt the student out of participation in the examination or screening.

These provisions do not apply to any physical examination or screening that is permitted or required by an applicable state law, including physical examinations or screenings that are permitted without parental notification.

*20 U.S.C. 1232h.*

### **PG-3.19 NOTICE REGARDING STEROID USE**

The Superintendent or designee shall ensure that the notice regarding legal restrictions on anabolic steroids required by Education Code 38.008 is posted in a conspicuous location in the gymnasium of each school in which there is a grade level of seven or higher and in each other place in a building where physical education classes are conducted.

Specifically, the notice shall state:

*Anabolic steroids are for medical use only. State law prohibits possessing, dispensing, delivering, or administering an anabolic steroid in any manner not allowed by state law. State law provides that body building, muscle enhancement, or the increase of muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose. Only a medical doctor may prescribe an anabolic steroid or human growth hormone for a person. A violation of state law concerning anabolic steroids or human growth hormones is a criminal offense punishable by confinement in jail or imprisonment in the Texas Department of Criminal Justice.*

*Education Code 38.008.*

## **PG-3.20 WELLNESS POLICY**

### **Sec. 1. WELLNESS**

Richard Milburn Academy shall follow nutrition guidelines that advance student health and reduce childhood obesity and shall promote the general wellness of all students by implementing measurable goals to promote sound nutrition and health through nutrition education, physical activity, and other school-based activities.

### **Sec. 2. DEVELOPMENT OF LOCAL WELLNESS PLAN**

The Superintendent or designee shall appoint a school wellness council (“SWC”) to review and consider evidence-based strategies and techniques and to develop nutrition guidelines and wellness goals as required by law. In developing, implementing, and reviewing the guidelines and goals of the local wellness plan, the SWC will allow participation by parents; students; representatives of Richard Milburn Academy’s food service provider; Richard Milburn Academy physical education teachers, campus and/or district-level administrators, and school health professionals; Board members; and community members.

The SWC shall develop a wellness policy to implement Richard Milburn Academy’s nutrition guidelines and goals. The local wellness plan must address, at a minimum:

1. Strategies for soliciting involvement by and input from individuals interested in the wellness plan and policy;
2. Activities, benchmarks, and objectives for implementing wellness goals;
3. Methods for measuring implementation of wellness goals;
4. Richard Milburn Academy’s standards for foods and beverages provided (but not sold) to students during the school day and while on campus; and
5. Methods for communicating to the public information about Richard Milburn Academy’s local wellness plan.

The SWC will review and revise the wellness plan on a regular basis, and recommend revisions to the plan when necessary.

### **Sec. 3. NUTRITION GUIDELINES**

Richard Milburn Academy’s nutrition guidelines for reimbursable school meals and other foods and beverages sold or marketed to students during the school day will be designed to promote student health and reduce childhood obesity and shall be at least as restrictive as federal regulations and guidance, except when Richard Milburn Academy allows an exemption for allowable fundraising activities.

Richard Milburn Academy shall also establish standards for all foods and beverages provided (but not sold) to students during the school day; these standards must be included in the school wellness plan.

### **Sec. 4. WELLNESS GOALS**

#### ***a) Nutrition Education***

Richard Milburn Academy shall implement, in accordance with law, a coordinated health program with a nutrition education component and shall use health course curriculum that emphasizes the importance of proper nutrition. This program will encourage participation in the National School Lunch Program, the School Breakfast Program, and any other supplemental nutrition and food programs offered by Richard Milburn Academy.

Additionally, Richard Milburn Academy establishes the following goals for nutrition education:

1. Students will receive nutrition education that fosters the adoption and maintenance of healthy eating behaviors.
2. Nutrition education will be a Richard Milburn Academy-wide priority and will be integrated into other areas of the curriculum, as appropriate.
3. Staff responsible for nutrition education will be adequately prepared and will participate in professional development activities to effectively deliver the program as planned.
4. The food service staff, teachers, and other school personnel will coordinate the promotion of nutrition messages in the cafeteria, the classroom, and other appropriate settings.
5. Educational nutrition information will be shared with families and the general public to positively influence the health of students and community members.

***b) Physical Activity***

Richard Milburn Academy shall implement, in accordance with law, a coordinated health program with physical education and physical activity components and shall offer at least the amount of physical activity for all grades required by the Texas Education Code or Commissioner Rule.

In addition, Richard Milburn Academy establishes the following goals for physical activity:

1. Richard Milburn Academy will provide an environment that fosters safe and enjoyable fitness activities for all students, including those who are not participating in competitive sports.
2. Physical education classes will regularly emphasize moderate to vigorous activity.
3. Richard Milburn Academy will encourage teachers to integrate physical activity into the academic curriculum where appropriate.
4. Richard Milburn Academy will encourage parents to support their children's participation, to be active role models, and to include physical activity in family events.

***c) Other School-Based Activities***

Richard Milburn Academy establishes the following goals for creating an environment conducive to healthy nutrition and physical activity and to promote a consistent wellness message to the school community:

1. Richard Milburn Academy shall allow sufficient time for students to eat meals in facilities that are clean, comfortable, and safe.
2. Richard Milburn Academy shall promote employee wellness activities and

involvement at suitable school activities.

#### **Sec. 5. IMPLEMENTATION**

The Superintendent or designee shall oversee the implementation of this policy and the development of the local wellness plan and appropriate administrative procedures related to this wellness policy.

#### **Sec. 6. EVALUATION**

Richard Milburn Academy shall comply with federal requirements for evaluating this policy and the wellness plan. Generally, Richard Milburn Academy's compliance with the local wellness plan shall be assessed at least once every three years. The Superintendent or designee shall conduct the assessment, which will consider:

1. The extent to which each school is in compliance with the local school wellness policy;
2. The extent to which the local school wellness policy aligns with model local school wellness policies; and
3. A description of the progress made toward attaining the goals described in the local wellness plan.

#### **Sec. 7. PUBLIC NOTIFICATION**

Richard Milburn Academy must annually inform and update the public about the content and implementation of this wellness policy, and make the policy and any updates, along with the local wellness plan and program assessments, available to the public.

#### **Sec. 8. RECORDS RETENTION**

Richard Milburn Academy shall retain all the required records associated with the wellness policy as required by law<sup>1</sup> and Richard Milburn Academy's record management program.

*42 U.S.C. 1758b, 7 C.F.R. Part 210.*

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<sup>1</sup> Richard Milburn Academy may refer to the Texas Department of Agriculture, Food and Nutrition Division's "Administrator's Reference Manual (ARM)" for the School Nutrition Program for guidance on record retention requirements.



### **PG.3.21 SCHOOL SAFETY TRANSFERS**

#### ***a) Sec. 1. TRANSFERS FOR SCHOOL SAFETY PURPOSES***

A parent of a student who becomes a victim of a violent criminal offense, as defined below, or who is assigned to a campus assigned by the Texas Education Agency (“TEA”) as persistently dangerous shall be offered an opportunity to transfer to a safe public or charter school within Richard Milburn Academy. *Every Student Succeeds Act (ESSA) Section 8532, TEA Unsafe School Choice Option Guidance Handbook.*

For each school safety transfer request, Richard Milburn Academy shall explore appropriate transfer options. These options may include a transfer agreement with or enrollment in a neighboring school district or, if Richard Milburn Academy operates more than one campus, a transfer to another Richard Milburn Academy campus or school that serves the appropriate grade level. *TEA Unsafe School Choice Option Guidance Handbook.*

#### ***b) Transfers for Victims of Violent Criminal Offenses***

For purposes of this policy, a student is considered to be a victim of a violent criminal offense if the student is a victim of one of the following Penal Code offenses while on the premises of a school or while attending a school-sponsored or school-related activity on or off school property:

- a. Aggravated assault on someone other than a district employee or volunteer;
- b. Aggravated kidnapping;
- c. Aggravated robbery;
- d. Attempted murder;
- e. Continuous sexual abuse of young child or children occurring on school property or while attending a school-sponsored or school-related activity on or off school property;
- f. Indecency with a child; or
- g. Sexual assault or aggravated sexual assault against someone other than a district employee or volunteer.

Within 14 calendar days after a violent criminal offense occurs in or on the grounds of the school the student attends, Richard Milburn Academy will notify the parent of the student victim of the parent’s right to request a transfer. The parent must then submit a written application for transfer to the Superintendent or designee. The Superintendent or designee will approve or disapprove the request within 14 calendar days after receipt.

A transfer arranged for any student who is the victim of a violent criminal offense will be renewed for as long as the threat to the student exists at the campus from which the student transferred.

For each violent criminal offense, Richard Milburn Academy shall maintain, for at least five years, documentation reflecting the date and nature of the offense, notice provided to the parent concerning the transfer option, any submitted transfer application, action taken in response to a transfer application, and other relevant information concerning the offense.

***c) Transfers from a Persistently Dangerous School***

A parent of a student attending a school identified by TEA as persistently dangerous shall be notified of the parent's right to request a transfer. Such notice shall be provided at least 14 calendar days prior to the start of the school year or, if a student enrolls after the school year begins, upon the student's enrollment.

In order to request a transfer for safety reasons, a parent must submit a written transfer application to the Superintendent or designee. The Superintendent or designee will complete the transfer prior to the start of the school year or, if applicable, within 14 calendar days of the request for a student who enrolls after the school year begins.

A transfer arrangement for a student from a campus identified by the TEA as persistently dangerous will be renewed so long as the campus from which the student transferred remains identified by the TEA as persistently dangerous.

Richard Milburn Academy shall maintain, in accordance with its adopted record retention schedule and/or the state's record retention schedule for school records, documentation of notice to parents of the transfer options, transfer applications submitted, and actions taken in response to transfer applications. *TEA ESSA Unsafe School Choice Option LEA Requirements (August 22, 2019)*.

## **PG-3.22 PROHIBITED ORGANIZATIONS AND HAZING**

Gang-related behavior and hazing are prohibited by Richard Milburn Academy.

The Principal or designee shall document and update as needed known or suspected gang-related apparel, gang hand signals, gang signatures, mottoes, graffiti, or persistent gang involvement and activity. The Student Handbook shall include notice to parents and students in this regard.

## **PG-3.23 STUDENT RECORDS**

### **PART I: EDUCATION RECORDS**

#### **Sec. 1. "EDUCATION RECORDS" DEFINED**

For the purposes of this policy, the term "education records" means those records, files, documents, and other materials that contain information directly related to a student and are maintained by Richard Milburn Academy or by a person acting for Richard Milburn Academy.

The term "education records" does not include:

1. Records that are created or received by Richard Milburn Academy after an individual is no longer a student in attendance, and that are not directly related to the individual's attendance as a student.
2. Records made by Richard Milburn Academy personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
3. Records maintained by a law enforcement unit of Richard Milburn Academy that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is eighteen years of age or older, or who is attending an institution of postsecondary education, that are:
  - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
  - b. Made, maintained, or used only in connection with treatment of the student; and
  - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

*20 U.S.C. 1232g; 34 C.F.R. 99.3.*

State and federal law safeguard educational records from unauthorized inspection or use. All information relating to student performance, including grades, test results, and disciplinary records are considered confidential educational records. Release of those records are restricted to parents or guardians; school staff members with a legitimate educational interest; various governmental agencies or in response to a subpoena or court order; or a school to which the student transfers or subsequently enrolls. Release to any other person or agency will occur only with prior written consent of the parent or guardian.

