



SPECIAL EDUCATION MODEL POLICIES for OPEN-ENROLLMENT CHARTER SCHOOLS

AS REQUIRED BY 20 U.S.C. §1413(A)(1)

Charter School: **Jean Massieu Academy**
County School No.: **057819**

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

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

The Jean Massieu Academy Open-Enrollment Charter School, assures that it has (or will have upon opening for initial charter applicants) policies and procedures in place that ensure implementation of the Individuals with Disabilities Education Act 2004 (IDEA) and all federal regulations, Texas laws, State Board of Education (SBOE) rules, and Commissioner's rules concerning students with disabilities receiving special education services, and further assures that any future amendments to the regulations, laws, and rules will be incorporated into policies and procedures and implemented by the charter school.

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Where “school” or “public school” is used in chapters of the TEC that are applicable to open-enrollment charter schools, the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes the term “open-enrollment charter school” to conform to the applicable requirements or prohibitions. An open-enrollment charter school is subject to federal laws governing public schools. (TEC §12.103(a))

Companion Guide to these Policies: (1) *Texas Open-Enrollment Charter School Handbook* (TEA, Division of Charter School Administration, September 2011), available at: <http://www.tea.state.tx.us/charter/>; and (2) for paid subscribers, the 2012 Model Policy Series (Texas Charter Schools Association, 2012, available at: http://www.txcharterschools.org/model_policies).

Admission, Review and Dismissal (ARD) Committee

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that an Individualized Education Program (IEP) is developed, reviewed, and revised for each child with a disability in accordance with the IDEA.

Before a child is enrolled in a special education program of an open-enrollment charter school, the open-enrollment charter school shall establish a committee composed of the persons required under 20 U.S.C. §1401(11) to develop the child's individualized education program. A representative of the school's Career and Technology Education (CTE) program is a required member of the ARD committee when considering initial and continuing placement of a child in CTE (TEC §29.005(a);34 CFR 75.1023(d)(1); 20 USC 2301.

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to obtain informed consent from the parent before excusing a member from attending an ARD committee meeting (in whole, or in part).

The ARD committee must determine needed special education services, meaning specially-designed instruction that is provided , at no cost to parents and meets the unique needs of the child with a disability.

(300.320(a)(4)).

The ARD committee must determine needed related services as defined by 34 CFR 300.34.

The need for ESY services must be determined on an individual basis by the admission, review and dismissal (ARD) committee. (19 TAC 89.1065(1))

The ARD committee must provide a statement of the child's present levels of academic achievement and functional performance. The statement must

include a summary of how the child's disability affects the child's involvement and progress in the general curriculum or, in the case of a pre-school child, participation in appropriate activities. (34 CFR 300.320(a)(1)).

The ARD committee must include in the child's individualized education program (IEP) a statement of measurable annual academic and functional goals designed to:

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

Behavior Impeding Learning

In the case of the child whose behavior impedes the child's learning or that of others, the admission, review, and dismissal (ARD) committee must consider:

- The use of positive behavioral interventions and supports; and
- Other strategies to address that behavior. (34 CFR 300.324(a)(2)(i)).

Children with Limited English Proficiency

In the case of the child with limited English proficiency, the ARD committee must consider the language need of the child as such needs relate to the child's individualized education program (IEP). The ARD committee must include a professional member of the language proficiency assessment committee (LPAC) to serve on the ARD committee of each child with limited English proficiency. (34 CFR 300.324(a)(2)(ii)).

Children Who Are Deaf or Hard of Hearing

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

- The child's opportunities for direct communications with peers and professional personnel in the child's language and communication mode;
- The child's language and communication needs;
- The child's academic level; and
- The child's full range of needs, including opportunities for direct instruction in the child's language and communication mode. (34 CFR 300.324(a)(2)(iv)).

Children Who Are Blind or Visually Impaired

In the case of the child who is blind or visually impaired, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), the ARD committee must either:

- Provide for reading and writing instruction in Braille and the use of Braille; or
- Determine that instruction in Braille or the use of Braille is not appropriate. (34 CFR 300.324(a)(2)(iii)).

Before placing the child with a visual impairment in a classroom setting, or within a reasonable period of time after placement, the ARD Committee must provide the training specified in Texas Education Code Subsection 30.002(c)(4).

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

Children with Autism or Other Pervasive Developmental Disorder

It is the policy of the Jean Massieu Academy Open Enrollment Charter school to comply with any applicable commissioner rules that may require an open-enrollment charter school to include in the individualized education program (IEP) of a student with autism or another pervasive developmental disorder any information or requirement determined necessary to ensure the student receives a free appropriate public education (FAPE) as required under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1400 et seq.). (TEC §29.005(e))

Assistive Technology

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

Supplementary Aids and Services

The ARD committee must determine needed supplementary aids and services to be provided to the child, or on behalf of the child. (20 U.S.C. §§ 1414(d)(1)(A)(i)IV; 34 C.F.R. 300(a)(4)).

Reaching Closure and Consensus

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

If the individualized education program (IEP) is not developed by agreement, the ARD Committee must comply with the requirements of 19 TAC 1050(h) and ensure that the written statement of the program required under 20 U.S.C. §1401(11) includes the basis of the disagreement. (TEC §29.005(c))

If the child's parent is unable to speak English, the open-enrollment charter school shall communicate with the parent in the parent's native language or other mode communication the parent uses in accordance with the school's policy on use of parents' native language.

The admission, review and dismissal (ARD) committee documentation must include materials required by 19 TAC 89.1050(e).

Amendment without a Meeting

After the annual admission, review and dismissal (ARD) meeting, changes to the individualized education program (IEP) other than eligibility determinations, changes of placement, and manifestation determination reviews may be made either:

- By the entire ARD committee; or
- By amending the IEP rather than by redrafting the entire IEP.

Prekindergarten Programs

An open enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by the Education Code or a rule adopted under that code, relating to prekindergarten programs under Subchapter E, Chapter 29, Texas Education Code.

(TEC §12.104(b)(2)(H))

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to offer prekindergarten classes if the school identifies 15 or more children who are eligible under Subsection 29.153(b), Texas Education Code, and are at least four years of age.

(TEC §29.153(a)(1))

Notification

The Jean Massieu Academy Open-Enrollment Charter School shall develop a system to notify residents within the school's geographic boundaries with children who are at least three and younger than six and who are eligible for enrollment in a special education program of the availability of the program.

(TEC § 29.009)

CHARTER SCHOOL POLICY **APPLICABILITY OF TEXAS EDUCATION CODE
RELATING TO SPECIAL EDUCATION**

Applicability of Texas Education Code Relating to Special Education

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to special education programs under Subchapter A (Special Education Program), Chapter 29, Texas Education Code. (TEC §12.104(b)(2)(F)). The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of Subchapter A (Special Education Program), Chapter 29, Texas Education Code pursuant to TEC §12.104(b)(2)(F).

Assurance

Pursuant to the Individuals with Disabilities in Education Act, open-enrollment charter schools must submit a plan to the Texas Education Agency that provides assurances that the open-enrollment charter school has in effect policies, procedures, and programs that are consistent with the State policies and procedures governing special education.

(20 USCA §1413(a)(1); 34 CFR §§300.200-201)

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that—

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

These requirements apply to:

1. Highly mobile children with disabilities (such as migrant and homeless children); and
2. Children who are suspected of being a child with a disability under 34 CFR 300.7 and in need of special education, even though they are advancing from grade to grade.

INSTRUCTIONAL ARRANGEMENTS / CLASS SIZE

- AMENDMENT TO CHARTER

TEACHER-STUDENT RATIO

The District shall employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance. *Education Code 25.111*

PHYSICAL-EDUCATION RATIO

The District's physical education curriculum objectives and goals shall address teacher-student ratios. [See EHAA] *Education Code 25.114*

Pre-Kindergarten

- The District shall not enroll more than 16 students in a class
- The limit on class size, pre-kindergarten, shall not apply during:
 - 1. The last 12 weeks of the school year; or
 - 2. Any 12-week period of the school year selected by the District, if the District's average daily attendance has been adjusted due to high migratory population under Education Code 42.005(c).
 - A district claiming this exemption must notify the JEAN MASSIEU FOUNDATION (SCHOOL BOARD) in writing not later than the 30th day after the first day of the 12-week period.
 - A "migratory child" is a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker or migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany the parent or spouse in order to obtain, temporary or seasonal employment in agricultural or fishing work has moved from one school district to another. *Education Code 25.112(a), (b); No Child Left Behind Act of 2001, 20 U.S.C. 6399(2)*

KINDERGARTEN – GRADE 4

- The District shall not enroll more than 22 students in a class, kindergarten through fourth grade, except as allowed by JEAN MASSIEU FOUNDATION (SCHOOL BOARD).
- The limit on class size, kindergarten through grade 4, shall not apply during:
 - 1. The last 12 weeks of the school year; or
 - 2. Any 12-week period of the school year selected by the District, if the District's average daily attendance has been adjusted due to high migratory population under Education Code 42.005(c).
 - A district claiming this exemption must notify the JEAN MASSIEU FOUNDATION (SCHOOL BOARD) in writing not later than the 30th day after the first day of the 12-week period.
 - A "migratory child" is a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker or

migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany the parent or spouse in order to obtain, temporary or seasonal employment in agricultural or fishing work has moved from one school district to another. *Education Code 25.112(a), (b); No Child Left Behind Act of 2001, 20 U.S.C. 6399(2)*

GRADE 5 – GRADE 12

- The District shall not enroll more than 25 students in a class, fifth grade through twelfth grade, except as allowed by JEAN MASSIEU FOUNDATION (SCHOOL BOARD).
- The limit on class size, fifth grade through twelfth grade, shall not apply during:
 - 1. The last 12 weeks of the school year; or
 - 2. Any 12-week period of the school year selected by the District, if the District’s average daily attendance has been adjusted due to high migratory population under Education Code 42.005(c).
 - A district claiming this exemption must notify the JEAN MASSIEU FOUNDATION (SCHOOL BOARD) in writing not later than the 30th day after the first day of the 12-week period.
 - A “migratory child” is a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker or migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany the parent or spouse in order to obtain, temporary or seasonal employment in agricultural or fishing work has moved from one school district to another. *Education Code 25.112(a), (b); No Child Left Behind Act of 2001, 20 U.S.C. 6399(2)*

EXCEPTION TO CLASS SIZE LIMITS

- The JEAN MASSIEU FOUNDATION (SCHOOL BOARD) may except the District, on application, from the class size limits above if the limit works an undue hardship on the District.
- An exception expires at the end of the school year for which it is granted.
- A DISTRICT seeking an exception shall notify the JEAN MASSIEU FOUNDATION (SCHOOL BOARD) and apply for the exception not later than the later of:
 - 1. October 1; or
 - 2. The 30th day after the first school day the District exceeds the limit described above. *Education Code 25.112(d)–(e)*

NOTICE TO PARENTS

- A campus or district that is granted an exception from class size limits shall provide written notice of the exception to the parent of or person standing in parental relation to each student affected by the exception.

- The notice must be in conspicuous bold or underlined print and:
 - 1. Specify the class for which an exception was granted;
 - 2. State the number of children in the class; and
 - 3. Be included in a regular mailing or other communication from the campus or District, such as information sent home with students. The notice must be provided not later than the 31st day after the first day of the school year or the date the exception is granted, if the exception is granted after the beginning of the school year. *Education Code 25.113*

Elementary and Secondary Education Act Programs

The Elementary and Secondary Education Act was first passed by Congress in 1965 as part of President Lyndon B. Johnson's War on Poverty. The most recent reauthorization of this legislation is the No Child Left Behind Act of 2001 (NCLB). The primary function of NCLB is to close the achievement gap between groups of students by requiring greater accountability and offering increased flexibility and choice. NCLB affects almost every charter school in the state.

20 USC 6301 *et seq.*

Early Intervening Service

The education of students with disabilities can be made more effective by providing incentives for whole-school approaches, scientifically-based early reading programs, positive behavioral interventions and supports, and early intervening services to reduce the need to label students as disabled in order to address the learning and behavioral needs of such students.

(20 USC 1400(c)(5)(F))

In implementing coordinated, early intervening services, the local educational agency (LEA) may carry out activities that include:

1. professional development (which may be provided by entities other than local educational agencies) for teachers and other school staff to enable such personnel to deliver scientifically based academic instruction and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and

2. providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

(20 USC 1413(f)(2); 34 CFR 300.226(b))

An early intervening service (including a response-to-intervention or (RTI)) process cannot delay the initial evaluation for special education services of a child suspected of having a disability. A parent may request an evaluation at any time to determine whether her child is a child with a disability. If a parent requests an evaluation and the school agrees that the child may be eligible for special education, the school must evaluate the child or provide notice to the parent explaining the basis for the refusal. The parent may challenge the refusal to evaluate through the impartial hearing process.

(20 USC 1413(f)(3); 34 CFR 300.226(c))

Bilingual Education Program

Under Texas Education Code (TEC) Chapter 29, Subchapter B and 19 TAC §§89.1201-1265, schools and charter schools must identify Limited English Proficient (LEP) students based on state criteria. Schools and charter schools must provide an appropriate Bilingual Education (BE) or English as a Second Language (ESL) program conducted by teachers certified for such courses. Schools and charter schools receive a bilingual allocation for providing such instruction to be used for program and student evaluation, materials, salary supplements, etc. See TEC §42.153. Up to 15 percent of the allotment may be used for indirect costs (transportation, administration, etc.). See *Texas Open-Enrollment Charter School Handbook* (TEA, Division of Charter School Administration, September 2011), available at: <http://www.tea.state.tx.us/charter/>.

Student with Disabilities and Limited English Proficiency:

It is the policy of [NAME] Open Enrollment Charter School to ensure that a student with limited English proficiency who also qualifies for special education services as a student with a disability under the Individuals with Disabilities Education Act (IDEA) is not refused services in a bilingual education or English as a second language program solely because the student has a disability. (19 TAC §89.1230)

Applicability of Title Relating to Bilingual Education:

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to bilingual education under Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code. (TEC §12.104(b)(2)(G))

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code pursuant to TEC §12.104(b)(2)(G). Where "school" is used in Subchapter B (Bilingual Education and Special Language Programs), the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes "open-enrollment charter school" to conform to these requirements.

Establishment of Bilingual Education and Special Language Program:

The open-enrollment charter school shall establish a Bilingual Education (BE) or English as a Second Language (ESL) program as required by TEC §29.053 (Establishment of Bilingual Education and Special Language Programs) and in accordance with the procedures established by the Texas Education Agency, unless otherwise excepted under TEC §29.054 (Exception). (TEC §29.053)

Language Proficiency Assessment Committees:

The open-enrollment charter school shall further establish a Language Proficiency Assessment Committee (LPAC) that complies with TEC §29.063 (Language Proficiency Assessment Committees). (TEC §29.063)

Program Content; Method of Instruction:

The open-enrollment charter school's program content and method of instruction shall comply with TEC §29.055 (Program Content; Method of Instruction). (TEC §29.055)

Enrollment of Students in Program:

The open-enrollment charter school shall comply with the Texas Education Agency criteria for identification, assessment, and classification of students of limited English proficiency eligible for entry into the program or exit from the program. (TEC §29.056(a))

The student's parent must approve a student's entry into the program, exit from the program, or placement in the program. The open-enrollment charter school or parent may appeal the decision under TEC §29.064 (Appeals). (TEC §29.056(a))

The open-enrollment charter school through its language proficiency assessment committee (LPAC) shall evaluate and consider reenrollment of students who have transferred out of a bilingual education or special language program under TEC §29.056(g) as required by TEC §29.0561 (Evaluation of Transferred Students; Reenrollment). (TEC §29.056(b))

Facilities; Classes:

The Jean Massieu Academy open enrollment charter school ensures that bilingual education and special language programs are located in the regular public charter school rather than in separate facilities.). (TEC §29.057)

Enrollment of Students Who Do Not Have Limited English Proficiency:

The open-enrollment charter school ensures that enrollment of students who do not have limited English proficiency may occur only if the requirements of TEC §29.058 (Enrollment of Students Who Do Not Have Limited English Proficiency) are met. (TEC §29.058)

Cooperation among Schools:

The open-enrollment charter school may cooperate with other schools or charter schools to provide a bilingual education or special language program. (TEC §29.059)

Preschool, Summer School, and Extended Time Programs:

Each open-enrollment charter school that is required to offer a bilingual education or special language program shall offer a voluntary program for children of limited English proficiency who will be eligible for admission to kindergarten or the first grade at the beginning of the school year. A school that operates on a system permitted by the Texas Education Code other than a semester system shall offer 120 hours of instruction on a schedule the governing board establishes. The program shall meet the requirements of TEC §29.060. (TEC §29.060(a))

Enrollment of a child in the program is optional with the parent of the child. (TEC §29.060(b))

The program must be an intensive bilingual education or special language program that meets standards established by the Texas Education Agency. The student/teacher ratio for the program may not exceed 18/1. (TEC §29.060(c))

An open-enrollment charter school may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual education or special language programs for students of limited English

proficiency and may join with other schools or schools in establishing the programs. (TEC §29.060(d))

The programs required or authorized by TEC §29.060 may not be a substitute for programs required to be provided during the regular school year. (TEC §29.060(e))

The legislature may appropriate money from the foundation school fund for support of a program under TEC §29.060(a). (TEC §29.060(f))

Bilingual Education and Special Language Program Teachers:

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

Appeals:

A parent of a student enrolled in a bilingual education or special language program may appeal to the Commissioner if the open-enrollment charter school fails to comply with the requirements established by law or by the Texas Education Agency. If the parent disagrees with the placement of the student in the program, the parent may appeal that decision to the open-enrollment charter school governing body. Appeals shall be conducted in accordance with procedures adopted by the Commissioner. (TEC §29.064)

PEIMS Reporting Requirements:

The open-enrollment charter school shall meet Public Education Information Management System (PEIMS) Reporting Requirements with respect to its bilingual education or special language programs. (TEC §29.066)

It is the policy of Jean Massieu Academy Open-Enrollment Charter School to use IDEA Part B amounts received to:

1. comply with the federal maintenance of effort (MOE) requirements;
2. supplement State, local and other federal funds and not supplant such funds; and
3. pay the excess costs of providing special education and related services to children with disabilities and must be used to supplement State, local, and other Federal funds.

(34 CFR §300.202, 1413(a)(2)).

It is the policy of Jean Massieu Academy Open-Enrollment Charter School that having complied with MOE and excess costs requirements, IDEA Part B funds provided to the school will be used for the following activities:

1. for the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if nondisabled children benefit from such services;
2. to develop and implement coordinated, early intervening educational services in compliance with child find and general administration requirements, including:
 - early intervening services, which may include interagency financing structures, for children in kindergarten through grade 12 (with a particular emphasis on children in kindergarten through grade 3) who are not currently identified as needing special education or

- related services but who need additional behavioral and academic support to succeed in a general education environment;
- the school will not use more than 15 percent of the amount received under IDEA Part B for any fiscal year, less any adjustments by the school to local fiscal effort, if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated early intervening services;
3. to establish and implement cost or risk-sharing funds, consortia, or cooperatives for the school itself, or for LEAs working in a consortium of which the school is a part, to pay for high-cost special education and related services consistent with distribution of high-cost risk pool funds;
 4. the school may use IDEA Part B funds to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP that is needed for the implementation of such case management activities.

§§300.208, 1413(a) CFR.

Notwithstanding any other provisions related to commingling of funds, Jean Massieu Academy Open-Enrollment Charter School may use IDEA Part B funds received for any fiscal year to carry out a Title 1, Part A school wide program under the ESEA, except that the amount may not exceed:

- the amount received by the school under IDEA Part B for that fiscal year; divided by

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- the number of children with disabilities in the jurisdiction of the school; and multiplied by
- the number of children with disabilities participating in the school wide program.

§§300.206, 1413 CFR.

To the extent required under Title 1 of the Elementary and Secondary Education Act, Jean Massieu Academy Open-Enrollment Charter School shall ensure equity among school programs in staff/student ratios and in expenditures of money for curriculum materials and instructional supplies. "Staff" shall include teachers, administrators, and auxiliary personnel. In special programs, such as special education and bilingual education, a lower ratio may be maintained and more money may be spent as necessary to fulfill other legal requirements.

The parental involvement program shall be set up in accordance with requirements of Title 1 of the Elementary and Secondary Education Act, as applicable. Parental involvement is encouraged and required in the planning and decision-making process for the School and for the campus.

Parental Consent for Initial Evaluation

The open-enrollment charter school cannot conduct an initial evaluation of the child to determine whether the child is eligible under Part B of IDEA to receive special education and related services without first providing the parent with prior written notice of the proposed action and obtaining parental consent.

The open-enrollment charter school must make reasonable efforts to obtain the parent's informed consent for an initial evaluation to decide whether the child is a child with a disability.

The parent's consent for initial evaluation does not mean that the parent has also given consent for the open-enrollment charter school to start providing special education and related services to the parent's child.

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

If the child is enrolled in the open-enrollment charter school or the parent is seeking to enroll the child in the open-enrollment charter school and the parent has refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, the open-enrollment charter school may, but is not required to, seek to conduct an initial evaluation of the child by using the IDEA's mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. The open-enrollment charter school will not violate its obligations to locate, identify and evaluate the child if it does not pursue an evaluation of the child in these circumstances.

(34 CFR § 300.9)

Special Rules for Initial Evaluation of Wards of the State

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

- (1) despite reasonable efforts to do so, the open-enrollment charter school cannot find the child's parent;
- (2) the rights of the parents have been terminated in accordance with State law; or
- (3) a judge has assigned the right to make educational decisions to an individual other than the parent and that individual has provided consent for an initial evaluation.

Ward of the State, as used in IDEA, means a child who, as determined by the State where the child lives, is:

- (1) a foster child;
- (2) considered a ward of the State under State law; or
- (3) in the custody of a public child welfare agency.

Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent as used in IDEA.