## **Sec. 2. SCREENING RECORDS**

The Principal of each Richard Milburn Academy campus shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in Richard Milburn Academy. Records shall be open for inspection by the state or local health department. The Texas-Mexico Border Health Coordination Office may, directly or through local health departments, enter a school and inspect records relating to assessment for type 2 diabetes. Individual screening records may be transferred among schools in accordance with provisions below concerning "Access by Other Persons." 20 U.S.C. 1232g; Health and Safety Code 36.006, 37.003, 95.004; 25 TAC 37.145(b).

## **Sec. 3. IMMUNIZATION RECORDS**

Richard Milburn Academy shall maintain an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of State Health Services. Richard Milburn Academy shall cooperate with other districts and schools in transferring students' immunization records between other schools. Specific approval from students, parents, or guardians is not required prior to making such record transfers. *Education Code 38.002.*

## **Sec. 4. MEDICAL RECORDS**

The parent or guardian of a student is entitled to access to the student's medical records maintained by Richard Milburn Academy. On request of a student's parent or guardian, Richard Milburn Academy shall provide a copy of the student's medical records to the parent or guardian. Richard Milburn Academy may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code. *Education Code 38.0095.*

### ***a) Privacy Rule for Non-"Education Records"***

To the extent Richard Milburn Academy is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), Richard Milburn Academy must comply with the Privacy Rule, 45 CFR Part 164, with respect to protected health information that is not an education record. *45 C.F.R. 160.103, 164.501.*

## **Sec. 5. FOOD ALLERGY INFORMATION**

Information regarding a child's food allergy, regardless of how it is received by Richard Milburn Academy, shall be retained in the child's student records, but may not be placed in the health record maintained for the child by Richard Milburn Academy.

### ***a) Exceptions***

If Richard Milburn Academy receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by Richard

Milburn Academy. A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by Richard Milburn Academy, including a notation that the child's student records indicate that a parent has notified Richard Milburn Academy of the child's possible food allergy. *Education Code 25.0022(d)-(f)*.

#### **Sec. 6. ASSESSMENT INSTRUMENTS**

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by Richard Milburn Academy are confidential and may be made available only to the student, the student's parent or guardian, and to Richard Milburn Academy personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and school system, and made available to the public, with appropriate interpretations, at regularly scheduled Board meetings. The information may not contain the names of individual students or teachers. *Education Code 39.030(b)*.

#### **Sec. 7. ACADEMIC ACHIEVEMENT RECORDS (GRADES 9-12)**

Richard Milburn Academy shall use the academic achievement record (transcript) form adopted by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by Richard Milburn Academy. Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the receiving district or to both. Richard Milburn Academy shall respond promptly to all requests for student records from receiving districts. *19 TAC 74.5*.

#### **Sec. 8. ENROLLMENT RECORDS**

If a parent or other person with legal control of a child enrolls the child in Richard Milburn Academy the parent or other person, or district in which the child most recently attended school, shall furnish to Richard Milburn Academy all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the Commissioner in the Student Attendance Accounting Handbook.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

Richard Milburn Academy must furnish information under items 1 and 2 not later than the tenth working day after the date Richard Milburn Academy receives a request for the information.

If a parent or other person with legal control of a child under a court order requests that Richard Milburn Academy transfer a child's student records, Richard Milburn Academy shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

*Education Code 25.002.*

## **PART II: ACCESS, DISCLOSURE, AND AMENDMENT**

### **Sec. 1. DEFINITIONS**

#### ***a) Attendance***

“Attendance” includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

#### ***b) Disclosure***

“Disclosure” means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

#### ***c) Parent***

“Parent” includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

#### ***d) Personally Identifiable Information***

“Personally identifiable information” includes, but is not limited to:

1. The student’s name;
2. The name of the student’s parent or other family members;
3. The address of the student or student’s family;
4. A personal identifier, such as the student’s biometric record, defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting); social security number; or student number;
5. Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the Richard Milburn Academy community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who Richard Milburn Academy reasonably believes knows the identity of the student to whom the education record relates.

#### ***e) Record***

“Record” means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audiotape, film, microfilm, and microfiche.

***f) Authorized Representative***

“Authorized representative” means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 C.F.R. 99.31(a)(3) to conduct—with respect to federal- or state-supported education programs—any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

***g) Education Program***

“Education program” means any program that is principally engaged in the provision of education, including but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution.

*34 C.F.R. 99.3.*

***h) Signed and Dated Written Consent***

“Signed and dated written consent” may include a record and signature in electronic form that:

1. Identifies and authenticates a particular person as the source of the electronic consent; and
2. Indicates such person’s approval of the information contained in the electronic consent.

*34 C.F.R. 99.30(d).*

**Sec. 2. ACCESS BY PARENTS**

Access to the education records of a student who is or has been in attendance at Richard Milburn Academy shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes.

*34 C.F.R. 99.10, .31(a)(8).*

Richard Milburn Academy shall presume that a parent has authority to inspect and review the student’s records unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. A court may order the custodian of records to delete all references in a child’s records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator.

*34 C.F.R. 99.4; Family Code 153.012, .073.*

**Sec. 3. ACCESS BY STUDENT**

Whenever a student has attained 18 years of age or is attending an institution of postsecondary

education, the rights accorded to, and consent required of, parents transfer from the parents to the student. Nothing in this section prevents Richard Milburn Academy from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 C.F.R. 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency. *34 C.F.R. 99.5.*

If material in the education record of a student includes information on another student, only the portion of the material relating to the student whose records were requested may be inspected and reviewed. *34 C.F.R. 99.12(a).*

#### **Sec. 4. ACCESS BY OTHER PERSONS**

Personally identifiable information in education records shall not be released without the written consent of the student's parents, except to the following:

##### ***a) School Officials***

School officials, including teachers, who have legitimate educational interests are authorized to review personally identifiable information in education records. An administrator, nurse, or teacher is entitled to access a student's medical records maintained by Richard Milburn Academy for reasons determined in Richard Milburn Academy policy.

A contractor, consultant, volunteer, or other party to whom Richard Milburn Academy has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party:

1. Performs an institutional service or function for which Richard Milburn Academy would otherwise use employees;
2. Is under the direct control of Richard Milburn Academy with respect to the use and maintenance of education records; and
3. Is subject to the requirements of 34 CFR 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

Richard Milburn Academy must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests.

*34 C.F.R. 99.31, .36; Education Code 38.009.*

##### ***b) Officials of Other Schools***

Officials of other schools or school systems in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, provided that Richard Milburn Academy either:

1. Includes in its policies a statement that notifies the parent or student that it forwards education records on request of the other school to such officials; or
2. Makes a reasonable attempt to notify the parent (unless the record transfer is initiated



by the parent).

In either case, Richard Milburn Academy shall furnish a copy of the transferred records to the parent if requested and shall give the parent an opportunity for a hearing to challenge the content of the record.

*34 C.F.R. 99.34.*

***c) Authorized Governmental Representatives***

Authorized representatives of the officials or agencies headed by the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs. *34 C.F.R. 99.35.*

Richard Milburn Academy may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act (“FERPA”) and any regulation implementing FERPA. Richard Milburn Academy is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 CFR 214.3, or any corresponding regulation. *8 U.S.C. 1372(c)(2); 8 C.F.R. 214.1(h).*

***d) Financial Aid Personnel***

Personnel involved with a student’s application for, or receipt of, financial aid.

***e) Juvenile Justice Officials***

State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute if:

1. The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released; and
2. The officials and authorities to whom such information is disclosed certify in writing to Richard Milburn Academy that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent or the student.

The Superintendent or designee shall disclose information contained in a student’s educational records to a juvenile service provider as required by Family Code 58.0051.

*Education Code 37.084(a).*

***f) Organizations Conducting Surveys***

Organizations conducting studies for, or on behalf of, Richard Milburn Academy for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal

identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies who have legitimate interests in the information. Such information must be destroyed when no longer needed for the original purposes of the studies.

Richard Milburn Academy must enter into a written agreement with the organization that:

1. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
2. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
3. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
4. Requires the organization to destroy or return to Richard Milburn Academy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be returned or destroyed.

If Richard Milburn Academy enters into an agreement with an organization conducting a study, it may re-disclose personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to Richard Milburn Academy in accordance with the requirements of 34 C.F.R. 99.33(b).

Richard Milburn Academy is not required to initiate a study or agree with or endorse the conclusions or results of the study.

***g) Accrediting Organizations***

Accrediting organizations that require the information for purposes of accreditation.

***h) Health & Safety Emergency***

Appropriate persons, including the student's parents, who, in an emergency, must have such information in order to protect the health or safety of the student or other person. In making a determination, Richard Milburn Academy may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If Richard Milburn Academy determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. *34 C.F.R. 99.36.*

***i) Secretary of Agriculture***

The Secretary of Agriculture, or authorized representative from the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of schools receiving funding or providing benefits of programs authorized under the National School Lunch Act or the Child Nutrition Act. *20 U.S.C. 1232g(b)(1)(K).*

***j) State or Local Child Welfare Agency***

An agency caseworker or other representative of a state or local child welfare agency who has the right to access a student's case plan when the agency is legally responsible, in accordance with state law, for the care and protection of the student. *20 U.S.C. 1232g(b)(1)(L)*.

***k) Directory Information***

Any person requesting directory information after Richard Milburn Academy has given public notice of that definition. *34 C.F.R. 99.37*.

***l) Written Consent***

The parent shall provide a signed and dated written consent before Richard Milburn Academy discloses personally identifiable information from a student's education records to any individual, agency, or organization other than the parent, the student, or those listed above. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released. *34 C.F.R. 99.30*.

**Sec. 5. INFORMATION COLLECTION**

***a) DOE Funded Surveys***

No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education (DOE), to submit to a survey, analysis, or evaluation that reveals information concerning the following topics without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent:

1. Political affiliations or beliefs of the student or the student's parents.
2. Mental and psychological problems of the student or the student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom students have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student's parent.
8. Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

*20 U.S.C. 1232h(b)*.

***b) Information Collection Funded by Other Sources***

Except as provided by 20 U.S.C. 1232h(a) or (b), as a condition of receiving funds from programs funded in whole or in part by the U.S. DOE Richard Milburn Academy shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), and provide for parent notification in accordance with 20 U.S.C. 1232(c)(2). *20 U.S.C.*

1232h(c)(1)–(4).

#### **Sec. 6. SUBPOENAED RECORDS**

Richard Milburn Academy shall release student records to an entity or persons designated in a subpoena. Richard Milburn Academy shall not disclose to any person the existence or contents of the subpoena if a court orders Richard Milburn Academy to refrain from such disclosure. Unless the court or other issuing agency orders Richard Milburn Academy to refrain from such disclosure or the order is an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331, Richard Milburn Academy shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance, except when a parent is a party to a court proceeding involving child abuse and neglect or dependency matters, and the order is issued in the context of that proceeding. *20 U.S.C. 1232g(b)(1)(J), (b)(2)(B); 34 C.F.R. 99.31(a)(9).*

#### **Sec. 7. SEX OFFENDERS**

Richard Milburn Academy may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to Richard Milburn Academy under 42 U.S.C. 14071 and applicable federal guidelines. *34 C.F.R. 99.31(a)(16).*

#### **Sec. 8. REQUEST PROCEDURE**

Upon request of a properly qualified individual, access to a student's education record shall be granted within a reasonable period of time, not to exceed 45 days. Richard Milburn Academy shall respond to reasonable requests for explanations and interpretations of the records. *34 C.F.R. 99.10.*

#### **Sec. 9. DESTRUCTION OF RECORDS**

Richard Milburn Academy shall not destroy any education records if there is an outstanding request to inspect and review the records. *34 C.F.R. 99.10(e).*

#### **Sec. 10. DE-IDENTIFIED RECORDS**

Richard Milburn Academy, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that Richard Milburn Academy or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

### ***a) Education Research***

Richard Milburn Academy, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. Richard Milburn Academy or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;
2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

### **Sec. 11. AUTHENTICATING REQUESTORS' IDENTITIES**

Richard Milburn Academy must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom Richard Milburn Academy discloses personally identifiable information from education records. *34 C.F.R. 99.31(b)–(c)*.

### **Sec. 12. TRANSFER NOT PERMITTED**

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent. If a third party permits access to information in violation of this policy, Richard Milburn Academy shall not permit access to information from education records to that third party for a period of not less than five years. *20 U.S.C. 1232g(b)(4)(B); 34 C.F.R. 99.33(a)(1)*.

Richard Milburn Academy shall inform a party to whom a disclosure is made of the requirements of 34 CFR 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a student who is not an eligible student or to a student. *34 C.F.R. 99.33(c)–(d)*.

Richard Milburn Academy may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of Richard Milburn Academy if:

1. The disclosures meet the requirements of 34 CFR 99.31; and
2. Richard Milburn Academy has complied with the requirements of 34 CFR 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting information through a subpoena or ex parte order has complied with the requirements of 34 CFR 99.32(b)(2).

*34 C.F.R. 99.33(b)*.

### **Sec. 13. RECORD OF ACCESS TO STUDENT RECORDS**

Each campus shall maintain a record, kept with the education record of each student, that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's education records, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 CFR 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. Richard Milburn Academy must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 CFR 99.32(b)(2) and make it available in response to a parent's request to review the record.

Richard Milburn Academy must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception (see "Health & Safety Emergency," above):

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom Richard Milburn Academy disclosed the information.

*34 C.F.R. 99.32.*

The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as Richard Milburn Academy maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system. *20 U.S.C. 1232g(b)(4)(A).*

The record shall not include requests for access by, or access granted to, parents of the student or officials of Richard Milburn Academy, requests accompanied by prior written consent of the parent, requests for directory information, or a party seeking or receiving records in accordance with a subpoena or *ex parte* order. *34 C.F.R. 99.32(d).*

### **Sec. 14. RIGHT TO AMEND RECORDS**

The parent of a student whose records are covered by this policy may ask Richard Milburn Academy to amend the student's record if the parent believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. Richard Milburn Academy decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student's education records.

If Richard Milburn Academy decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, Richard Milburn Academy decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with the decision of Richard Milburn Academy. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed. *34 C.F.R. 99.20–21.*

## **Sec. 15. FEES FOR COPIES**

No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for the parents or students under this policy provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis. *20 U.S.C. 1232g; 34 C.F.R. 99.11; Education Code 26.012.*

## **Sec. 16. RECORDS OF STUDENTS WITH DISABILITIES**

Richard Milburn Academy shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities. *34 C.F.R. 300.613(a).*

### ***a) Access Rights***

In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect Richard Milburn Academy records relating to the education of their child:

1. Parents may request that a representative inspect and review the records.
2. Richard Milburn Academy shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program (“IE”P) or hearing relating to the identification, evaluation, or placement of the child, and in no case longer than 45 days after the request.
3. Richard Milburn Academy shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records.

*34 CFR 300.613, .614.*

### ***b) List of Types and Locations of Information***

Richard Milburn Academy shall provide parents on request a list of types and locations of education records. *34 C.F.R. 300.616.*

### ***c) Parental Consent***

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the Individuals with Disabilities Education Act or disclosed to anyone other than officials of agencies collecting or using this information. Richard Milburn Academy may not release information from these records without parental consent except as provided in FERPA. *34 C.F.R. 300.622.*

### ***d) Confidentiality***

Richard Milburn Academy shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in

Richard Milburn Academy shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. Richard Milburn Academy shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. *34 C.F.R. 300.623.*

***e) Destruction of Information***

Richard Milburn Academy shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.

A permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

*34 C.F.R. 300.624.*

**Sec. 17. ANNUAL NOTIFICATION OF RIGHTS**

Richard Milburn Academy shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA. For purposes of FERPA and student information confidentiality under this policy, a student is considered "in attendance" from the time Richard Milburn Academy receives a completed Lottery Information Form or completed Admissions Application packet from the student or, otherwise, from the time the student first attends classes at Richard Milburn Academy and is enrolled, until the student withdraws or graduates from Richard Milburn Academy.

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

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 CFR 99.31 authorize disclosure without consent; and
4. File with the United States Department of Education a complaint under 34 CFR 99.63 and 99.64 concerning alleged failures by Richard Milburn Academy to comply with the requirements of the Act and 34 CFR part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 CFR 99.20.
3. If Richard Milburn Academy has a policy of disclosing education records under 34 CFR 99.31(a)(1), a specification of criteria for determining who constitutes a school



official and what constitutes a legitimate educational interest.

Richard Milburn Academy may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights. Richard Milburn Academy shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

*20 U.S.C. 1232g(e); 34 C.F.R. 99.7.*

#### **Sec. 18. CUSTODIAN OF RECORDS**

The Superintendent or designee is designated as the custodian of all student records. The Principal of each campus is designated as an agent of the Superintendent or designee for the purposes of the receipt of requests concerning the disclosure of student records.

#### **Sec. 19. PARENTAL RIGHTS AND STUDENT PRIVACY LOCAL POLICY**

As a condition of receiving funds under any applicable program, Richard Milburn Academy adopts the following policies, pursuant to 20 U.S.C. 1232h(c)(1):

1. Parents have a right to inspect any survey created by a third party before the survey is administered or distributed by Richard Milburn Academy to the student. Parents should submit such a request to the Principal, and shall be provided an opportunity to inspect the survey within a reasonable period of time as determined by Principal. Upon a parent's request to inspect a survey, the parent's child shall not participate in the survey until the parent has had a reasonable opportunity to inspect the survey, as determined by the Principal.
2. In the event a survey contains the items listed above, and is administered or distributed to students, Richard Milburn Academy shall comply with FERPA and other applicable law to protect student privacy.
3. Parents have a right to inspect any instructional material used in the educational curriculum for the student. Parents should submit such a request to the Principal. The Principal shall provide reasonable access to parents within a reasonable period of time, as determined by the Principal.
4. Richard Milburn Academy may administer physical examinations or other screenings to students as required and/or authorized by state or federal law and in accordance with other applicable policy.
5. Richard Milburn Academy shall not collect, disclose, or use a student's personal information for the purpose of marketing or selling that information to third parties. This policy does not apply to or restrict the use of personal information collected from students for the purpose of developing, evaluating, or providing educational products or services offered by Richard Milburn Academy, for or to students or educational institutions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products or services to raise funds for school-related or education-related activities, or student recognition programs, or as otherwise required by law. This policy is also subject to state and federal public information laws and FERPA, that makes some student personal information, defined above as Directory Information, public.
6. Parents have a right to inspect any instrument used in collection of personal

information, described above, before the instrument is administered to the student. Parents should submit such a request to the Principal. The Principal shall provide reasonable access to parents within a reasonable period of time, as determined by the Principal. Upon a parent's request to inspect such an instrument, the parent's child shall not participate until the parent has had a reasonable opportunity to inspect the instrument, as determined by the Principal.

The Superintendent or designee shall ensure that parents are provided reasonable notice of the adoption or continued use of these policies. Such notice shall be provided directly to the parents of the students in attendance at Richard Milburn Academy. At a minimum, Richard Milburn Academy shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and
2. Offer an opportunity for the parent to opt the student out of participation in an activity described above.

#### **Sec. 20. NOTICE OF SCHEDULED ACTIVITIES**

The Superintendent or designee shall ensure that Richard Milburn Academy directly notifies parents of students, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities, described below, are scheduled or expected to be scheduled. The following activities require notification under this section:

1. Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information.
2. The administration of any survey containing one or more items described above.
3. Any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered and scheduled by Richard Milburn Academy in advance, and not necessary to protect the immediate health and safety of the student or of other students.

### **PART III: DIRECTORY INFORMATION**

Certain information about students is considered "directory information" and will be released to anyone who follows procedures for requesting it unless the parent, or eligible student objects in writing to its release within ten calendar days of receiving notice of FERPA rights. A parent or eligible student may also choose to opt out of the release of directory information at any time during the school year. At any time after restricting the release of directory information, a parent or eligible student may in writing authorize Richard Milburn Academy to release directory information. *34 C.F.R. 99.37.*

#### **Sec. 1. DEFINITION**

##### ***a) School-Related Purposes***

Richard Milburn Academy has designated the following categories of information as directory information for purposes of disclosure relating to school-sponsored/school-affiliated purposes:

1. student's name;
2. address;
3. telephone listing;
4. electronic mail address;
5. photograph (including video image);
6. date and place of birth;
7. major field of study;
8. degrees, honors, and awards received;
9. dates of attendance;
10. grade level;
11. most recent educational institution attended;
12. participation in officially recognized activities and sports; and
13. weight and height of members of athletic teams.

Directory information does not include a student's:

1. Social security number; or
2. Student identification number, unless the student identification number, user identification number, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number, password, or other factor known or possessed only by the authorized user.

School-sponsored/school-affiliated purposes are those events or activities that Richard Milburn Academy conducts and/or sponsors to support the educational mission of Richard Milburn Academy. Examples include, but are not limited to:

1. extracurricular programs or events (e.g., school plays, concerts, athletic events, graduation ceremony);
2. publications (e.g., newsletters, yearbook, etc.);
3. honor roll and other student recognition lists; and
4. marketing materials of Richard Milburn Academy (e.g., print media, website, videos, newspaper, etc.).

#### ***b) Military Recruiters and Institutions of Higher Education***

Richard Milburn Academy has designated the following categories of information as directory information for the purpose of disclosure to military recruiters and institutions of higher education, but only for secondary students:

1. student's name;
2. address;
3. e-mail address; and
4. telephone listing.

#### ***c) Law Enforcement Authorities***

Richard Milburn Academy has designated the following categories of information as directory

information for purposes of responding to requests for general student information made by law enforcement officials and authorities:

1. student's name;
2. address; and
3. telephone listing.

Richard Milburn Academy will comply with a request by a military recruiter or an institution of higher education for secondary students' names, addresses, and telephone listings unless a parent or eligible student has advised Richard Milburn Academy in writing not to release a student's information without prior written consent.

***d) Release of Directory Information***

Richard Milburn Academy shall not release directory information except for the purposes indicated above, namely:

1. disclosure relating to school-sponsored/school-affiliated purposes;
2. disclosure to military recruiters and institutions of higher education, but only for secondary students; and
3. disclosure to law enforcement officials and authorities.

As such, there is no directory information available to any persons not meeting the above requirements and purposes.