(34 CFR § 300.9)

Parental Consent for Services

The open-enrollment charter school must make reasonable efforts to obtain informed consent from the parent before providing special education and related services to the child for the first time.

If the parent does not respond to a request to provide parental consent to receive special education and related services for the first time, or if the parent refuses to give such consent or later revokes (cancels) consent in

writing, the open-enrollment charter school may not use the procedural safeguards (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services (recommended by the ARD committee) may be provided to the child without the parent's consent.

If the parent refuses to give parental consent for the child to receive special education and related services for the first time, or if the parent does not respond to a request to provide such consent or later revokes (cancels) consent in writing and the open-enrollment charter school does not provide the child with the special education and related services for which it sought the parent's consent, the open-enrollment charter school:

- (1) is not in violation of the requirement to make a free appropriate public education (FAPE) available to the child for its failure to provide those services to the child; and
- (2) is not required to have an ARD meeting or develop an IEP for the child for the special education and related services for which the parent's consent was requested.

If the parent revokes (cancels) the parent's consent in writing at any point after the child is first provided special education and related services, then the open-enrollment charter school may not continue to provide such services, but must provide the parent with prior written notice before discontinuing those services.

Parental Consent for Reevaluations

The open-enrollment charter school must obtain the parent's informed consent before it reevaluates the child, unless the open-enrollment charter school can demonstrate that:

- (1) it took reasonable steps to obtain the parent's consent for the child's reevaluation; and
- (2) the parent did not respond.

If the parent refuses to consent to the child's reevaluation, the open-enrollment charter school may, but is not required to, pursue the child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override the parent's refusal to consent to the child's reevaluation. As with initial evaluations, the open-enrollment charter school does not violate its obligations under the IDEA if it declines to pursue the reevaluation in this manner.

Documentation of Reasonable Efforts to Obtain Parental Consent

The open-enrollment charter school must maintain documentation of reasonable efforts to obtain the parent's consent for initial evaluations, to provide special education and related services for the first time, for a reevaluation, and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the open-enrollment charter school's attempts in these areas, such as:

- (1) detailed records of telephone calls made or attempted and the results of those calls;
- (2) copies of correspondence sent to the parent and any responses received; and
- (3) detailed records of visits made to the parent's home or place of employment and the results of those visits.

Parental Consent to Access Public Benefits

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to obtain informed consent from the parent each time that access to a parent's private insurance proceeds or to public benefits or an insurance program is sought.

Parental Consent for Transfer of Assistive Technology Devices

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to obtain informed consent from the parent or the adult student if the adult student has the legal capacity to enter into a contract before transferring an assistive technology device through a transfer agreement that incorporates the standards of the state.

Other Consent Requirements

Parental consent is not required before the open-enrollment charter school may:

- (1) review existing data as part of the child's evaluation or a reevaluation;
or
- (2) give the child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from parents of all children. 34 CFR 300.300(d)

An open-enrollment charter school may contract with a public or private facility, institution, or agency inside or outside of this State for the provision of services to students with disabilities. Each contract for residential placement must be approved by the Commissioner. The Commissioner may approve a residential placement contract only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. The Commissioner may approve either the whole or a part of a facility or program. (TEC §29.008(a))

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

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

If Jean Massieu Academy chooses to coordinate with the National Instructional Materials Access Center (NIMAC) when purchasing print instructional materials, it must acquire the print instructional materials in the same manner and subject to the same conditions as the Texas Education Agency acquires print instructional materials.

(34 CFR 300.210(a))

Applicability of Title Relating to Prekindergarten Program

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to prekindergarten programs under Subchapter E (Kindergarten and Prekindergarten Programs), Chapter 29, Texas Education Code. (TEC §12.104(b)(2)(H))

Prekindergarten Program

The open-enrollment charter school's educational program does include a prekindergarten program. The open-enrollment charter school shall comply with Subchapter E (Kindergarten and Prekindergarten Programs), Chapter 29, Texas Education Code in the operation of a prekindergarten program.

Applicability of Title Relating to Reading Instruments and Accelerated Reading Instruction

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to reading instruments and accelerated instruction programs under TEC §28.006 (Reading Diagnosis). (TEC §12.104(b)(2)(C))

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of TEC §28.006 (Reading Diagnosis) pursuant to TEC §12.104(b)(2)(G). Where "school school" is used in TEC §28.006, the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes "open-enrollment charter school" to conform to these requirements.

Reading Diagnosis and Accelerated Reading Instruction

The open-enrollment charter school shall administer at the kindergarten and first and second grade levels, a reading instrument as required by TEC §28.006. (TEC §28.006(c) and (f))

The open-enrollment charter school shall administer at the beginning of the seventh grade a reading instrument as required by TEC §28.006. (TEC §28.006(c-1) and (f))

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

The open-enrollment charter school shall notify the parent or guardian of each student in kindergarten or first or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. (TEC §28.006(g))

The open-enrollment charter school shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. (TEC §28.006 (g))

The admission, review, and dismissal (ARD) committee of a student who participates in an open-enrollment charter school's special education program under the Individuals with Disabilities Education Act (IDEA), and who does not perform satisfactorily on a reading instrument under TEC §28.006 shall determine the manner in which the student will participate in an accelerated reading instruction program under TEC §28.006(g). (TEC §28.006 (g))

The open-enrollment charter school shall provide additional reading instruction and intervention to each student in seventh grade assessed under TEC §28.006(c-1), as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument. Training and support for activities required by TEC §28.006(c-

1) shall be provided by regional education service centers (ESC) and teacher reading academies established under TEC §21.4551 (Teacher Reading Academies), and may be provided by other public and private providers. (TEC §28.006 (g-1))

The open-enrollment charter school shall make a good faith effort to ensure that the notice required under TEC §28.006 is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English and in the parent or guardian's native language. (TEC §28.006 (h))

The Commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of TEC §28.006. A determination by the Commissioner is final and may not be appealed. For purposes of certification, the Commissioner may not consider Foundation School Program funds. (TEC §28.006 (i))

No more than 15 percent of the funds certified by the Commissioner under TEC §28.006(i) may be spent on indirect costs. The Commissioner shall evaluate the programs that fail to meet the standard of performance under TEC §39.301(c)(5) (Review by Commissioner: Accountability Ratings) and may implement interventions or sanctions under Subchapter E (Accreditation Interventions and Sanctions), Chapter 39, Texas Education Code. The Commissioner may audit the expenditures of funds appropriated for purposes of TEC §28.006. The use of the funds appropriated for purposes of TEC §28.006 shall be verified as part of the open-enrollment charter school audit under TEC §44.008 (Annual Audit; Report). (TEC §28.006(j))

The provisions of TEC §28.006 relating to parental notification of a student's results on the reading instrument and to implementation of an accelerated reading instruction program may be implemented only if the Commissioner certifies that funds have been appropriated during a school year for administering the accelerated reading instruction program specified under this TEC §28.006. (TEC §28.006(k))

Reading Diagnosis and Intensive Programs of Instruction

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of TEC §28.0213 (Intensive Program of Instruction) pursuant to TEC §12.104(b)(2)(N). Where “school” is used in TEC §28.0213, the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes “open-enrollment charter school” to conform to these requirements.

Satisfactory Performance on Assessment Instruments Required; Accelerated Instruction

Each time a student fails to perform satisfactorily on an assessment instrument administered under TEC §39.023(a) (Adoption and Administration of Instruments) in the third, fourth, fifth, sixth, seventh, or eighth grade, the open-enrollment school in which the student attends school shall provide to the student accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations. (TEC §28.0211(a-1))

The Commissioner shall provide guidelines to open-enrollment charter school on research-based best practices and effective strategies that an open-enrollment charter school may use in developing an accelerated instruction program. (TEC §28.0211(a-3))

The admission, review, and dismissal (ARD) committee of a student who participates in an open-enrollment charter school’s special education program under Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code and who does not perform satisfactorily on an assessment instrument specified under TEC §28.0211(a) and administered under TEC §39.023(a) or (b) (Adoption and Administration

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of Instruments) shall determine the manner in which the student will participate in an accelerated instruction program under TEC §28.0211. (TEC §28.0211(i)(1))

An open-enrollment charter school shall provide students required to attend accelerated programs under TEC §28.0211 with transportation to those programs if the programs occur outside of regular school hours. (TEC §28.0211(j))

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CHARTER SCHOOL POLICY

DISTRICT AND CAMPUS IMPROVEMENT PLANS

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to annually conduct a comprehensive needs assessment and to annually conduct campus improvement plans, if required by state and federal funding requirements.

Applicability of Title

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to health and safety under Chapter 38 (Health and Safety), Texas Education Code. (TEC §12.104(b)(2)(K))

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of Chapter 38 (Health and Safety), Texas Education Code pursuant to TEC §12.104(b)(2)(K). Where “school school” is used in Chapter 38 (Health and Safety), the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes “open-enrollment charter school” to conform to these requirements.

Screening and Treatment for Dyslexia and Related Disorders

Students enrolling in open-enrollment charter schools in this state shall be tested for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education. (TEC §38.003(a))

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to refrain from retesting a dyslexic student for the purposes of reassessing the need for accommodations until the school has reevaluated the information from previous testing. (TEC §38.003(b-1))

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

In TEC §38.003:

1. "Dyslexia" means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.
2. "Related disorders" includes disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

(TEC §38.003(d))

Full and Individual Evaluation (FIE)

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that children with disabilities are evaluated in accordance with the IDEA, including by having in place procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities are selected and administered so as to not be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so, and no single procedure shall be the sole criterion for determining whether a child is a child with a disability or for determining an appropriate education program for a child with a disability.

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that children are assessed in all areas of suspected disability under the IDEA.

The evaluation shall be conducted using procedures that are appropriate for the student's most proficient method of communication. (TEC §29.004(b))

A written report of a full individual and initial evaluation (FIE) of a student for purposes of special education services shall be completed not later than the 60th calendar day following the date on which the open-enrollment charter school, in accordance with 20 U.S.C. §1414(a), as amended, receives written consent for the evaluation, signed by the student's parent or legal guardian. (TEC §29.004(a))

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that upon completion of the administration of such tests and other evaluation materials administered according to the evaluation

procedures of the IDEA, and preparation of the written report, the ARD committee determines if the child is a child with a disability under state and federal standards.

The School must conduct the initial evaluation within 60 days of receiving parental consent for the evaluation, or a shorter time frame if one is established by the state.

This time frame shall not apply if:

1. A child enrolls in the current school after the relevant time frame has begun and before the previous school made a determination as to whether the child has a disability, but only if the current school is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current school agree to a specific time for completion of the evaluation; or
2. The parent repeatedly fails or refuses to produce the child for the evaluation.

Review of Existing Evaluation Data

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

The REED must include a review of the following:

- Evaluations and information provided by the parents of the child;
- Current classroom-based, local, or State assessments, and classroom-based observations; and
- Observations by teachers and related services providers.

On the basis of that review, and input from the child's parents, the ARD committee members must identify what additional data, if any, are needed to determine:

- Whether the child is a child with a disability, and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and the educational needs of the child;
- Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services;
- The present levels of academic achievement and related developmental needs of the child; and
- Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program (IEP) of the child and to participate, as appropriate, in the general education curriculum.