**Sec. 2. IN CLASS**

A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent Richard Milburn Academy from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.

**Sec. 3. FORMER STUDENTS**

Richard Milburn Academy may disclose directory information about former students without satisfying the public notice conditions above. However, Richard Milburn Academy must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

**Sec. 4. CONFIRMATION OF IDENTITY OR RECORDS**

Richard Milburn Academy may not disclose or confirm directory information without meeting the written consent requirements in 34 CFR 99.30 if a student's social security number or other non- directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

*34 C.F.R. 99.3, .37.*

## **PART IV: INFORMATION FROM LAW ENFORCEMENT**

### **Sec. 1. ORAL NOTICE OF ARREST OR REFERRAL**

Upon receipt of oral notice from a law enforcement agency that it has arrested a student or referred a student to the juvenile board for a specified offense, the Superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

### **Sec. 2. WRITTEN NOTICE OF ARREST OR REFERRAL**

Upon subsequent receipt of confidential, written notice of the arrest or referral, the Superintendent or designee may send the information in the confidential notice to a Richard Milburn Academy employee having direct supervisory responsibility over the student if the Superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

### **Sec. 3. ORAL NOTICE OF CONVICTION OR ADJUDICATION**

Upon receipt of oral notice from a prosecuting attorney of a student's conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

### **Sec. 4. NOTICE OF TRANSFER OR REENROLLMENT**

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

Required oral or written notice must include all pertinent details of the offense or conduct, including details of any assaultive behavior or other violence; weapons used in the commission of the offense or conduct; or weapons possessed during the commission of the offense or conduct.

Information received by Richard Milburn Academy under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. Richard Milburn Academy shall destroy the information at the end of the academic year in which the report was filed.

### **Sec. 5. DUTY TO FLAG RECORDS**

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or

who is enrolled in Richard Milburn Academy is missing, Richard Milburn Academy shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, Richard Milburn Academy will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made.

**a) Request in Person**

When a request for a flagged record is made in person, Richard Milburn Academy may not advise the requesting party that the request concerns a missing child and shall:

1. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made, and the name, address, and birth date of the child;
2. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
3. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
4. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

After providing the information listed above, Richard Milburn Academy shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

**b) Request in Writing**

When a request for a flagged record is made in writing, Richard Milburn Academy may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, Richard Milburn Academy shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

**c) Removal of Flag**

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, Richard Milburn Academy shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearing-house. If a response is not received after the 45th day after the date of the request for confirmation, Richard Milburn Academy may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearing-house that the flag has been removed. *Code of Criminal Procedure 63.020-.022.*

### **PG-3.24 ELECTRONIC STUDENT RECORDS SYSTEM**

Richard Milburn Academy shall participate in an electronic student records system that satisfies standards approved by the Commissioner.

The electronic student records system must permit an authorized state or Richard Milburn Academy official to electronically transfer to and from an educational institution in which the student is enrolled and retrieve student transcripts, including information concerning a student's:

1. Course or grade completion;
2. Teachers of record;
3. Assessment instrument results;
4. Receipt of special education services, including placement in a special education program and the individualized education program developed; and
5. Personal graduation plan as described by Education Code 28.0212 or 28.02121, as applicable.

Any person involved in the transfer and retrieval of student information is subject to any state or federal law governing the release of or providing access to any confidential information to the same extent as the educational institution from which the data is collected. A person may not release or distribute the data to any other person in a form that contains confidential information.

*Education Code 7.010.*

## **PG-3.25 STUDENT DRESS CODE**

### **Sec. 1. PURPOSE**

Richard Milburn Academy's dress and grooming standards are designed to teach grooming and hygiene, prevent disruption, minimize safety hazards, and provide a dress standard that offers flexibility for the parent and student. Students must come to school cleanly and neatly groomed and wearing clothing that will not be a health or safety hazard to the student or others, and that will not distract from or interfere with the educational atmosphere of the school.

### **Sec. 2. GENERAL GUIDELINES**

The Superintendent or designee shall establish dress and grooming standards for all students. Violations of dress and grooming standards shall be described in the Student Code of Conduct. Principals may, at their discretion, impose additional reasonable dress and grooming standards.

### **Sec. 3. EXTRACURRICULAR ACTIVITIES**

Principals, in cooperation with the sponsor, coach, or other person in charge of an extracurricular activity, may regulate the dress and grooming of students who participate in the activity. Students who violate dress and grooming standards established for such an activity may be removed or excluded from the activity for a period determined by the Principal or sponsor and may be subject to other disciplinary action, as specified in the Student Code of Conduct.

### **Sec. 4. UNIFORMS**

If the Board determines that requiring school uniforms would improve the learning environment at Richard Milburn Academy, the Board may adopt rules that require students at that school to wear school uniforms. Students shall wear uniforms beginning on the 90th day after the date on which the Board adopts the rules.

#### ***a) Funding***

The rules adopted by the Board must designate a source of funding to be used to provide uniforms for educationally disadvantaged students.

#### ***b) Exemptions***

A parent or guardian of a student assigned to a school where uniforms are required may choose for the student to be exempted from the uniform requirement. In order to exercise this option, the parent or guardian must provide a written statement that states a religious or philosophical objection to the uniform requirement that the Board determines is bona fide.



### **PG-3.26 CARE OF SCHOOL PROPERTY**

A parent or other person who has the duty of control and reasonable discipline of a child is liable for any property damage proximately caused by:

1. The negligent conduct of the child if the conduct is reasonably attributable to the negligent failure of the parent or other person to exercise that duty; or
2. The willful and malicious conduct of a child who is at least ten years of age but under 18 years of age.

*Family Code 41.001.*

### **PG-3.27 PERSONAL TELECOMMUNICATIONS / ELECTRONIC DEVICES**

#### **Sec. 1. PERSONAL USE**

#### ***a) Telecommunications Devices***

The Superintendent or designee shall develop guidelines regarding student possession of electronic devices, including personal telecommunications devices or paging devices, at school or school- related activities. Such guidelines shall be addressed in the Student Handbook.

Disciplinary consequences for violating Richard Milburn Academy's guidelines concerning student possession of electronic devices will be in accordance with the Student Code of Conduct.

#### ***b) Confiscation of Electronic Devices***

An authorized Richard Milburn Academy employee may confiscate a personal telecommunications device, including a mobile telephone, used in violation of applicable campus rules.

A confiscated personal telecommunications device may be released for an administrative fee, not to exceed \$15, as determined by the Superintendent or designee.

If a personal telecommunications device is not retrieved, Richard Milburn Academy shall dispose of the device after providing notice required by law.

Richard Milburn Academy will not be responsible for damage to or loss or theft of confiscated items.

#### ***c) Other Electronic Devices***

Guidelines regarding personal electronic devices shall be addressed in the Student Handbook.

#### ***d) No Responsibility for Devices***

Richard Milburn Academy is not responsible for any damaged, lost, or stolen personal device.

## **Sec. 2. INSTRUCTIONAL USE**

A student shall obtain prior approval before using personal telecommunications or other personal electronic devices for on-campus instructional purposes. The student shall also acknowledge receipt and understanding of applicable regulations and shall sign the appropriate user agreements.

### **PG-3.28 STUDENT RIGHTS AND RESPONSIBILITIES**

Each student is expected to respect the rights and privileges of other students, teachers, and Richard Milburn Academy staff. All teachers, administrators, and other Richard Milburn Academy personnel are expected to respect the rights and privileges of students.

#### **Sec. 1. STUDENT HANDBOOK**

The Superintendent or designee shall develop student handbooks with information on curriculum, grading, extracurricular activities, and other such topics that students and parents are likely to need during the school year. The Superintendent or designee shall ensure that no student handbook information is in conflict with policy or the Student Code of Conduct. In case of conflict between a Board policy or the Student Code of Conduct and provisions of student handbooks, Board policy shall prevail.

#### **Sec. 2. DISTRIBUTION**

Student handbooks shall be made available on the Richard Milburn Academy website at the beginning of the school year; hard copy shall be provided upon request. Amendments to the Student Handbook shall be communicated promptly to students and parents.

### **PG-3.29 MARRIED AND PREGNANT STUDENTS**

#### **Sec. 1. MARRIED STUDENTS**

Married students have the same rights and responsibilities as unmarried students. This includes the right to participate in any extracurricular activities on the same basis, and subject to the same requirements, as unmarried students.

If Richard Milburn Academy receives federal funds, it shall not apply any rule concerning a student's actual or potential marital status that treats students differently on the basis of sex. *20 U.S.C. 1681; 34 CFR 106.40.*

Except as expressly provided by law, a student who has been married in accordance with Texas law has the capacity and power of an adult, regardless of age. *Family Code 1.104.*

#### **Sec. 2. PREGNANT STUDENTS**

Richard Milburn Academy shall not discriminate against any student or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of the student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom, unless the student requests voluntarily to participate in a separate portion

of Richard Milburn Academy's program or activity.

Pregnant students have the right to continue their education during pregnancy and may choose to exercise that right by:

1. Remaining in the regular school program.
2. Participating in any other special program Richard Milburn Academy may provide for pregnant students.

The student may also choose to request a leave of absence. Such request shall be accompanied by a licensed physician's certification that the leave is a medical necessity. Students who avail themselves of this option are exempt from compulsory attendance during the period certified by the physician as necessary for the leave of absence.

Richard Milburn Academy may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

### **PG-3.30 STUDENT AND PARENT COMPLAINTS AND GRIEVANCES**

#### **Sec. 1. GUIDING PRINCIPLES**

In this policy, the terms "complaint" and "grievance" shall have the same meaning.

##### ***a) Informal Process***

Richard Milburn Academy encourages students and parents to discuss their complaints or grievances with the appropriate teacher, principal, or other campus administrator who has the authority to address the concerns. Concerns and complaints should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

##### ***b) Grievance Procedures***

The Superintendent or designee shall develop a detailed grievance process; 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 detailed grievance process is made available to students and parents through the Student Handbook.

##### ***c) Board Consideration of Student and Parent Grievances***

The Board shall retain final authority to hear or decide parent and student grievances. *19 TAC 100.1033(b)(14)(C)(i)*.

The Board may conduct a closed meeting when hearing or deciding a parent or student grievance as allowed by applicable law. *Gov't Code Ch. 551, Subch. D*.

*d) Freedom from Retaliation*

Neither the Board nor any Richard Milburn Academy employee shall unlawfully retaliate against any student or parent for bringing a concern or complaint.

**PG-3.31 STUDENT FEES**

**Sec. 1. AUTHORIZED FEES**

Richard Milburn Academy may require payment of:

1. Fees for materials used in any program in which the resultant product is in excess of minimum requirements and, at the student's option, becomes the personal property of the student. Fees may not exceed the cost of materials.
2. Membership dues in student organizations or clubs, and admission fees or charges for attending extracurricular activities when membership or attendance is voluntary.
3. Security deposits for the return of materials, supplies, or equipment.
4. Fees for personal physical education and athletic equipment and apparel. However, any student may provide his or her own equipment or apparel if it meets reasonable requirements and standards relating to health and safety established by the Board.
5. Fees for items of personal use or products that a student may purchase at the student's option, such as student publications, class rings, annuals, and graduation announcements.
6. Fees specifically permitted by any other statute.
7. Fees for an authorized, voluntary student health and accident benefit plan.
8. A reasonable fee, not to exceed the actual annual maintenance cost, for the use of musical instruments and uniforms owned or rented by Richard Milburn Academy.
9. Fees for items of personal apparel that become the property of the student and that are used in extracurricular activities.
10. Parking fees and fees for identification cards.
11. Fees for driver training courses, provided that such fees shall not exceed the actual Richard Milburn Academy cost per student in such programs for the current school year.
12. Fees for courses offered for credit that require the use of facilities not available on the school premises or the employment of an educator who is not part of the school's regular staff, if participation in the course is at the student's option.
13. Fees for courses offered during summer school, except that the Board may charge a fee for a course required for graduation only if the course is also offered without a fee during the regular school term.
14. A reasonable fee for transportation of a student who lives within two miles of the school the student attends to and from that school, except that the Board may not charge a fee for transportation for which Richard Milburn Academy receives funds under Education Code 48.151(d).
15. A reasonable fee, not to exceed \$50, for costs associated with an educational program offered outside of regular school hours through which a student who was absent from class receives instruction voluntarily for the purpose of making up the missed instruction and meeting the level of attendance required under Education Code 25.092.
16. If Richard Milburn Academy does not receive any funds under Section 48.151 and does not participate in a county transportation system for which an allotment is

provided under Section 48.151(i), a reasonable fee for the transportation of a student to and from the school the student attends.

17. A fee for enrollment in an electronic course provided through the Texas Virtual School Network (TxVSN) in accordance with Education Code 30A.155.

*Education Code 11.158, 30A.155.*

## **Sec. 2. PROHIBITED FEES**

Richard Milburn Academy may not charge fees for:

1. Instructional materials, workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course except as authorized under the Education Code.
2. Field trips required as part of a basic educational program or course.
3. Any specific form of dress necessary for any required educational program or diplomas.
4. Instructional costs for necessary school personnel employed in any course or educational program required for graduation.
5. Library materials required to be used for any educational course or program. However, fines may be assessed for lost, damaged, or overdue materials.
6. Admission to any activity the student is required to attend as a prerequisite to graduation.
7. Admission or examination in any required educational course or program.
8. Lockers.

*Education Code 11.158(b).*

## **Sec. 3. PERSONAL SUPPLIES**

Students may be required to furnish personal or consumable items, including pencils, paper, pens, erasers, and notebooks. Students may be required to furnish school uniforms, subject to the provisions of Education Code 11.162 regarding educationally disadvantaged students.

*Education Code 11.158(c)*

## **Sec. 4. WAIVER OF FEES**

Richard Milburn Academy shall adopt reasonable procedures for waiving a deposit or fee if a student or the student's parent or guardian is unable to pay it. This policy shall be posted in a central location in each school facility, in the school policy manual, and in the student handbook. *Education Code 11.158(f).*

## **Sec. 5. POST-SECONDARY INSTRUCTIONAL PROGRAMS**

The Board may charge reasonable fees for goods and services provided in connection with any postsecondary instructional program, including career and technology, adult, veterans, or continuing education, community service, evening school, and high school equivalency programs. *Education Code 11.158(b)-(c), (e)-(g).*

## **Sec. 6. DISSEMINATION OF FEE SCHEDULE**

The Superintendent or designee shall ensure that the Student Fee Schedule is provided, as appropriate, to all students and parents.

### **PG-3.32 SCHOOL SPONSORED PUBLICATIONS**

#### **Sec. 1. SCHOOL-SPONSORED PUBLICATIONS**

All publications edited, printed, or distributed in the name of or within the Richard Milburn Academy system shall be under the control of the school administration and the Board.

All school-sponsored publications approved by Richard Milburn Academy that contain student work and/or are published by students at an individual campus shall be part of the instructional program, under the supervision of a faculty sponsor, and shall be carefully edited to reflect the ideals and expectations of the citizens of the school's geographical area for their schools. The Principal shall be responsible for all matters pertaining to the organization, issuance, and sale of such publications and any other publication procedure, subject to the Superintendent's approval.

Expression in a school-sponsored publication is prohibited when the material:

1. Advertises or promotes any product or service not permitted for minors by law;
2. Associates Richard Milburn Academy with any position other than neutrality on matters of political controversy;
3. Does not meet the standards of the educators who supervise the production of the publication;
4. Encourages students to commit illegal acts;
5. Encourages students to violate the Richard Milburn Academy Student Code of Conduct;
6. Expresses or advocates sexual, racial, or religious harassment or violence or prejudice;
7. Impinges on the rights of other students;
8. Invades the privacy of others;
9. Is distributed or displayed in violation of time, place, and manner regulations;
10. Is inappropriate for the level of maturity of the readers;
11. Is libelous or slanderous;
12. Is obscene to minors;
13. Is vulgar or profane;
14. Might reasonably be perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with the shared values of a civilized social order;
15. Substantially disrupts the orderly operation of school or school activities; or
16. Would substantially interfere with the work of Richard Milburn Academy.

Expression in official school publications is subject to editorial control by Richard Milburn Academy over style and content so long as Richard Milburn Academy's actions are reasonably related to legitimate educational/pedagogical concerns. These may include, but are not limited to:

1. Assuring that participants learn whatever lessons the activity is designed to teach;
2. Assuring that readers or listeners are not exposed to material that may be inappropriate for their level of maturity;
3. Assuring that the views of the individual speaker are not erroneously attributed to Richard Milburn Academy;

4. Assuring that Richard Milburn Academy is not associated with any position other than neutrality on matters of political controversy;
5. Assuring that student speech cannot reasonably be perceived to advocate conduct otherwise inconsistent with the shared values of a civilized social order; and
6. Assuring that Richard Milburn Academy is not associated with expression that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences.

## **Sec. 2. ADVERTISING**

Advertising in individual school publications may be accepted from bona fide business firms, subject to the approval of professional employees exercising editorial supervision over the publications. Advertising deemed inappropriate for student readers or that advertises products presenting a health hazard, such as alcohol or tobacco products, shall not be accepted.

## **Sec. 3. COMPLAINTS**

Students who have a complaint regarding the procedures or a professional decision affecting the content or style of a school-sponsored publication shall present that complaint in accordance with Board Policy PG-3.30 (Parent and Student Complaints and Grievances).

## **PG-3.33 DISTRIBUTION OF NON-SCHOOL LITERATURE**

### **Sec. 1. DISTRIBUTION OF NON-SCHOOL LITERATURE**

Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by Richard Milburn Academy or by a Richard Milburn Academy

-affiliated school-support organization shall not be sold, circulated, distributed, or posted on any Richard Milburn Academy premises by any Richard Milburn Academy student, except in accordance with this policy.

Richard Milburn Academy does not endorse, and shall not be responsible for, the contents of any non-school literature distributed by students.

For purposes of this policy, “distribution” means the circulation of more than ten printed copies of material from a source other than Richard Milburn Academy.

Each school campus shall designate an area where materials that have been approved for distribution by students in accordance with this policy may be made available or distributed. The Superintendent may develop reasonable time, place, and manner restrictions regarding the distribution of materials at designated areas.

## **Sec. 2. PRIOR REVIEW**

All non-school literature intended for distribution by students under this policy shall be submitted to the Principal or designee for prior review according to the following procedures:

1. Materials shall include the name of the person or organization sponsoring the distribution.
2. Using the standards below at "Limitations on Content," the Principal or designee shall approve or reject submitted materials within three school days from the time the materials were received.

Each Principal shall designate times, locations, and means by which non-school literature that is appropriate for distribution may be made available or distributed by students at the campus.

## **Sec. 3. POLICY VIOLATIONS**

Failure to comply with this policy shall result in appropriate administrative action, including but not limited to confiscation of non-approved materials, suspension of a student group's use of Richard Milburn Academy facilities, and/or other disciplinary action in accordance with the Student Code of Conduct.

## **Sec. 4. LIMITATIONS ON CONTENT**

Non-school literature shall not be distributed by students on Richard Milburn Academy property if:

1. The distribution of such materials would violate the intellectual property rights, privacy rights, or other rights of another person.
2. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action.
3. The materials are hate literature or similar publications that scurrilously attack ethnic, religious, or racial groups or contain content aimed at creating hostility and violence; and the materials would materially and substantially interfere with school activities or the rights of others.
4. The materials are obscene, vulgar, or otherwise inappropriate for the age and maturity of the audience.
5. The materials contain defamatory statements about public figures or others.
6. The materials endorse actions endangering the health or safety of students.
7. The materials promote illegal use of drugs, alcohol, or other controlled substances.
8. There is reasonable cause to believe that distribution of the non-school literature would result in material and substantial interference with school activities or the rights of others. Richard Milburn Academy may not demonstrate reasonable cause to believe that the expression would engender material and substantial interferences solely because other students, teachers, administrators, or parents may disagree with its content.



## **Sec. 5. APPEALS**

Administrative decisions regarding this policy may be appealed in accordance with Board Policy PG-3.30 (Parent and Student Complaints and Grievances).

### **PG-3.34 STUDENT ACTIVITIES**

#### **Sec. 1. APPLICABILITY OF UIL RULES AND SCHOOL POLICIES**

A student enrolled in Richard Milburn Academy who participates in an extracurricular activity or a University Interscholastic League (“UIL”) competition is subject to Richard Milburn Academy policy and UIL rules regarding participation only when the student is under the direct supervision of Richard Milburn Academy employee or at any other time specified by resolution of the Board. *Education Code 33.081(b)*.

##### **a) *UIL Forms***

Each student participating in an extracurricular athletic activity must complete the UIL forms entitled “Pre-participation Physical Evaluation — Medical History” and “Acknowledgement of Rules.” Each form must be signed by both the student and the student’s parent or guardian. *Education Code 33.203(a)*.

If Richard Milburn Academy offers an extracurricular athletic activity, it shall:

1. Prominently display at its administrative offices the telephone number and electronic mail address that the Commissioner maintains for reporting violations of Education Code Chapter 33, Subchapter F; and
2. Provide each student participant and the student’s parent or guardian a copy of the text of Education Code 33.201–33.207 and a copy of the UIL’s parent information manual. The document may be provided in an electronic format unless otherwise requested by a student, parent, or guardian.

*Education Code 33.207(b), .208.*

##### **b) *Safety Training***

The UIL shall provide training to students participating in an extracurricular athletic activity related to:

1. Recognizing the symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and
2. The risks of using dietary supplements designed to enhance or marketed as enhancing athletic performance.

The training must be conducted by the UIL or by another organization as determined by the UIL, including the American Red Cross, the American Heart Association, or a similar organization. *Education Code 33.202(d)–(e)*.

*i. Records*

The Superintendent shall maintain complete and accurate records of Richard Milburn Academy's compliance with Education Code 33.202, and Richard Milburn Academy shall make available to the public proof of compliance for each person enrolled in, employed by, or volunteering for Richard Milburn Academy who is required to receive safety training described by Education Code 33.202.

A campus that is determined by the Superintendent to be out of compliance with the safety training requirements or the requirements regarding unsafe practices and safety precautions (see below) shall be subject to the range of penalties determined by the UIL.