The local educational agency (LEA) must administer such assessments and other evaluation measures as may be needed to produce the data identified by the REED in accordance with applicable procedural requirements regarding notice and consent.

Consideration of Services Provided in Regular Education Setting

To ensure that underachievement in the child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group of qualified professionals, as part of a full and individual evaluation, must consider

- Data that demonstrate that prior to, or as part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of progress during instruction, which was provided to the child's parents.

(34 CFR 300.309(b))

Coordination of Evaluations with Prior and Subsequent Schools

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

Information and Consent for Certain Psychological Examinations or Tests

On request of a child's parent, before obtaining the parent's consent under 20 U.S.C. §1414 for the administration of any psychological examination or test to the child that is included as part of the evaluation of the child's need for special education, an open-enrollment charter school shall provide to the child's parent:

- (1) the name and type of the examination or test; and
- (2) an explanation of how the examination or test will be used to develop an appropriate individualized education program for the child.

(TEC §29.0041(a))

If the open-enrollment charter school determines that an additional examination or test is required for the evaluation of a child's need for special education after obtaining consent from the child's parent under TEC §29.0041(a), the open-enrollment charter school shall provide the information described by TEC §§29.0041(a)(1) and (2) to the child's parent regarding the additional examination or test and shall obtain additional consent for the examination or test. (TEC §29.0041(b))

The time required for the open-enrollment charter school to provide information and seek consent under TEC §29.0041(b) may not be counted toward the 60 calendar days for completion of an evaluation under TEC §29.004. If a parent does not give consent under TEC §29.0041(b) within 20 calendar days after the date the open-enrollment charter school provided to the parent the information required by that TEC §29.0041(b), the parent's consent is considered denied. (TEC §29.0041(c))

Extension of Timelines

For a specific learning disability, the timelines for evaluation under this policy may be extended by mutual written agreement of the child's parents and the Admission, Review, and Dismissal Committee. (34 CFR 300.309(c))

Evaluation Conducted Pursuant to a Special Education Due Process Hearing

A special education hearing officer in an impartial due process hearing brought under 20 U.S.C. §1415 may issue an order or decision that authorizes one or more evaluations of a student who is eligible for, or who is suspected as being eligible for, special education services. Such an order or decision authorizes the evaluation of the student without parental consent as if it were a court order for purposes of any State or federal law providing for consent by order of a court. (TEC §29.016)

Applicability of Title Relating to Extracurricular Activities

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to extracurricular activities under TEC §33.081 (Extracurricular Activities). (TEC §12.104(b)(2)(I))

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of TEC §33.081 (Extracurricular Activities) pursuant to TEC §12.104(b)(2)(I). Where "school school" is used in TEC §33.081, the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes "open-enrollment charter school" to conform to these requirements.

No Pass, No Play

The open-enrollment charter school shall comply with the "no pass, no play" rules as set forth in TEC §33.081 (Extracurricular Activities).

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

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

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

For students with a disability under the Individuals with Disabilities Education Act (IDEA), if the disability significantly interferes with the student's ability to meet regular academic standards, suspension must be based on the student's failure to meet the requirements of the student's individualized education program (IEP). The determination of whether a disability significantly interferes with a student's ability to meet regular academic standards must be made by the student's admission, review, and dismissal (ARD) committee. (TEC §33.081(e))

Participation of Charter School in UIL Activities

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

The open-enrollment charter school shall give preferential consideration to a foster parent of a child with a disability when assigning a surrogate parent for the child. (TEC §29.015(a))

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

- (1) the Department of Protective and Regulatory Services is appointed as the temporary or permanent managing conservator of the child;
- (2) the child has been placed with the foster parent for at least 60 days;
- (3) the foster parent agrees to:
 - (A) participate in making educational decisions on the child's behalf; and
 - (B) complete a training program for surrogate parents that complies with minimum standards established by the Texas Education Agency rule; and
- (4) the foster parent has no interest that conflicts with the child's interests.

(TEC §29.015(b))

A foster parent who is denied the right to act as a surrogate parent or a parent under TEC §29.015 by an open-enrollment charter school may file a complaint with the Texas Education Agency in accordance with federal law and regulations. (TEC §29.015(c))

Free Appropriate Public Education (FAPE)

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that all children with disabilities within its jurisdiction, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with the IDEA.

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that a free appropriate public education (FAPE) is available to all children with disabilities beginning no later than when the child turns three through the school year in which the student reaches 21 years of age, including children who have been suspended or expelled from school in accordance with the IDEA.

Eligible students with disabilities shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through contracts approved under this subchapter. Instruction shall be supplemented by the provision of related services when appropriate. (TEC §29.003(a))

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to ensure that the child who is deaf or hard of hearing has an education in which the child's unique communication mode is respected, used, and developed to an appropriate level of proficiency.

It is the policy of the Jean Massieu Academy Open Enrollment Charter School ensure that Extended School Year services are available as necessary to provide FAPE.

Eligibility Criteria

A student is eligible to participate in an open-enrollment charter school's special education program if the student:

- (1) is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in public school without the provision of special services; or
- (2) is at least three but not more than 21 years of age and has one or more of the following disabilities that prevents the student from being adequately or safely educated in public school without the provision of special services:
 - (A) physical disability;
 - (B) mental retardation;
 - (C) emotional disturbance;
 - (D) learning disability;
 - (E) autism;
 - (F) speech disability; or
 - (G) traumatic brain injury.

(TEC §29.003(b))

A determination of eligibility must not be made if the determinant factor for that determination is lack of appropriate instruction in reading, including in the essential components of reading instruction, lack of appropriate instruction in math, or limited English proficiency. (34 CFR 300.306(b))

Applicability of Title Relating to High School Graduation

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to high school graduation under TEC §28.025. (TEC §12.104(b)(2)(E))

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of TEC §28.025 (High School Diploma and Certificate; Academic Achievement Record) pursuant to TEC §12.104(b)(2)(E). Where “school school” is used in TEC §28.025, the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes “open-enrollment charter school” to conform to these requirements.

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

If the student receives special education services under Education Code Chapter 29, Subchapter A, the student’s ARD committee;

If the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, the committee established for the student under that Act; or

If each of the described committees is inapplicable, a committee established by the School of persons with appropriate knowledge regarding the student.

TEC §28.025(b-11).

High School Diploma and Certificate; Academic Achievement Record

The open-enrollment charter school shall comply with the graduation standards of TEC §28.025.

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

The open-enrollment charter school shall issue a certificate of attendance to a student who receives special education services under the Individuals with Disabilities Education Act (IDEA), and who has completed four years of high school but has not completed the student's individualized education program (IEP). The open-enrollment charter school shall allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony under TEC §28.025(f). TEC §28.025(f) does not preclude a student from receiving a diploma under TEC §28.025(c)(2). (TEC §28.025(f))

Personal Graduation Plan

A charter holder of an open enrollment charter school shall consider including in the school's charter a requirement that the school develop and administer personal graduation plans under TEC §28.0212 (Personal Graduation Plan). (TEC §12.111(b))

Applicability of Title Relating to Health and Safety

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to health and safety under Chapter 38 (Health and Safety), Texas Education Code. (TEC §12.104(b)(2)(K))

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of Chapter 38 (Health and Safety), Texas Education Code pursuant to TEC §12.104(b)(2)(K).

Access to Medical Records

A school administrator, nurse, or teacher is entitled to access to a student's medical records maintained by the open-enrollment charter school for reasons determined by policy, if any. (TEC §38.009(a))

A school administrator, nurse, or teacher who views medical records under this TEC §38.009 shall maintain the confidentiality of those medical records. (TEC §38.009(b))

TEC §38.009 does not authorize a school administrator, nurse, or teacher to require a student to be tested to determine the student's medical condition or status. (TEC §38.009(c))

Parental Access to Medical Records

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

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

Referral to Outside Counselors

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

- (1) obtains prior written consent for the referral from the student's parent;
- (2) discloses to the student's parent any relationship between the school and the outside counselor;
- (3) informs the student and the student's parent of any alternative public or private source of care or treatment reasonably available in the area;
- (4) requires the approval of appropriate school personnel before a student may be referred for care or treatment or before a referral is suggested as being warranted; and
- (5) specifically prohibits any disclosure of a student record that violates state or federal law.

(TEC §38.010(a))

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

Implementation of Coordinated Health Program

Each open-enrollment charter school shall:

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

Reporting of Certain Health and Safety Information

Each open-enrollment charter school shall provide to the agency information as required by the Commissioner, including statistics and data, relating to student health and physical activity and information described by TEC §28.004(k) (Local School Health Advisory Council and Health Education Instruction), presented in a form determined by the Commissioner. (TEC §38.0141)

Self-Administration of Prescription Asthma or Anaphylaxis Medicine by Students

For purposes of TEC §38.015:

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

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

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

(TEC §38.015(b))

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

TEC §38.015 does not:

- (1) waive any liability or immunity of a governmental unit or its officers or employees; or

- (2) create any liability for or a cause of action against a governmental unit or its officers or employees.
- (TEC §38.015(d))

Psychotropic Drugs and Psychiatric Evaluations or Examinations

For purposes of TEC §38.016:

- (1) "Parent" includes a guardian or other person standing in parental relation.
- (2) "Psychotropic drug" means a substance that is:
 - (A) used in the diagnosis, treatment, or prevention of a disease or as a component of a medication; and
 - (B) intended to have an altering effect on perception, emotion, or behavior.

(TEC §38.016(a))

An open-enrollment charter school employee may not:

- (1) recommend that a student use a psychotropic drug; or
- (2) suggest any particular diagnosis; or
- (3) use the refusal by a parent to consent to administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school-related activity.

(TEC §38.016(b))

TEC §38.016(b) does not:

- (1) prevent an appropriate referral under the child find system required under 20 U.S.C. Section 1412, as amended; or
- (2) prohibit a school employee who is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional from recommending that a child be evaluated by an appropriate medical practitioner; or

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- (3) prohibit a school employee from discussing any aspect of a child's behavior or academic progress with the child's parent or another school employee.

(TEC §38.016(c))

The open-enrollment charter school shall ensure implementation and enforcement of this TEC § 38.016 concerning psychotropic drugs and psychiatric evaluations or examinations.

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

School-Based Health Centers

An open-enrollment charter school may, if the school identifies the need, design a model in accordance with this Subchapter B (School-Based Health Centers), Chapter 38, Texas Education Code, for the delivery of cooperative health care programs for students and their families and may compete for grants awarded under this Subchapter B (School-Based Health Centers). The model may provide for the delivery of conventional health services and disease prevention of emerging health threats that are specific to the school. (TEC §38.051(a))

CHARTER SCHOOL POLICY **INDEPENDENT EDUCATIONAL EVALUATIONS**

General

The parent has the right to obtain an independent educational evaluation (IEE) of the parent’s child if the parent disagrees with the evaluation of the child that was obtained by the open-enrollment charter school.

If the parent requests an independent educational evaluation (IEE), the open-enrollment charter school must provide the parent with information about where the parent may obtain an independent educational evaluation and about the open-enrollment charter school’s criteria that apply to independent educational evaluations (IEE).

Definitions

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

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

Right to Evaluation at Public Expense

The parent has the right to an independent educational evaluation (IEE) of the parent’s child at public expense if the parent disagrees with an

evaluation of the child obtained by the open-enrollment charter school, subject to the following conditions:

- (1) if the parent requests an independent educational evaluation of the child at public expense, the open-enrollment charter school must, without unnecessary delay, either: (a) File a due process complaint to request a hearing to show that its evaluation of the child is appropriate; or (b) Provide an independent educational evaluation at public expense, unless the open-enrollment charter school demonstrates in a hearing that the evaluation of the child that the parent obtained did not meet the open-enrollment charter school's criteria.
- (2) if the open-enrollment charter school requests a hearing and the final decision is that the open-enrollment charter school's evaluation of the child is appropriate, the parent still has the right to an independent educational evaluation (IEE), but not at public expense.
- (3) if the parent requests an independent educational evaluation (IEE) of the child, the open-enrollment charter school may ask why the parent objects to the evaluation of the child obtained by the open-enrollment charter school. However, the open-enrollment charter school may not require an explanation and may not unreasonably delay either providing the independent educational evaluation (IEE) of the child at public expense or filing a due process complaint to request a due process hearing to defend the open-enrollment charter school's evaluation of the child.

The parent is entitled to only one independent educational evaluation (IEE) of the child at public expense each time the open-enrollment charter school conducts an evaluation of the child with which the parent disagrees.

Parent-Initiated Evaluations

If the parent obtains an independent educational evaluation (IEE) of the child at public expense or the parent shares with the open-enrollment

charter school an evaluation of the child that the parent obtained at private expense:

- (1) the open-enrollment charter school must consider the results of the evaluation of the child, if it meets the open-enrollment charter school's criteria for independent educational evaluations (IEE), in any decision made with respect to the provision of a free appropriate public education (FAPE) to the child; and
- (2) the parent or the open-enrollment charter school may present the evaluation as evidence at a due process hearing regarding the child.

Requests for Evaluations by Hearing Officers

If a hearing officer requests an independent educational evaluation (IEE) of the child as part of a due process hearing, the cost of the evaluation must be at public expense.

Open-Enrollment Charter School Criteria

If an independent educational evaluation (IEE) is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the open-enrollment charter school uses when it initiates an evaluation (to the extent those criteria are consistent with the parent's right to an independent educational evaluation) (IEE).

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

Jean Massieu Classical Academy ADMISSION POLICY

I. Purpose

The purpose of this policy is to explain how Jean Massieu Academy will decide whom to enroll as pupils in the school.

II. General Statement of Policy

Jean Massieu Academy follows Texas Statute in its enrollment practices and incorporated within this policy by reference is the Texas Association of School Board's recommended Admissions Policy, a copy of which is attached hereto.

III. Procedures

- A. Information regarding enrollment deadlines and procedures will be published on the school's Admissions Application and school website.
- B. Each year Jean Massieu Academy will inform the public of the deadline for submitting the Admissions Application for admissions for the following school year. Unless specified otherwise, the Enrollment window will be from February 1st through March 31st.
- C. Jean Massieu Academy will annually publish a date for its initial annual lottery for admission for the following school year. Unless specified otherwise, the annual lottery will be held on the first Friday in April.
- D. Jean Massieu Academy's Superintendent/Principal will conduct the lottery on the designated date. The lottery will be random and computer generated. Vacancies in each class will be filled and, once filled, a waiting list will be generated. Siblings of enrolled students will be given a preference and will be placed at the top of the waiting list if there are no vacancies in the relevant grade level class.
- E. Students for whom an Admissions application is submitted following the day that the Enrollment window closes will be placed on the waiting list in the order that his/her application is received.
- F. Spaces that open after a class is filled through the initial lottery will be filled by offering enrollment from the top of the waiting list for the related grade level class at the time the space is made available.
- G. Families will be notified by e-mail and, if no e-mail address is available, by regular mail regarding their child's status during the admissions process.
- H. Once enrolled, families will be asked to complete an Enrollment Packet which will ask for information needed to complete the enrollment process in accordance with Texas Statute.

Approved: February 11, 2013



Jean Massieu Academy
"Signing, Soaring, Succeeding"

Jean Massieu Academy Local Wellness Policy

Nutrition Education

1. *Nutrition education will be integrated into other areas of the curriculum using C.A.T.C.H. (Community Access to Child Health catchinfo.org) in grades K-5.*
2. The school cafeteria will allow students to apply critical thinking skills taught in the classroom. The daily food menu will be applied to the food pyramid and the Go, Whoa, and No, foods in the C.A.T.C.H. curriculum.
3. The Go, Whoa, and No, foods of the daily menu will be discussed each morning in the classroom lead by the teacher in grades K-5.
4. Students will be encouraged to start each day with a healthy breakfast.
5. JMA will provide information to families that encourage them to practice good health and nutrition at home. This will be accomplished in several ways:
A. Take home material teaching good nutrition habits and foods, B. Parent meetings with speakers about good nutrition and how to prepare healthy meals at home, teaching parents about the Go, Whoa, and No, foods in the C.A.T.C.H. curriculum. The goals of sharing this information with families and the community will be to have a positive impact on students' health and the overall health of the community.
6. Staff responsible for nutrition education will be adequately prepared and participate regularly in professional development activities to effectively deliver an accurate nutrition education program as planned. Preparation and professional development activities will provide basic knowledge of nutrition, combines with skill practice in program-specific activities and instructional techniques and strategies designed to promote healthy eating habits.

Physical Activity

1. Physical activity will be integrated across curricula and throughout the school day.

2. *Grades K-6 will have 135 minutes of PE per week. Full day prekindergarten will participate in moderate to vigorous physical activity for a minimum of 30 minutes per day or 135 minutes per week.*
3. Physical education class will be the environment where students learn, practice and are assessed on developmentally appropriate motor skills, social skills, and knowledge.
4. *Provide a daily recess period, which is not used as a punishment or a reward.* Consider planning recess before lunch when possible since research indicates that physical activity prior to lunch can increase the nutrient intake and reduce food waste.
5. School wide incentive walking program to include parents.
6. Physical education includes the instruction of individual activities as well as competitive and non-competitive team sports to encourage life-long physical activity.
7. Adequate equipment is available for all students to participate in physical education. Physical activity facilities on school grounds will be safe.
8. JMA will provide a physical and social environment that encourages safe and enjoyable activity for all students, including those who are not athletically gifted.
9. Information will be provided to parents to help them incorporate physical activity into their student's lives.
10. JMA will encourage families and students to institute programs that support physical activity.
11. *Fitness Gram to be completed at the beginning and end of each school year for grades 2nd thru 12th. The school report will be sent to TEA each year as required by SB 530.*

Nutrition Guidelines for All Foods on Campus

1. *All foods made available on campus will comply with the current USDA Dietary Guideline for Americans:*
 - *Fundraisers*
 - *School Parties/Celebrations*
2. Food providers will take every measure to ensure that student access to foods and beverages meets federal, state, and local laws and guidelines. Food providers will offer a variety of age appropriate healthy food and beverages selection for elementary, middle, and high school students.
3. Families, teachers, students and school officials are engaged in choosing the competitive food selections for their school.

4. Promotional activities will be limited to programs that are requested by school officials to support teaching and learning. All promotional activities in school will be connected to activities that encourage physical activity, academic achievement or positive youth development and are in compliance with local guidelines.
5. Food providers will be sensitive to the school environment in displaying their logos and trademarks on school grounds.
6. ***Classroom and after school program snacks will feature healthy choices.***
7. Advertising of foods or beverages in the areas accessible to students during meal times must be consistent with established nutrition environment standards.
8. ***All Foods provided or sold on the school campus during the school day will meet the Food of Minimal Nutritional Value standards policy set by the Texas Department of Agriculture.***

Food Restrictions

1. ***An elementary school may not serve or provide access for students to FMNV at any time anywhere on school premises during the school day.***
2. ***A middle school may not serve or provide access for students to FMNV anywhere on school premises during meal periods (breakfast, lunch, and snack). Grades 6-8***
3. ***A middle school campus may not serve or provide access for students to prohibited carbonated beverages with volumes in excess of 12 ounces anywhere on school premises during the school day.***
4. Food brought on Campus must meet the FMNV (foods of minimal nutritional value) regulation; ***no carbonated beverages or drinks with greater than 30Gms. Of sugar per 8 fluid oz. will be allowed on campus until 2:45 p.m.*** All foods brought on campus for the purpose of celebrations/parties will have to be after 2:45pm and **cannot include carbonated beverages or drinks that contain greater than 30Gms. Of sugar per 8oz. serving for grades Prekindergarten through 5th grades.** The State allows each campus to have 3 designated exemption days to this State regulation of FMNV foods per school year. These three days will be determined at the beginning of each school year. For the 2011 - 2012 year the exemption days are: TO BE ANNOUNCED.
5. Parents/guardians may provide food during lunchtime to their personal children only.
6. Students are not allowed at any time to share or trade food or drink with another student during the designated lunchtime.
7. ***High School and middle school student may have up to 12oz. of a carbonated beverage after 2pm and it may not at any time be accessible to any student under 7th grades.***
- ***Restricted Foods:***

- *Sport drinks - must have no more than 30 grams of sugar per 8 fl. Oz. serving.*
- *Soda Water - any carbonated beverage*
- *Water Ices - any frozen, sweetened water,*
- *Chewing Gum*
- *Candy - any processed foods made predominantly from sweeteners*

Eating Environment

- *Students will be provided adequate time to eat; at least 10 minutes for breakfast and 20 minutes for lunch, from the time the student is seated.*
- Lunch periods will be scheduled as near the middle of the day as possible and elementary grades will have recess before lunch when possible.
- Cafeteria will include enough serving area so that students do not have to spend too much time waiting in line.
- Dining areas are attractive and have enough space for seating all students to be served at that time.
- *Food is not used as a reward or a punishment for student behaviors, unless it is detailed in a student's Individualized Education Plan (IEP).*
- *Guest speakers and other school visitors are not allowed to provide FMNV or other forms of candy to students.*

Child Nutrition Operations

- The child nutrition program will aim to be financially self-supporting. Budget neutrality or profit generation will not take precedence over the nutritional needs of the students. If subsidy of the child nutrition fund is needed, it will not be from the sale of foods that have minimal nutritional value and/or compete nutritionally with program meals.
- The child nutrition program will ensure that all students have affordable access to the varied and nutritious foods they need to stay healthy and learn well.
- JMA will strive to increase participation in the available federal Child Nutrition programs.
- Parents will be provided information of how to re-apply during the school year as their financial status changes and the student would then qualify.
- *Employ a food service vendor, who is properly qualified certified and/or credentialed according to current professional standards, to administer the school food service program and satisfy reporting requirements.*
- *All food service personnel shall have adequate pre-service training in food service operations.*
- JMA will closely monitor the food service vendor to ensure compliance with state and federal nutrition regulations.

- JMA has designated the Superintendent/Principal as the person responsible for ensuring compliance with state and federal regulations. Any questions or concerns should be directed to the Superintendent/Principal at 817-460-0396.