*Education Code 33.206.*

***c) Safety Precautions***

A coach, trainer, or sponsor of an extracurricular athletic activity may not encourage or permit a student participant to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon. *Education Code 33.204.*

A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

1. Each student participant is adequately hydrated;
2. Any prescribed asthma medication for a student participant is readily available to the student;
3. Emergency lanes providing access to the practice or competition area are open and clear; and
4. Heatstroke prevention materials are readily available.

If a student participating in an extracurricular athletic activity, including a practice or competition, becomes unconscious during the activity, the student may not:

1. Return to the activity during which the student became unconscious; or
2. Participate in any extracurricular athletic activity until the student receives written authorization for such participation from a physician.

*Education Code 33.205.*

***a) Prevention, Treatment, and Oversight of Concussions***

*i. Concussion Oversight Team*

If students participate in interscholastic athletic activity, the Board shall appoint or approve a concussion oversight team. *Education Code 38.153(a).*

Each concussion oversight team must include at least one physician and, to the greatest extent practicable, considering factors including the population of the metropolitan statistical area in which Richard Milburn Academy is located, Richard Milburn Academy enrollment, and the availability of and access to licensed health-care professionals, must also include one or more of the following: an athletic trainer, an advanced practice nurse, a neuropsychologist, or a physician assistant. If

Richard Milburn Academy employs an athletic trainer, the athletic trainer must be a member of the concussion oversight team. If Richard Milburn Academy employs a school nurse, the school nurse may be a member of the concussion oversight team if requested by the school nurse.

Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the concussion oversight team. The members also must take a training course approved by the UIL, the Texas Department of Licensing and Regulation, or another appropriate licensing agency at least once every two years and submit proof of timely completion to the Superintendent or designee in accordance with Education Code 38.158.

*Education Code 38.154, .158.*

ii. *Return-to-Play Protocol*

Each concussion oversight team shall establish a return-to-play protocol, based on peer-reviewed scientific evidence, for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion. *Education Code 38.153(b).*

iii. *Removal from Play*

A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed healthcare professional, as defined by Education Code 38.151(5); a licensed chiropractor; a school nurse; or the student's parent or guardian or another person with legal authority to make medical decisions for the student. *Education Code 38.156.*

iv. *Required Annual Form*

A student may not participate in an interscholastic athletic activity for a school year until both the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written information that explains concussion prevention, symptoms, treatment, and oversight and that includes guidelines for safely resuming participation in an athletic activity following a concussion. The form must be approved by the UIL. *Education Code 38.155.*

A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed health care

professional, as defined by Education Code 38.151(5); a person licensed under Chapter 201, Occupations Code; a school nurse; or the student's parent or guardian or another person with legal authority to make medical decisions for the student. *Education Code 38.156.*

v. *Return to Play*

A student removed from an interscholastic athletics practice or competition under Education Code 38.156 may not be permitted to practice or compete again following the force or impact believed to have caused the concussion until:

1. The student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;
2. The student has successfully completed each requirement of the return-to-play protocol established under Education Code 38.153 necessary for the student to return to play;
3. The treating physician has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play; and
4. The student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play, have provided the treating physician's written statement to the person responsible for compliance with the return-to-play protocol and the person who has supervisory responsibilities, and have signed a consent form indicating that the person signing:
  - a. Has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;
  - b. Understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;
  - c. Consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, of the treating physician's written statement and, if any, the return-to-play recommendations of the treating physician; and
  - d. Understands the immunity provisions under Education Code 38.159.

A coach of an interscholastic athletics team may not authorize a student's return to play.

The Superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. The person who has supervisory responsibilities may not be a coach of an interscholastic athletics team.

*Education Code 38.157.*

**Sec. 2. CARDIAC ASSESSMENT OF HIGH SCHOOL PARTICIPANTS IN EXTRACURRICULAR ATHLETIC ACTIVITIES**

To the extent required by the UIL, Richard Milburn Academy will provide a student who is required under UIL rule or policy to receive a physical examination before being allowed to

participate in an athletic activity sponsored or sanctioned by the UIL information about sudden cardiac arrest and electrocardiogram testing and notification of the option of the student to request the administration of an electrocardiogram in addition to the physical examination.

A student may request an electrocardiogram from any health professional, including a health care professional provided through a health care professional chosen by the parent or person standing in parental relation to the student, provided the health care professional is:

1. Appropriately licensed in Texas; and
2. Authorized to administer an interpret electrocardiograms under the health care professional's scope of practice, as established by the health care professional's Texas licensing act.

This section does not create a cause of action or liability or a standard of care, obligation, or duty that provides a basis for a cause of action or liability against a health care professional, the UIL, or a Richard Milburn Academy employee or officer for:

1. The injury or death of a student participating in or practicing for an athletic activity sponsored or sanctioned by the UIL based on or in connection with the administration or interpretation of or reliance on an electrocardiogram; or
2. The content or distribution of the information required under this section or the failure to distribute the required information under this section.

*Education Code 33.096.*

### **Sec. 3. MILITARY DEPENDENTS**

Richard Milburn Academy shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified. *Education Code 162.002 art. VI, § B.*

### **Sec. 4. SUSPENSION FROM EXTRACURRICULAR ACTIVITIES**

A student shall be suspended from participation in any extracurricular activity sponsored or sanctioned by Richard Milburn Academy or the UIL after a grade evaluation period in which the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than a course described below at "Exempt Courses."

#### ***a) Length of Suspension***

A suspension continues for at least three school weeks and is not removed during the school year until the conditions of Education Code 33.081(d) are met. A suspension shall not last beyond the end of a school year.

#### ***b) Grade Evaluation Period***

"Grade evaluation period" means:

1. The six-week grade reporting period; or
2. The first six weeks of a semester and each grade reporting period thereafter, in the

case of a district with a grade reporting period longer than six weeks.

*Education Code 33.081(c).*

**c) School Week**

For purposes of this policy, the school week is defined as beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays. *19 TAC 76.1001(b).*

**d) Exempt Courses**

The suspension and reinstatement provisions of Education Code 33.081(c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English.

The following are honors classes for purposes of eligibility to participate in extracurricular activities:

1. All College Board Advanced Placement courses and International Baccalaureate courses in all disciplines;
2. English language arts: high school/college concurrent enrollment classes that are included in the “Lower-Division Academic Course Guide Manual (Approved Courses)”;
3. Languages other than English: high school/college concurrent enrollment classes that are included in the “Lower-Division Academic Course Guide Manual (Approved Courses)” and languages other than English courses Levels IV–VII;
4. Mathematics: high school/college concurrent enrollment classes that are included in the “Lower-Division Academic Course Guide Manual (Approved Courses)” and pre-calculus;
5. Science: high school/college concurrent enrollment classes that are included in the “Lower- Division Academic Course Guide Manual (Approved Courses)”;
6. Social Studies: Social Studies Advanced Studies, Economics Advanced Studies, and high school/college concurrent enrollment classes that are included in the “Lower-Division Academic Course Guide Manual (Approved Courses).”

Richard Milburn Academy may identify additional honors courses in the subject areas of English language arts, mathematics, science, social studies, or a language other than English for the purposes of extracurricular eligibility, but must identify such courses before the semester in which any exemptions related to extracurricular activities occur.

Richard Milburn Academy is neither required to nor restricted from considering courses as honors for the purpose of grade point average calculation.

*Education Code 33.081(d-1); 19 TAC 74.30.*

**e) Students with Disabilities**

In the case of a student with a disability that significantly interferes with the student's ability to meet regular academic standards, suspension must be based on the student's failure to meet the requirements of the student's individualized education program ("IEP"). The determination of whether the disability significantly interferes with the student's ability to meet regular academic standards must be made by the admission, review, and dismissal ("ARD") committee.

For the purposes of this provision, "student with a disability" means a student who is eligible for Richard Milburn Academy's special education program under Education Code 29.003(b).

*Education Code 33.081(e).*

**f) Practice or Rehearsal**

A student suspended under Education Code 33.081 may practice or rehearse with other students for an extracurricular activity but may not participate in a competition or other public performance. *Education Code 33.081(f).*

**g) Reinstatement**

Until the suspension is removed or the school year ends, Richard Milburn Academy shall review the grades of a student at the end of each three-week period following the date on which the suspension began. At the time of a review, the suspension is removed if the student's grade in each class, other than a course described above at "Exempt Courses," is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers shall make the determination concerning the student's grades. *Education Code 33.081(d).*

**Sec. 5. ATTENDANCE AND PARTICIPATION**

Richard Milburn Academy shall make no distinction between absences for UIL activities and absences for other extracurricular activities approved by the Board. A student shall be allowed in a school year a maximum of ten extracurricular absences not related to post-district competition, a maximum of five absences for post-district competition prior to state, and a maximum of two absences for state competition.

**a) State Board of Education Rules**

The following provisions apply to any UIL activity.

Other organizations requiring student participation that causes a student to miss a class may request sanction from the Board. If sanctioned by resolution of the Board, student participation in the organization's activities shall be subject to all provisions of 19 TAC 76.1001. If the Board does not grant sanction, any absences incurred by a student while participating with that organization's activities shall be subject to the attendance provisions of the Education Code. *19 TAC 76.1001(f).*

**b) Extracurricular Activities**

An extracurricular activity is an activity sponsored by the UIL, the Board, or an organization

sanctioned by Board resolution. The extracurricular activity is not necessarily directly related to instruction of the essential knowledge and skills, but may have an indirect relation to some areas of the curriculum.

Extracurricular activities include, but are not limited to, public performances (except as described below), contests, demonstrations, displays, and club activities. In addition, an extracurricular activity is subject to this policy if any one of the following criteria applies:

1. The activity is competitive;
2. The activity is held in conjunction with another activity that is considered extracurricular;
3. The activity is held off-campus, except in a case in which adequate facilities do not exist on campus;
4. The general public is invited; or
5. An admission is charged.

*i. Exception – Public Performances*

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved course that requires demonstration of the mastery of the essential knowledge and skills in a public performance, may participate in the performance if:

1. Only item 4, above, applies; and
2. The requirement for student participation in public is stated in the essential knowledge and skills of the course.

*ii. State-Approved Music Courses*

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved music course that participates in UIL Concert and Sight-Reading Evaluation, may perform with the ensemble during the UIL Evaluation performance.

*19 TAC 76.1001(a).*

**a) *Limits on Participation and Practice***

*i. During the School Week*

Limitations on practice, rehearsal, and student participation during the school week shall be as follows:

1. For any given extracurricular activity, a student may not participate in more than one extracurricular activity per school week, excluding holidays, except as provided in item 2, below.
2. A student may also participate in a tournament or post-district contest, as well as a contest postponed by weather or public disaster that may determine advancement to a post-district level of competition.
3. For each extracurricular activity, Richard Milburn Academy must limit students to a maximum of eight hours of practice and rehearsal outside the school day per school



week.

4. If possible, Richard Milburn Academy should avoid scheduling extracurricular activities or public performances on the day or evening immediately preceding the day on which the statewide student assessment program is scheduled for grades 3–11.

*19 TAC 76.1001(d); Education Code 33.081(a).*

*ii. During the School Day*

Limitations on practice and rehearsal during the school day shall be as follows:

1. Richard Milburn Academy must limit a student to one period of practice during the regularly scheduled school day for practice of extracurricular activities, such as athletics, drill team, or cheerleading.
2. The limit in item 1 does not prohibit a student from enrolling in any state-approved class. A student who is enrolled in a state-approved class that includes essential knowledge and skills that relate to the preparation for an extracurricular activity may practice that extracurricular activity for no more than one period during the school day.
3. A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.
4. Richard Milburn Academy must limit extracurricular practice during the school day to ensure that class periods for extracurricular practice do not exceed the time allotted for other class periods.
5. Richard Milburn Academy may elect to practice extracurricular activities daily, provided the total minutes allowed for the extracurricular practice is not greater than 300 minutes during the school week.