Food Safety/Food Security

- *All foods made available on campus comply with the state and local food safety and sanitation regulations. Hazard Analysis and critical Control Points plans and guidelines are implemented to prevent food illness in school.*
- *For the safety and security of the food and facility, access to the food service operations are limited to Child Nutrition staff and authorized personnel.*

Other School Based Activities

1. Local wellness policy goals are considered in planning all school-based activities (such as school events, field trips, dances, and assemblies).
2. Support of the health of all students is demonstrated by hosting health clinics, health screenings, and helping to enroll eligible children in Medicaid, CHIPS, and other state children's health insurance programs.
3. After-school programs will encourage physical activity and healthy habit formation.
4. Develop strategies for parents, teachers, school administrators, students, foodservice professionals, and community members to serve as role models in practicing healthy eating and being physically active both in school and at home.
5. Ensure fundraising efforts are supportive of healthy eating.

Note that all areas in the above text that are in bold italic print are required by Texas State Laws and Regulations.

JMA – ESL Summer School Policy

Proposed 4-2-12

- The Jean Massieu Academy will offer ESL Summer School as directed in 19 TAC Subchapter BB 89.1250
- Requirements
 - Purpose
 - Limited English proficient student shall have an opportunity to receive special instruction designed to prepare them to be successful in kindergarten and first grade
 - Instruction shall focus on language development and essential knowledge and skills appropriate to the level of the students
 - The program shall address the affective, linguistic, and cognitive needs of the limited English proficient students
 - Eligibility
 - Eligible students must meet the Limited English Proficiency (LEP) requirement and be entering the Kindergarten or First Grade
 - LEP eligibility will be determined by using an informal oral language inventories or oral proficiency instruments as approved by the commissioner of education
 - Operation
 - Enrollment in the program is optional with the parents of the student.
 - The program will be offered for 18 ½ days. Each day will run from 8am to 2:30pm
 - This will meet the 120 hours of required instruction
 - The teacher student ratio will not exceed 18 to one
 - Teachers shall possess certification or endorsement as required in the Texas Education Code
 - A summary of student progress will be provided to the student's teacher at the beginning of the regular school term
 - Transportation
 - Eligible students will need to be brought, and picked up by, a parent/guardian
 - JMA will not provide transportation to the program

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that to the maximum extent appropriate, children with disabilities are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular education environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

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CHARTER SCHOOL POLICY

SPECIAL EDUCATION MONITORING AND COMPLIANCE

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to comply with requirements of the system for monitoring special education compliance adopted by Texas Education Agency under Texas Education Code Section 29.010.

Procedural safeguards and prior notices required under 20 U.S.C. 1415(a)–(b) must be written in language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(20 U.S.C. 1415(a)–(b), (d); 34 CFR 300.503(c); 34 CFR 300.504(c))

If the parent is unable to speak English and Spanish is the parent’s native language, the School shall provide a written or audiotaped copy of the student’s IEP translated into Spanish. If the parent’s native language is other than Spanish or English, the School shall make a good faith effort to provide a written or audiotaped copy of the student’s IEP translated into the parent’s native language.

(TEC § 29.005(d); 19 TAC 89.1050(e))

Native language, when used regarding an individual who has limited English proficiency, means the following:

- (1) the language normally used by that person, or, in the case of a child, the language normally used by the child's parents;
- (2) in all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.

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

- (1) the notice is translated for the parent orally or by other means in the parent’s native language or other mode of communication;
- (2) the parent understands the content of the notice; and
- (3) there is written evidence that the requirements in paragraphs 1 and 2 have been met.

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It is the policy of Jean Massieu Academy Open Enrollment Charter School to determine on a case-by-case basis the most effective mode of communication with parents who are unable to speak English and to deliver information required by state and federal law in that mode.

The Texas Education Agency shall establish procedures and criteria for the allocation of funds appropriated under TEC §29.013 to open-enrollment charter schools for the provision of noneducational community-based support services to certain students with disabilities and their families so that those students may receive an appropriate free public education (FAPE) in the least restrictive environment. (TEC §29.013(a))

It is the policy of the Jean Massieu Academy Open Enrollment Charter school to use funds allocated under TEC §29.013 are used only for eligible students with disabilities who would remain or would have to be placed in residential facilities primarily for educational reasons without the provision of noneducational community-based support services. (TEC §29.013(b))

The support services may include in-home family support, respite care, and case management for families with a student who otherwise would have been placed by an open-enrollment charter school in a private residential facility. (TEC §29.013(c))

The provision of services under TEC §29.013 does not supersede or limit the responsibility of other agencies to provide or pay for costs of noneducational community-based support services to enable any student with disabilities to receive a free appropriate public education (FAPE) in the least restrictive environment. Specifically, services provided under TEC §29.013 may not be used for a student with disabilities who is currently placed or who needs to be placed in a residential facility primarily for noneducational reasons. (TEC §29.013(d))

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to not discriminate on the basis of race, color, national origin, sex, or disability in any of its programs or activities. The Jean Massieu Academy Open-Enrollment Charter School ensures that its programs and activities, when viewed in their entirety, are readily accessible to individuals with disabilities. The Jean Massieu Academy Open-Enrollment Charter School selects facilities that do not have the effect of excluding or limiting enrollment or participation of children with disabilities from any school program or activity.

The Jean Massieu Academy Open-Enrollment Charter School complies with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, including as amended by the ADA Amendments Act of 2008, which prohibit discrimination on the basis of disability. The Jean Massieu Academy Open-Enrollment Charter School does not deny services to students with disabilities due to lack of funds.

Admission

The Jean Massieu Academy Open-Enrollment Charter School ensures that it does not deny admission to a child with a disability solely because of that child's need for special education or related aids and services, regardless of cost.

The Jean Massieu Academy Open-Enrollment Charter School adopts as policy the provisions under State law ensuring educational opportunities for all children including children with disabilities through its admission practices, enforcement of compulsory attendance, and delivery of services, including:

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For admission to the open-enrollment charter school, the applicant must complete and submit an application not later than a reasonable deadline established by the open-enrollment charter school. (TEC §12.117(a)(1))

On receipt of more acceptable applications for admission under TEC §12.117 than available positions in the school, the open-enrollment charter school shall fill the available positions by lottery or, with notice, fill the available positions in the order in which applications received before the application deadline were received. (TEC §12.117(a)(2))

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

Notice in Understandable Language

The open-enrollment charter school must give the parent prior written notice (provide the parent certain information in writing), within a reasonable amount of time before it:

- (1) proposes to initiate or to change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; or
- (2) refuses to initiate or to change the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child.

The prior written notice must be:

- (1) written in language understandable to the general public; and
- (2) provided in the parent's native language or other mode of communication the parent uses in accordance with the school's policy on use of parents' native language.

Content of Notice

The prior written notice must:

- (1) describe the action that the open-enrollment charter school proposes or refuses to take;
- (2) explain why the open-enrollment charter school is proposing or refusing to take the action;
- (3) describe each evaluation procedure, assessment, record, or report the open-enrollment charter school used in deciding to propose or refuse the action;

- (4) include a statement that the parent has protections under the procedural safeguards provisions in Part B of IDEA;
- (5) tell the parent how the parent can obtain a description of the procedural safeguards if the action that the open-enrollment charter school is proposing or refusing is not an initial referral for evaluation;
- (6) include resources for the parent to contact for help in understanding Part B of IDEA;
- (7) describe any other options that the child's ARD committee considered and the reasons why those options were rejected; and
- (8) provide a description of other reasons why the open-enrollment charter school proposed or refused the action.

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

Applicability of Title Relating to the PEIMS

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

The Jean Massieu Academy Charter School adopts as policy the provisions under State and Federal law concerning special education records, as defined including:

Electronic Student Records System (TREx)

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

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

Applicability of the Family Educational Rights and Privacy Act

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

Family Educational Rights and Privacy Act (FERPA)

FERPA is intended to protect the privacy of parents and students. (34 C.F.R. §§ 99.2)

Education records are those records that are directly related to a student, and maintained by an educational agency or institution or by a party acting for the agency or institution. (34 C.F.R. § 99.3)

FERPA grants parents rights with respect to the education records of their children. (34 C.F.R. § 99.4)

FERPA rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students." (34 C.F.R. § 99.5)

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

Parents or eligible students have the right to request that the open-enrollment charter school corrects records which they believe to be inaccurate or misleading. (34 C.F.R. § 99.20) If the open-enrollment charter school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. (34 C.F.R. § 99.21) After the hearing, if the open-enrollment charter school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information. (34 C.F.R. § 99.21(b)(2))

Generally, the open-enrollment charter school must have written permission from the parent or eligible student in order to release any information from a student's education record. (34 C.F.R. § 99.30) However, FERPA allows the open-enrollment charter school to disclose records, without consent, to certain parties under certain conditions, including:

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- (1) to school officials including teachers within the open-enrollment charter school whom the open-enrollment charter school has determined to have legitimate educational interests (34 C.F.R. § 99.31(a)(1)(i)(A));
- (2) to a contractor, consultant, volunteer, or other party to whom the open-enrollment charter school has outsourced institutional services or functions, subject to the conditions set forth in FERPA regulations (34 C.F.R. § 99.31(a)(1)(i)(B));
- (3) to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, subject to the conditions set forth in FERPA regulations, (34 C.F.R. § 99.31(a)(1)(i)(B));
- (4) specified officials for audit or evaluation purposes (34 C.F.R. § 99.31(a)(3));
- (5) appropriate parties in connection with financial aid to a student (34 C.F.R. § 99.31(a)(4));
- (6) organizations conducting certain studies for or on behalf of the open-enrollment charter school (34 C.F.R. § 99.31(a)(6));
- (7) accrediting organizations (34 C.F.R. § 99.31(a)(6));
- (8) to comply with a judicial order or lawfully issued subpoena (34 C.F.R. § 99.31(a)(9));
- (9) appropriate officials in cases of health and safety emergencies (34 C.F.R. § 99.31(a)(10)); and
- (10) State and local authorities, within a juvenile justice system, pursuant to specific State law (34 C.F.R. § 99.31(a)(5)).

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

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The open-enrollment charter school may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, the open-enrollment charter school must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about the students.

The open-enrollment charter school must notify parents and eligible students annually of their rights under FERPA. (34 C.F.R. § 99.7(a)(1))

Annual Notification of Rights under FERPA

The open-enrollment charter school must annually notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under FERPA and its implementing regulations. (34 C.F.R. § 99.7(a)(1))

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 FERPA and 34 C.F.R. §99.31 authorize disclosure without consent; and
- (4) file with the Department a complaint under 34 C.F.R. §§99.63 and 99.64 concerning alleged failures by the educational agency or institution to comply with the requirements of FERPA and its implementing regulations.

(34 C.F.R. § 99.7(a)(2))

The notice must include all of the following:

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- (a) the procedure for exercising the right to inspect and review education records;
- (b) the procedure for requesting amendment of records under 34 C.F.R. §99.20; and
- (c) if the educational agency or institution has a policy of disclosing education records under 34 C.F.R. §99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

(34 C.F.R. § 99.7(a)(3))

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

- (1) the open-enrollment charter school must effectively notify parents or eligible students who are disabled; and
- (2) the open-enrollment charter school must effectively notify parents who have a primary or home language other than English.