*19 TAC 76.1001(d); Education Code 33.081(a).*

***b) Record of Absences***

Richard Milburn Academy shall maintain an accurate record of extracurricular absences for each student each school year. *19 TAC 76.1001(c).*

**Sec. 6. APPLICABILITY OF SCHOOL POLICY STUDENT CODE OF CONDUCT**

Students are subject to Richard Milburn Academy policies and rules, including the Student Handbook and Student Code of Conduct, at any time the student is traveling to, participating in, attending an extracurricular or school-related event or activity on or off Richard Milburn Academy property, or when under the direct supervision of a Richard Milburn Academy employee.

## **PG-3.35 STUDENT INSURANCE**

### **Sec. 1. OPTIONAL INSURANCE**

The Board may purchase insurance against bodily injury sustained by students while training for or engaging in interscholastic athletic competition or while engaging in school-sponsored activities on a school campus. Such insurance shall be purchased from a reliable insurance company authorized to do business in Texas and shall be on forms approved by the commissioner of insurance. The amount shall be in keeping with the financial condition of Richard Milburn Academy and shall not exceed the amount that the Board considers reasonably necessary to afford adequate medical treatment of students so injured.

### **Sec. 2. PAYMENT OF PREMIUMS**

The cost of student insurance shall constitute a legitimate part of the total cost of operating Richard Milburn Academy.

### **Sec. 3. NO LIABILITY FOR FAILURE TO PURCHASE**

The failure of the Board to purchase student insurance shall not be construed as placing any legal liability upon Richard Milburn Academy or its officers, agents, or employees for any injury that may result.

*Education Code 38.024.*

### **Sec. 4. OTHER COVERAGE**

Richard Milburn Academy is not authorized to spend public funds on insurance to benefit persons to whom it owes no legal duty and shall not expend public funds for that purpose.

**PG-3.36 STUDENT DISCIPLINE**  
**Sec. 1. GENERAL GUIDELINES**

Richard Milburn Academy personnel shall adhere to the following general guidelines when imposing discipline:

1. A student shall be disciplined when necessary to improve the student's behavior, to maintain essential order, or to protect other students, school employees, or property.
2. Students shall be treated fairly and equitably. Discipline shall be based on a careful assessment of the circumstances of each case.

Disciplinary consequences shall not have the effect of discriminating on the basis of gender, race, color, disability, religion, ethnicity, age, or national origin.

**Sec. 2. STUDENT CODE OF CONDUCT**

The Board shall adopt a Student Code of Conduct, which shall establish standards for behavior and identify general types of prohibited behavior and their possible consequences. The Student Code of Conduct shall also outline Richard Milburn Academy's due process procedures with respect to expulsion. *Education Code 12.131(a)*.

At the beginning of the school year and throughout the school year as necessary, the Student Code of Conduct shall be:

1. Made available for review in the Principal's office; and
2. Made available on the Richard Milburn Academy website and/or as hard copy to students, parents, teachers, administrators, and to others on request.

Revisions to the Student Code of Conduct approved by the Board during the year shall be made available promptly to students and parents, teachers, administrators, and others.

**Sec. 3. OUT-OF-SCHOOL SUSPENSION AND STUDENTS WHO ARE HOMELESS**

Richard Milburn Academy may not place a student who is homeless in out-of-school suspension unless the student engages in the following conduct while on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Conduct that contains the elements of an offense-related to weapons under Penal Code 46.02 or 46.05;
2. Conduct that contains the elements of a violent offense under Penal Code 22.01, 22.011, 22.02, or 22.021; or
3. Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:
  - a. Marijuana or a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 USC 801;
  - b. A dangerous drug, as defined by Health and Safety Code Chapter 483; or

- c. An alcoholic beverage, as defined by Alcoholic Beverage Code 1.04.

*Education Code 37.005(d).*

#### **Sec. 4. CORPORAL PUNISHMENT**

The Board prohibits the use of corporal punishment in Richard Milburn Academy. Students shall not be spanked, paddled, or otherwise physically disciplined for violations of the Student Code of Conduct.

#### **Sec. 5. EXTRACURRICULAR STANDARDS OF BEHAVIOR**

Sponsors and coaches of extracurricular activities may develop and submit for approval standards of behavior that are higher than the Richard Milburn Academy-developed Student Code of Conduct and may condition membership or participation in the activity on adherence to those standards. Extracurricular standards of behavior may take into consideration conduct that occurs at any time, on or off Richard Milburn Academy property. Extracurricular behavioral standards shall not have the effect of discriminating on the basis of gender, race, color, disability, religion, ethnicity, age, or national origin.

Students shall be informed of any extracurricular behavior standards at the beginning of each school year or when the students first begin participation in the activity. Students and their parents shall sign and return to the sponsor or coach a statement that they have read the extracurricular behavior standards and consent to them as a condition of participation in the activity.

Standards of behavior for an extracurricular activity are independent of the Student Code of Conduct. Violations of these standards of behavior that are also violations of the Student Code of Conduct may result in independent disciplinary actions.

A student may be removed from participation in extracurricular activities or may be excluded from school honors for violation of extracurricular standards of behavior for an activity or for violation of the Student Code of Conduct.

#### **Sec. 6. EXPULSION**

The Superintendent or designee shall determine conduct for which students may be expelled from school. Expellable offenses shall be described in the Student Code of Conduct, which shall be distributed to students and parents on an annual basis, as well as made available at each Richard Milburn Academy campus and posted on the Richard Milburn Academy website.  
*Education Code 12.131.*

##### ***a) Federal Firearm Provision***

In accordance with the Gun-Free Schools Act, Richard Milburn Academy shall expel from the student's regular program, for a period of one year, any student who is determined to have brought a firearm, as defined by federal law, to any Richard Milburn Academy campus. The Superintendent may modify the term of expulsion for a student or assess another comparable

penalty that results in the student's exclusion from the regular school program on a case-by-case basis. *18 U.S.C. 922.*

For the purposes of this provision, "firearm" means:

1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;
3. Any firearm muffler or firearm silencer; or
4. Any destructive device. "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.

*18 U.S.C. 921(a).*

#### ***b) Expulsion Proceedings***

##### *i. Due Process*

Before a student may be expelled, the Board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution. The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.

##### *ii. Notice*

The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her and an oral or written report on the facts to which each witness testifies.

##### *iii. Hearing*

The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.

##### *iv. Representative*

At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance to the student and who is not an employee of Richard Milburn Academy. If Richard Milburn Academy makes a good-faith effort to inform the

student and the student’s parent or guardian of the time and place of the hearing, Richard Milburn Academy may hold the hearing regardless of whether the student, the student’s parent or guardian, or another adult representing the student attends.

v. Term of Expulsion

If the period of expulsion is inconsistent with the guidelines on length of expulsion in the Student Code of Conduct, the order must give notice of the inconsistency.

vi. Appeals

The Superintendent or designee shall develop an appeal process for expulsion decisions; this process shall recognize the Board’s final authority to hear or decide a parent or student appeal of an expulsion. The Superintendent or designee shall ensure that the appeal process is made available to students and parents through the Student Handbook. The Board’s decision is final and may not be appealed.

Disciplinary consequences shall not be deferred pending an appeal.

## **PG-3.37 DISCIPLINE OF STUDENTS WITH DISABILITIES**

### **PART I: DISCIPLINE OF STUDENTS WITH DISABILITIES UNDER SECTION 504**

#### **Sec. 1. STUDENTS WITH DISABILITIES UNDER SECTION 504**

Richard Milburn Academy shall conduct an evaluation in accordance with 34 C.F.R. 104.35(b) before taking any action with respect to any significant change in placement of a student with a disability who needs or is believed to need special education and related services. *34 CFR 104.35(a)*.

Richard Milburn Academy may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or alcohol to the same extent that Richard Milburn Academy would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action. *29 U.S.C. 705(20)(C)(iv)*.

### **PART II: DISCIPLINE OF STUDENTS RECEIVING SPECIAL EDUCATION SERVICES**

#### **Sec. 1. SPECIAL EDUCATION STUDENTS**

Except as set forth below, the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal (“ARD”) committee. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations.

## **Sec. 2. REMOVAL FOR TEN DAYS OR FEWER**

A student with a disability who violates the Student Code of Conduct may be moved from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days, to the extent those alternatives are applied to children without disabilities. *20 U.S.C. 1415(k)(1)(B); 34 C.F.R. 300.530(b)(1).*

### ***a) Services During Removal***

Richard Milburn Academy is required to provide services during the period of removal if Richard Milburn Academy provides services to a child without disabilities who is similarly removed. *34 C.F.R. 300.530(d).*

## **Sec. 3. SUBSEQUENT REMOVALS OF TEN DAYS OR FEWER**

Richard Milburn Academy personnel may remove the student for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement. *34 C.F.R. 300.530(b)(1).*

### ***a) Services During Removal***

After a student with a disability has been removed from his or her current placement for ten school days in the same school year, during any subsequent removal of ten consecutive school days or less, school personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's individualized education program ("IEP"). *20 U.S.C. 1415(k)(1)(D); 34 C.F.R. 300.530(d)(4).*

### ***b) Notice of Procedural Safeguards***

Not later than the date on which the decision to take the disciplinary action is made, Richard Milburn Academy shall notify the student's parents of the decision and of all procedural safeguards. *20 U.S.C. 1415(k)(1)(H).*

## **Sec. 4. CHANGES IN PLACEMENT**

Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts a manifestation determination review.

For purposes of disciplinary removal of a student with a disability, a change in placement occurs if a student is:

1. Removed from the student's current educational placement for more than ten consecutive school days; or
2. Subjected to a series of removals that constitute a pattern because:

- a. The series of removals total more than ten school days in a school year;
- b. The student's behavior is substantially similar to the student's behavior in the previous incidents that resulted in the series of removals; and
- c. Additional factors exist, such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

Richard Milburn Academy determines, on a case-by-case basis, whether a pattern of removals constitutes a change in placement. Richard Milburn Academy's determination is subject to review through due process and judicial proceedings.

*34 C.F.R. 300.536.*

Richard Milburn Academy personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates the Student Code of Conduct. *20 U.S.C. 1415(k)(1)(A).*

#### **Sec. 5. MANIFESTATION DETERMINATION**

Within ten school days of any decision to change the placement of a student because of a violation of the Student Code of Conduct, Richard Milburn Academy, parents, and relevant members of the ARD committee (as determined by the parent and Richard Milburn Academy) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

1. Caused by, or had a direct and substantial relationship to, the student's disability; or
2. The direct result of Richard Milburn Academy's failure to implement the IEP.

If Richard Milburn Academy, the parent, and relevant members of the ARD committee determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's disability.

If Richard Milburn Academy, the parent, and relevant members of the ARD committee determine the conduct was the direct result of Richard Milburn Academy's failure to implement the IEP, Richard Milburn Academy shall take immediate steps to remedy those deficiencies.