(34 C.F.R. § 99.7(b))

Directory Information under FERPA

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

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

Directory information does not include a student's—

- (1) social security number; or
- (2) student identification (ID) number, except as provided below. (34 C.F.R. § 99.3)

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

The open-enrollment charter school may disclose directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the open enrollment charter school of:

- (1) the types of personally identifiable information that the open-enrollment charter school has designated as directory information;

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- (2) a parent's or eligible student's right to refuse to let the open-enrollment charter school designate any or all of those types of information about the student as directory information; and
- (3) the period of time within which a parent or eligible student has to notify the open-enrollment charter school in writing that he or she does not want any or all of those types of information about the student designated as directory information.

(34 C.F.R. § 99.37(a))

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

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

The open-enrollment charter school may not disclose or confirm directory information without meeting the written consent requirements in 34 C.F.R. §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. § 99.37(d))

Special Education Eligibility Folder

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to maintain an eligibility folder for each child receiving special education services, in addition to the child's cumulative record, that complies with 19 TAC 89.1075(a).

Information Concerning Special Education and Education of Children with Learning Difficulties

The Texas Education Agency shall produce and provide to school schools sufficient copies of a comprehensive, easily understood document that explains the process by which an individualized education program is developed for a student in a special education program and the rights and responsibilities of a parent concerning the process. The document must include information a parent needs to effectively participate in an admission, review, and dismissal committee meeting for the parent's child.

(TEC §26.0081)

The Jean Massieu Academy Open-Enrollment Charter School will provide the document provided by the agency under Section 26.0081, Texas Education Code, or equivalent as determined by the school, to the parent as provided by 20 U.S.C. Section 1415(b):

1. as soon as practicable after a child is referred to determine the child's eligibility for admission into the school's special education program, but at least five school days before the date of the initial meeting of the admission, review, and dismissal committee; and
2. at any other time on reasonable request of the child's parent.

(20 U.S.C. § 1415(b))

Referral for Full and Individual Initial Evaluation

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to make referrals of students for a full and individual initial evaluation for possible special education services part of the open-enrollment charter school's overall general education referral or screening system. Either a parent, TEA, another state agency, or the school may initiate a request for an initial evaluation.

Before referral, students experiencing difficulty in the general classroom will be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions, school personnel must refer the student for a full and individual initial evaluation.

(20 U.S.C. 1414(a)(1); 34 CFR 300.301; 19 TAC 89.1011)

A reasonable time before the school proposes or refuses to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education (FAPE) to a student, the school shall provide written notice to the student's parent or guardian. *(20 U.S.C. 1415(b)(3); 34 CFR 300.503(a))* The school shall conduct a full and individual initial evaluation before the initial provision of special education and related services. *(20 U.S.C. 1414(a)(1)(A))*

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

The LEA must promptly request consent for initial evaluation whenever the child is referred for an evaluation for a specific learning disability and if, prior to a referral, the child has not made adequate progress after an appropriate period of time when provided instruction as follows:

- Appropriate instruction in regular education settings, delivered by qualified personnel as demonstrated by the data; and

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- With data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the child's progress during instruction, which was provided to the child's parents.

(34 CFR 300.309(c))

An open-enrollment charter schools may enter into a written contract to jointly operate their special education programs. The contract must be approved by the Commissioner. Funds to which the cooperating schools/charter schools are entitled may be allocated to the schools/charter schools jointly as shared services arrangement units or shared services arrangement funds in accordance with the shared services arrangement schools/charters' agreement. (TEC §29.007)

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

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

Compliance with Federal and State Personnel Standards for Individuals Serving Children with Disabilities

It is the policy of this [name] Charter School to ensure that personnel standards for all individuals serving children with disabilities are met in accordance with the IDEA and its procedures.

The Jean Massieu Academy Open Enrollment Charter School recognizes that both the No Child Left Behind Act and the IDEA provide that charter school teachers must meet the requirements set forth in the State's public charter school law. 20 U.S.C. §7801(23) (A) (i); 20 U.S.C. §1401(10) (B) (i). In Texas, that means that the charter school special education teacher must be certified and highly qualified.

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to make an ongoing good-faith effort to recruit and hire appropriately and adequately certified and/or licensed personnel to provide a wide range of special education and related services to children with disabilities who are

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eligible for special education services. Special education staffing needs come from the individualized decisions made by the ARD committee.

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to ensure that all personnel necessary to carry out the requirements of the IDEA 2004 are appropriately and adequately certified and/or licensed, prepared and assigned.

The Charter School uses many strategies, including the following, for accessing adequately certified and/or licensed personnel:

Strategy	Check with an X if applicable
Hiring faculty with dual certification and/or licensure	X
Hiring consultants to provide special education services	X
Hiring retired teachers to work part-time to deliver special education services	X
Developing collaborative agreements with other local educational agencies (LEAs), including with other charter schools to share special education teachers and related service providers	X
Forming partnerships with institutions and/or agencies that employ related services professionals	X

The Jean Massieu Academy Charter School adopts as policy the provisions under State and Federal law concerning personnel, including:

In order to be highly qualified under the federal No Child Left Behind Act (NCLB), all open-enrollment charter school teachers must hold at least a bachelor's degree and must demonstrate competency in the core academic areas in which they teach. Special education charter school teachers must also have appropriate special education teacher certification to be highly qualified under the NCLB. See *TEA Guidance for the Implementation of NCLB Highly Qualified Teacher Requirements* (Updated March 25, 2008).

NCLB does not require that other charter school teachers be fully certified. Rather, charter school teachers must only meet the requirements of the

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State’s public charter school law, which differ from the requirements for Texas teacher certification. In Texas, State law does not require a teacher employed by an open-enrollment charter school to be certified unless the teacher is assigned to teach in special education or bilingual education programs, in which case the appropriate State certification is required. The minimum qualification under State law for a teacher at an open-enrollment charter school, other than a special education or bilingual education teacher, is a high school diploma. However, the governing body of a charter holder may set the qualifications for teachers at a standard above what State law requires. See *TEA Guidance for the Implementation of NCLB Highly Qualified Teacher Requirements* (Updated March 25, 2008).

In order for a open-enrollment charter school teacher in Texas to be considered “highly qualified” under NCLB, the teacher must meet the State certification requirements as they apply to open-enrollment charter schools, as well as the NCLB requirements related to the bachelor’s degree and the demonstration of competency. Open-enrollment charter school teachers have the same options for demonstrating competency as teachers in regular public schools. See *TEA Guidance for the Implementation of NCLB Highly Qualified Teacher Requirements* (Updated September 1, 2010).

Texas Education Code Charter School Certification Requirements	No Child Left Behind Charter School Highly Qualified Requirements
<p>High School Diploma required for all charter school teachers</p> <p>Certification only required for— Special Education Bilingual Education</p>	<p>Bachelor’s degree required for all teachers in core academic subject areas</p> <p>Follow State certification requirements for charter schools</p> <p>Demonstrate competency according to requirements for elementary or secondary teachers, as appropriate</p>

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The open-enrollment charter school shall not employ a person as a teacher unless that person holds a high school diploma. (TEC §12.129)

All special education and related service personnel shall be certified, endorsed, or licensed in the area or areas of assignment in accordance with 34 CFR §300.156; TEC §§21.002, 21.003, and 29.304; or appropriate state agency credentials. (19 T.A.C. §89.1131(a))

Notice of Teacher Qualifications

Each open-enrollment charter school shall provide to the parent or guardian of each student enrolled in the school written notice of the qualifications of each teacher employed by the school.

Special Education Allotment

(TEC §42.151)

For each student in average daily attendance in a special education program under Subchapter A, Chapter 29, in a mainstream instructional arrangement, a school district and open-enrollment charter school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 1.1. For each full-time equivalent student in average daily attendance in a special education program under Subchapter A, Chapter 29, in an instructional arrangement other than a mainstream instructional arrangement, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined according to instructional arrangement as set forth in Section 42.151, Texas Education Code.

Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in the special education program under Subchapter A, Chapter 29.

High Cost Risk Pool Funds

In accordance with Rider 36, General Appropriations Act, 82nd Texas Legislature, an open-enrollment charter school may apply to the High Cost Fund (HCF) maintained by the Texas Education Agency for an award of funds to assist the school in addressing the needs of high-need children with disabilities when the cost of serving such a child is greater than four times the average per pupil expenditure in the state.

The High Cost Fund must not be used to:

1. limit or condition the right of a child with a disability who is assisted under Part B of the Act to receive a free appropriate public education (FAPE) in the least restrictive environment (LRE) pursuant to section 612(a)(5) of the Act; or

2. Support legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child with a disability to ensure FAPE for such child.

Compensatory Education Allotment

(TEC §42.152)

The open-enrollment charter school must use funds allocated under TEC §42.152(a) for a purpose authorized in TEC §42.152(c) but is not otherwise subject to Subchapter C (Compensatory Education Programs), Chapter 29, Texas Education Code governing compensatory educational programs. (TEC §42.152(c))

Funds allocated under TEC §42.152 shall be used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B (School-Based Health Centers), Chapter 39, Texas Education Code or disparity in the rates of high school completion between students at risk of dropping out of school, as defined by TEC §29.081 (Compensatory, Intensive, and Accelerated Instruction) and all other students. Specifically, the funds, other than an indirect cost allotment established under State Board of Education (SBOE) rule, which may not exceed 45 percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under TEC §29.081 (Compensatory, Intensive, and Accelerated Instruction) or an alternative education program established under TEC §37.008 (Disciplinary Alternative Education Programs) or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under TEC §29.081 (Compensatory, Intensive, and Accelerated Instruction), a open-enrollment charter school's compensatory education allotment shall be used for costs supplementary to the regular education program, such as costs for program and student evaluation, instructional

materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction. (TEC §42.152(c))

Bilingual Education Allotment

For each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, an open-enrollment charter school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1. Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing bilingual education or special language programs under Subchapter B, Chapter 29, and must be accounted for under existing agency reporting and auditing procedures. An open-enrollment charter school's bilingual education or special language allocation may be used only for program and student evaluation, instructional materials and equipment, staff development, supplemental staff expenses, salary supplements for teachers, and other supplies required for quality instruction and smaller class size.

(TEC §§12.104(b)(2)(G), 42.153)

Career and Technology Education Allotment

For each full-time equivalent student in average daily attendance in an approved career and technology education program in grades nine through 12 or in career and technology education programs for students with disabilities in grades seven through 12, an open-enrollment charter school is entitled to:

- (1) an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35; and
- (2) \$50, if the student is enrolled in:

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- (A) two or more advanced career and technology education classes for a total of three or more credits; or
- (B) an advanced course as part of a tech-prep program under Subchapter T, Chapter 61.

For purposes of this allotment, "full-time equivalent student" means 30 hours of contact a week between a student and career and technology education program personnel.

Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing career and technology education programs in grades nine through 12 or career and technology education programs for students with disabilities in grades seven through 12 under Sections 29.182, 29.183, and 29.184.