*20 U.S.C. 1415(k)(1)(E); 34 C.F.R. 300.530(e).*

#### **No Manifestation**

If the determination is that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as for students without disabilities. The ARD committee shall determine the interim alternative educational setting.

*20 U.S.C. 1415(k)(1)(C), (k)(2); 34 C.F.R. 300.530(c).*

- i. Services During Removal



The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

*34 C.F.R. 300.530(d)(1)–(2)*

## **Manifestation**

If Richard Milburn Academy, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student's disability, the ARD committee shall:

1. Conduct a functional behavioral assessment ("FBA"), unless Richard Milburn Academy had conducted an FBA before the behavior that resulted in the change in placement occurred, and implement a behavioral intervention plan ("BIP") for the student; or
2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.

Except as provided at "Special Circumstances" below, the ARD committee shall return the student to the placement from which the student was removed, unless the parent and Richard Milburn Academy agree to a change in placement as part of the modification of the BIP.

*20 U.S.C. 1415(k)(1)(F); 34 C.F.R. 300.530(f).*

## **Special Circumstances**

Richard Milburn Academy personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of Texas Education Agency ("TEA") or Richard Milburn Academy; or
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of TEA or Richard Milburn Academy;
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of TEA or Richard Milburn Academy.

*20 U.S.C. 1415(k)(1)(G); 34 C.F.R. 300.530(g).*

The ARD committee shall determine the interim alternative educational setting. *20 U.S.C. 1415(k)(2)*.

### **Services During Removal**

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

*34 C.F.R. 300.530(d)(1)*.

### **Sec. 6. APPEALS**

A parent who disagrees with a placement decision or the manifestation determination may request a hearing. Additionally, Richard Milburn Academy may request a hearing if it believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others. *20 U.S.C. 1415(k)(3)(A); 34 C.F.R. 300.532(a); 19 TAC 89.1151*.

When an appeal has been requested by a parent or Richard Milburn Academy, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent Richard Milburn Academy agree otherwise. *20 U.S.C. 1415(k)(4); 34 C.F.R. 300.533*.

### **Sec. 7. REPORTING CRIMES**

Federal law does not prohibit Richard Milburn Academy from reporting a crime committed by a student with a disability to appropriate authorities. If Richard Milburn Academy reports a crime, Richard Milburn Academy shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom Richard Milburn Academy reported the crime. Richard Milburn Academy may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA). *20 U.S.C. 1415(k)(6); 34 C.F.R. 300.535*.

### **Sec. 8. STUDENTS NOT YET IDENTIFIED**

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated the Student Code of Conduct may assert any of the protections provided for in the Individuals with Disabilities Education Act ("IDEA") if Richard Milburn Academy had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred. *20 U.S.C. 1415(k)(5)(A); 34*

*C.F.R. 300.534(a).*

**a) *School Knowledge***

Richard Milburn Academy shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

1. The parent of the student expressed concern in writing to Richard Milburn Academy supervisory or administrative personnel, or to the teacher of the student, that the student was in need of special education and related services;
2. The parent requested an evaluation of the student for special education and related services; or
3. The student's teacher, or other Richard Milburn Academy personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other Richard Milburn Academy supervisory personnel.

*20 U.S.C. 1415(k)(5)(B); 34 C.F.R. 300.534(b).*

**b) *Exception***

Richard Milburn Academy shall not be deemed to have knowledge that the student had a disability if:

1. The parent has not allowed an evaluation of the student;
2. The parent has refused services; or
3. The student has been evaluated and it was determined that the student did not have a disability.

*20 U.S.C. 1415(k)(5)(C); 34 C.F.R. 300.534(c).*

If Richard Milburn Academy does not have knowledge (as described above), before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

*20 U.S.C. 1415(k)(5)(D); 34 C.F.R. 300.534(d).*

**Sec. 9. BEHAVIOR MANAGEMENT TECHNIQUES**

It is Richard Milburn Academy's policy to treat all students with dignity and respect, including students with disabilities who receive special education services. Any behavior management technique and/or discipline management practice must be implemented in such

a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities. *Education Code 37.0021; 19 TAC 89.1053(j)*.

**a) Exceptions**

Education Code 37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out) does not apply to:

1. A peace officer, while performing law enforcement duties;
2. Juvenile probation, detention, or corrections personnel; or
3. An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in a Richard Milburn Academy educational program.

“Law enforcement duties” means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

*Education Code 37.0021(b)(4), (g); 19 TAC 89.1053(l), (m)*.

Further, Education Code 37.0021 does not prevent a student’s locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

1. The student possesses a weapon; and
2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, “weapon” includes any weapon described under Education Code 37.007(a)(1).

*Education Code 37.0021(f)*.

**b) Confinement**

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. *Education Code 37.0021(a)*.

**c) Seclusion**

A Richard Milburn Academy employee or volunteer or an independent contractor of Richard Milburn Academy may not place a student in seclusion. *Education Code 37.0021(c)*.

“Seclusion” means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and
2. Contains less than 50 square feet of space.

*Education Code 37.0021(b)(2).*

**d) *Restraint***

A Richard Milburn Academy employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.
2. Restraint shall be discontinued at the point at which the emergency no longer exists.
3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
4. Restraint shall not deprive the student of basic human necessities.

*19 TAC 89.1053(c).*

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body.

“Emergency” means a situation in which a student’s behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or
2. Imminent, serious property destruction.

*19 TAC 89.1053(b)(1)–(2).*

*ii. Training*

Training for Richard Milburn Academy employees, volunteers, or independent contractors regarding the use of restraint shall be provided according to the requirements set forth at 19 TAC 89.1053(d).

*iii. Documentation*

In a case in which restraint is used, Richard Milburn Academy employees, volunteers, or independent contractors shall implement the documentation requirements set forth at 19 TAC 89.1053(e).

**e) *Time-Out***

A Richard Milburn Academy employee, volunteer, or independent contractor may use time-out with the following limitations.

1. Physical force or threat of physical force shall not be used to place a student in time-out.
2. Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student’s IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease targeted behavior.
3. Use of time-out shall not be implemented in a fashion that precludes the ability of the

student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

*19 TAC 89.1053(g).*

“Time-out” means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

1. That is not locked; and
2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

*19 TAC 89.1053(b)(3).*

*i. Training*

Training for Richard Milburn Academy employees, volunteers, or independent contractors regarding the use of time-out shall be provided according to the requirements set forth at 19 TAC 89.1053(h).

*ii. Documentation*

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use. *19 TAC 89.1053(i).*

## **PG-3.38 INTERROGATIONS AND SEARCHES**

### **Sec. 1. SEARCHES OF STUDENTS**

In the interest of promoting student safety and attempting to ensure that Richard Milburn Academy is safe and drug free, school officials may, from time to time, conduct searches. Such searches are conducted without a warrant and as permitted by law.

Administrators, teachers and other professional personnel may question a student regarding the student's own conduct or the conduct of other students. In the context of school discipline, students have no claim to the right not to incriminate themselves.

Students shall be free from unreasonable searches and seizures by Richard Milburn Academy officials. Richard Milburn Academy officials may search a student's outer clothing, pockets, or property by establishing reasonable cause or securing the student's voluntary consent.

A search is reasonable if it meets both of the following criteria:

1. The action is justified at the inception; i.e., the school official has reasonable grounds for suspecting that the search will uncover evidence of a rule violation or a criminal violation.
2. The scope of the search is reasonably related to the circumstances that justified the search in the first place such as the extent of the search, the objectives of the search, the age and sex of the student, and the nature of the infraction.

### **Sec. 2. INTERROGATIONS**

#### ***a) By School Officials***

Administrators, teachers, and other professional personnel may question a student regarding the student's own conduct or the conduct of other students. In the context of school discipline, students have no claim to the right not to incriminate themselves.

#### ***b) By Police or Other Authorities***

When a representative of the Department of Family and Protective Services or another lawful authority requests to question or interview a student at school as part of a child abuse investigation, the Principal or designee shall cooperate fully with the official's requests regarding the conditions of the interview or questioning.

When law enforcement officers or other lawful authorities request to question or interview a student at school for any purpose other than a child abuse investigation, the following guidelines shall apply:

1. The Principal or designee shall verify and record the identity of the officer or other authority and request an explanation of the need to question or interview the student at school.

2. The Principal or designee ordinarily shall make reasonable efforts to notify the student's parent or other person having lawful control of the student. If the interviewer raises what the Principal or designee considers to be a valid objection to the notification, the parent or other person having lawful control of the student shall not be notified.
3. The Principal or a designee ordinarily shall be present during the questioning or interview. If the interviewer raises what the Principal or designee considers to be a valid objection to a third party's presence, the interview shall be conducted without that person's presence.

Before a student at school is arrested or taken into custody by a law enforcement officer or other legally authorized person, the Principal or designee shall verify the official's identity. To the best of his or her ability, the Principal or designee shall verify the official's authority to take custody of the student and then shall deliver over the student.

The Principal or designee shall immediately notify the Superintendent and ordinarily shall notify the parent or other person having lawful control of the student. If the officer or other authorized person raises what the Principal or designee considers to be a valid objection to notifying the parent or other person having lawful control of the student at that time, the Principal or designee shall not notify the parent or other person having lawful control of the student.

### **Sec. 3. DESKS AND LOCKERS**

Desks, lockers, and similar items are the property of Richard Milburn Academy and are provided for student use as a matter of convenience. Richard Milburn Academy will make periodic inspections of lockers and desks at any time, with or without notice or student consent. Richard Milburn Academy officials will remove any item that violates Richard Milburn Academy policy or that may potentially be dangerous.

Students have full responsibility for the security of their lockers and desks, and shall be held responsible for any prohibited items found during a search. The student's parent shall be notified if any prohibited articles or materials are found in a student's desk or locker, or on the student's person, as a result of a search conducted in accordance with this policy.

### **Sec. 4. VEHICLES**

Vehicles parked on Richard Milburn Academy property and property under Richard Milburn Academy's control are under the jurisdiction of Richard Milburn Academy and may be searched at any time if reasonable suspicion exists to believe that the search will result in evidence that school rules or other laws have been violated. If a vehicle subject to search is locked, the student shall be asked to unlock the vehicle and consent to a search of the vehicle. If the student refuses to permit the vehicle to be searched, Richard Milburn Academy may contact the student's parents,



and/or law enforcement officials. A student may be held responsible for and in possession of prohibited items found in his or her vehicle parked on Richard Milburn Academy's property or at a school-related event.

**Sec. 5. USE OF TRAINED DOGS**

Richard Milburn Academy may use or contract for specially trained nonaggressive dogs to sniff out and alert Richard Milburn Academy officials to the presence of concealed, prohibited or illegal items, including drugs and alcohol. Such visits to Richard Milburn Academy may be unannounced. The dogs shall be used to sniff vacant classrooms, vacant common areas, the areas around student lockers, and the areas around vehicles parked on Richard Milburn Academy property. The dogs shall not be asked to alert on students. If a dog alerts to a locker, a vehicle, or an item in a classroom, it may be searched by Richard Milburn Academy officials.

**Sec. 6. PARENT NOTIFICATION**

The student's parent or guardian shall be notified if any prohibited articles or materials are found in a student's locker, in a student's vehicle parked on school property, or on the student's person, as a result of a search conducted in accordance with this policy.