(TEC §§12.104(d), 42.154)

Indirect Cost Allotments

Beginning with the 2012–13 school year, an open-enrollment charter school may choose to use a greater indirect cost allotment under Education Code 42.151, .153, .154, and .156, to the extent the school receives less funding per weighted student in state and local maintenance and operations revenue than in the 2011–12 school year.

(TEC §42.1541; 19 TAC 105.11)

Applicability of Texas Education Code Relating to Discipline Management Practices or Behavior Management Techniques

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to discipline management practices or behavior management techniques under TEC §37.0021 (Use of Confinement, Restraint Seclusion, and Time-Out). (TEC §12.104(b)(2)(J))

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of TEC §37.0021 (Use of Confinement, Restraint Seclusion, and Time-Out) pursuant to TEC §12.104(b)(2)(J). Where “school” is used in TEC §37.0021 (Use of Confinement, Restraint Seclusion, and Time-Out), the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes “open-enrollment charter school” to conform to these requirements.

Use of Confinement, Restraint, Seclusion, and Time-Out

It is the policy of this State to treat with dignity and respect all students, including students with disabilities who receive special education services under Subchapter A (Special Education Program), Chapter 29, Texas Education Code. A student with a disability who receives special education services under Subchapter A (Special Education Program), Chapter 29, Texas Education Code, may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. (TEC §37.0021(a))

In TEC §37.0021:

- (1) "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.
- (2) "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:
 - (A) is designed solely to seclude a person; and
 - (B) contains less than 50 square feet of space.
- (3) "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:
 - (A) that is not locked; and
 - (B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

(TEC §37.0021(b))

An open-enrollment charter school employee or volunteer or an independent contractor of an open-enrollment charter school may not place a student in seclusion. TEC §37.0021(c) does not apply to the use of seclusion in a court-ordered placement, other than a placement in an educational program of an open-enrollment charter school, or in a placement or facility to which the following law, rules, or regulations apply:

- (1) the Children's Health Act of 2000, Pub. L. No. 106-310, any subsequent amendments to that Act, any regulations adopted under that Act, or any subsequent amendments to those regulations;
- (2) 40 T.A.C. Sections 720.1001-720.1013; or
- (3) 25 T.A.C. Section 412.308(e).

(TEC §37.0021(c))

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Nothing in this policy prevents 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.

(TEC §37.0021(f))

It is the policy of Jean Massieu Academy Open-Enrollment Charter School to comply with the procedures adopted in 19 TAC §89.1053 for the use of restraint and time-out by an open-enrollment charter school employee or volunteer or an independent contractor of an open-enrollment charter school in the case of a student with a disability receiving special education services under Subchapter A (Special Education Program), Chapter 29, Texas Education Code.

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that children with disabilities (including a child not yet eligible if the school had knowledge prior to the disciplinary conduct that the child was a child with a disability under the IDEA and meets the standards for receiving protection under the IDEA) are disciplined for a violation of the student code of conduct in accordance with the IDEA, including with respect to any disciplinary removal from the current educational placement to an appropriate interim alternative educational setting, another setting, suspension, or expulsion.

Student Code of Conduct

The governing body of an open-enrollment charter school shall adopt a code of conduct for its school or for each campus. In addition to establishing standards for behavior, the code of conduct shall outline generally the types of prohibited behaviors and their possible consequences. The code of conduct shall also outline the school's due process procedures with respect to expulsion. Notwithstanding any other provision of law, a final decision of

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the governing body of an open-enrollment charter school with respect to actions taken under the code of conduct may not be appealed. (TEC §12.131(a))

An open-enrollment charter school may not elect to expel a student for a reason that is not authorized by TEC §37.007 (Expulsion for Serious Offenses) or specified in the school's code of conduct as conduct that may result in expulsion. (TEC §12.131(b))

In accordance with 20 U.S.C. §7151, a local educational agency, including an open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

- (1) the superintendent or other chief administrative officer of the local educational agency, as defined by 20 U. S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;
- (2) the local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by TEC §37.008 (Disciplinary Alternative Education Programs) if the student is younger than 10 years of age on the date of expulsion; and
- (3) the local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in TEC §37.008 (Disciplinary Alternative Education Programs).

(TEC §37.007(e))

Subject to TEC §37.007(e), notwithstanding any other provision of TEC §37.007, a student who is younger than 10 years of age may not be expelled for engaging in conduct described by TEC §37.007. (TEC §37.007(h))

Notwithstanding any other provision, TEC §37.002 (Removal by Teacher) and its provisions, wherever referenced, are not applicable to an open-

enrollment charter school unless the governing body of the school so determines. (TEC §12.131(c))

Authority of School Personnel

Removal for Fewer than 10 days

School personnel may remove the child with a disability who violates the code of conduct from his or her current placement to an appropriate interim alternative educational setting (IAES), another setting, or suspension, for not more than 10 consecutive school days to the extent those alternatives are applied to children without disabilities.

School personnel may remove the child with a disability who violates the code of conduct from his or her current placement for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a change of placement.

Removal for More than 10 days

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

- In the manifestation determination review, the behavior that gave rise to the violation of the code of conduct is determined not to be a manifestation of the child's disability;
- Services during periods of removal are provided to the child; and
- Notification of a change of placement is given to the child's parents.

School personnel must provide the parents of the child removed to a disciplinary alternative education program with written notice of the school's

obligation to provide the child with an opportunity to complete coursework required for graduation that:

- Includes information regarding all methods available for completing the coursework; and
- States that the methods available for completing the coursework are available at no cost to the child.

(34 CFR 300.530; 20 USC 1415(k)(1))

School personnel may remove the child to an interim alternative educational setting without regard to whether the behavior is determined to be a manifestation of the child's disability in accordance with 34 CFR 300.530(g) and 20 USC 1415(k)(1)(G)

Limitation on General Authority

A child with a disability may not be disciplined for bullying, harassment, or making hit lists until an admission, review, and dismissal committee meeting has been held to review the conduct.

Notice of Disciplinary Action

A charter holder shall notify the school in which the student resides within three business days of any action expelling or withdrawing a student from the charter school.

(TEC §12.131(b))

For purposes of TEC §37.022:

- (1) "Disciplinary action" means a suspension, expulsion, placement in an alternative education program, or other limitation in

enrollment eligibility of a student by a school or school. (TEC §37.022(a)(1))

- (2) "School or school" includes an independent school, a home-rule school, a campus or campus program charter holder, or an open-enrollment charter school. (TEC §37.022(a)(2))

If a school or school takes disciplinary action against a student and the student subsequently enrolls in another school or school before the expiration of the period of disciplinary action, the governing body of the school or school taking the disciplinary action shall provide to the school or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action. (TEC §37.022(b))

Subject to TEC §37.007(e), the school or school in which the student enrolls may continue the disciplinary action under the terms of the order or may allow the student to attend regular classes without completing the period of disciplinary action. (TEC §37.022(c))

Teacher-Requested Review of Individual Education Program

In addition to the statewide plan for the delivery of services to children with disabilities Jean Massieu Academy Open-Enrollment Charter School will develop process for use by a teacher who instructs a student with a disability in a regular classroom setting that:

- (1) requests a review of the student's individualized education program (IEP);
- (2) provides for a timely response to the teacher's request; and
- (3) provides for notification to the student's parent or legal guardian of that response.

(TEC §29.001(11))

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to administer assessment instruments adopted under Subchapter B, Chapter 39 Texas Education Code in accordance with the requirements of that subchapter and rules adopted thereunder.

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to comply with all procedures published by the Texas Education Agency (TEA) in its annual test administration manuals with regard to test security and confidentiality. Procedures can be found in the *Test Security Supplement* at the following link:

http://www.tea.state.tx.us/index3.aspx?id=3206&menu_id3=793

The chief executive of the school shall be responsible for ensuring that:

- Procedures are developed to ensure the security and confidentiality of state assessments in compliance with all requirements established by TEA.
- District and campus testing personnel are trained in test security and confidentiality, as well as test administration procedures, in accordance with TEA's published requirements.
- Any violation of the state's security or confidentiality procedures is reported to TEA in accordance with established procedures.

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

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability, except that the open-enrollment charter school shall provide any notice required by this subchapter or 20 U.S.C. §1415 to both the student and the parents. All other rights accorded to parents under Subchapter A (Special Education), Chapter 29, Texas Education Code, or 20 U.S.C. §1415 transfer to the student. (TEC §29.017(a))

All rights accorded to parents under this Subchapter A (Special Education), Chapter 29, Texas Education Code, or 20 U.S.C. §1415 transfer to students who are incarcerated in an adult or juvenile, State or local correctional institution. (TEC §29.017(b))

In accordance with 34 C.F.R. §300.517, the open-enrollment charter school shall notify the student and the parents of the transfer of rights under TEC §29.017. (TEC §29.017(c))

The Commissioner shall adopt rules implementing the provisions of 34 C.F.R. §300.517(b). (TEC §29.017(d))

Procedures for compliance with federal requirements relating to transition services for students who are enrolled in special education programs under Subchapter A (Special Education), Chapter 29, Texas Education Code, must specify the manner in which a student's admission, review, and dismissal (ARD) committee must consider, and if appropriate, address the following issues in the student's individualized education program (IEP):

- (1) appropriate student involvement in the student's transition to life outside the public school system;
- (2) if the student is younger than 18 years of age, appropriate parental involvement in the student's transition;
- (3) if the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or the open-enrollment charter school in which the student is enrolled;
- (4) any postsecondary education options;
- (5) a functional vocational evaluation;
- (6) employment goals and objectives;
- (7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments;
- (8) independent living goals and objectives; and
- (9) appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

(TEC §29.011)

It is the policy of Jean Massieu Academy to comply with rules adopted by the Commissioner governing procedures related to transition services.

19 TAC §89.1055(g)

Jean Massieu Academy will ensure that beginning not later than the first individualized education program (IEP) to be in effect when a student turns

14 (or younger, if determined appropriate by the admission, review, and dismissal [ARD] committee) updated annually, the student's IEP shall include:

Appropriate, measurable post-secondary goals based on age appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills; and

The transition services, including courses of study, needed to assist the child in reaching these goals.

If a participating agency other than the open-enrollment charter school fails to provide the transition services described in the IEP, the school shall reconvene the ARD committee to identify alternative strategies to meet the transition objectives.

If the ARD committee determines that work placement is an appropriate transition service, such placement must be addressed in the IEP and must accord with LRE requirements. The ARD committee must consider and the charter school will supply identified supplementary aids and services necessary to enable the student to participate with other disabled and non-disabled students in the work place. Written notice is required prior to the initiation or change of a work placement.

Summary of Academic Achievement and Functional Performance

It is the policy of Jean Massieu Academy Open-Enrollment Charter School to provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

The open-enrollment charter school shall provide transportation to each student attending the school to the same extent a school is required by law to provide transportation to school students. (TEC §12.109)

An open-enrollment charter school must provide transportation for a child with a disability if the child's IEP includes transportation as a related services. Transportation includes travel to and from school and between schools; travel in and around school buildings; and specialized equipment such as special or adapted buses, lifts, and ramps.

34 CFR §300.34(a) and (c)(16).