

Sec. 1. APPLICABILITY OF TEXAS EDUCATION CODE

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.

Education Code 12.104(b)(2)(F).

Amigos Por Vida, Friends for Life Housing and Education Corporation shall comply with the requirements for monitoring compliance with federal and state laws relating to special education pursuant to Texas Education Code Section 29.010.

Sec. 2. ASSURANCE

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

20 U.S.C. 1413(a); 34 CFR 300.200-.201.

Sec. 3. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS)

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

Sec. 4. 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 PEIMS to the extent necessary to monitor compliance with Subchapter D (Open-Enrollment Charter School), Chapter 12, Texas Education Code.

Education Code 12.104(b)(2)(A).

The Superintendent or designee shall prepare required PEIMS submissions in accordance with PEIMS Data Standards and Module 10 of the Financial Accountability System Resource Guide.

The Superintendent or designee may collaborate with the regional education service center in preparing and timely submitting PEIMS reports.

Sec. 5. CONTRACTS FOR SERVICES; RESIDENTIAL PLACEMENT

Amigos Por Vida - Friends for Life Public 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.

Education Code 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 admission, review, and dismissal (“ARD”) committee, shall be paid from State and Federal education funds.

Education Code 29.008(c)..

If Amigos Por Vida - Friends for Life Public Charter School contracts for the provision of education services rather than providing the services, Amigos Por Vida - Friends for Life Public Charter School shall oversee the implementation of the student’s individualized education program (“IEP”) and shall annually reevaluate the appropriateness of the arrangement. An approved facility, institution, or agency with whom Amigos Por Vida - Friends for Life Public Charter School contracts shall periodically report to Amigos Por Vida - Friends for Life Public 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 Amigos Por Vida - Friends for Life Public Charter School requires in order to fulfill its obligations under Subchapter A (Special Education), Chapter 29, Texas Education Code.

Education Code 29.008(d).

Sec. 6. FACILITIES

Any construction of new facilities or alteration of existing facilities with authorized Individuals with Disabilities Education Act (“IDEA”) program funds must comply with the requirements of:

- Appendix A of Part 36 of Title 28, Code of Federal Regulations (commonly known as

- the *Americans with Disabilities Accessibility Guidelines for Buildings and Facilities*); and
- Appendix A of Subpart 101-19.6 of Title 41, Code of Federal Regulations (commonly known as the *Uniform Federal Accessibility Standards*).

Sec. 7. ADMINISTRATION OF EQUIPMENT

The ARD committee must consider whether the student needs assistive technology devices (“ATDs”) as part of the student’s special education, related services, or supplementary aids and services. On a case-by-case basis, the use of school-purchased ATDs in the student’s home or in other settings is required if the student’s ARD committee determines that the student needs access to those devices in order to receive free appropriate public education. (34 CFR §§300.105; 300.324(a)(2)(v); 20 USC §1414(d)(3)(B)(v))

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

Amigos Por Vida - Friends for Life Public Charter School may transfer an ATD in accordance to TEC, §30.0015. The transfer agreement must include the standards in TEC §30.0015, including the following:

- 1) The transferor and transferee must represent and agree that the terms of the transfer are based on the fair market value of the ATD, determined in accordance with generally accepted accounting principles.
- 2) The informed consent of the parent of the student with a disability, or the adult student, for whom the ATD is being transferred must be obtained before the transfer of an ATD pursuant to TEC, §30.0015. The procedures employed by Amigos Por Vida - Friends for Life Public Charter School in obtaining informed consent shall be consistent with the procedures employed by the school to obtain parental consent under 34 CFR §300.300. Consistent with 34 CFR, §300.505(c), informed parental or adult student consent need not be obtained if the school can demonstrate that it has taken reasonable measures to obtain that consent, and the student’s parent or the adult student has failed to respond. To meet the reasonable measures requirement, the school must use procedures consistent with those described in 34 CFR, §300.322(d).
- 3) If the transfer is a sale, then the sale of the ATD shall be evidenced by a “Uniform Transfer Agreement” which includes the following:
 - a. the names of the transferor and the transferee (which may be any individual or entity identified in TEC, §30.0015(b));
 - b. the date of the transfer;
 - c. a description of the ATD being transferred;
 - d. the terms of the transfer (including the transfer of warranties, to the extent applicable); and
 - e. the signatures of authorized representatives of both transferor and transferee.

(19 TAC 89.1056)

Sec. 8. 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—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.

Sec. 9. COMPLIANCE WITH FEDERAL AND STATE PERSONNEL STANDARDS FOR INDIVIDUALS SERVING CHILDREN WITH DISABILITIES

Amigos Por Vida - Friends for Life Public Charter School shall ensure that personnel standards for all individuals serving children with disabilities are met in accordance with the IDEA and its procedures.

Amigos Por Vida - Friends for Life Public Charter School recognizes that both the Every Student Succeeds 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. §§ 6311(g)(2)(J); 20 U.S.C. §1401(10)(B)(i). In Texas, that means that the charter school special education teacher must be certified.

Amigos Por Vida - Friends for Life Public Charter School shall make an ongoing good-faith effort to recruit and hire appropriately and adequately certified and/or licensed personnel to provide a wide range of special education and related services to students with disabilities who are eligible for special education services. Special education staffing needs come from the individualized decisions made by the Admission Review and Dismissal (“ARD”) committee.

Amigos Por Vida - Friends for Life Public Charter School shall 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.

Amigos Por Vida - Friends for Life Public Charter School adopts as policy the provisions under State and Federal law concerning personnel, including:

Charter school teachers must only meet the requirements of the State’s public charter school law, which differ from the requirements for Texas teacher certification. In Texas, State law does not require a teacher employed by an open-enrollment charter school to be certified unless the teacher is assigned to teach in special education or bilingual education programs, in which

case the appropriate State certification is required. The minimum qualification under State law for a teacher at an open-enrollment charter school, other than a special education or bilingual education teacher, is a bachelor's degree. However, the governing body of Amigos Por Vida - Friends for Life Public Charter School may set the qualifications for teachers at a standard above what State law requires.

The open-enrollment charter school shall not employ a person as a teacher unless that person holds a bachelor's degree.

Education Code 12.129(a).

In an open-enrollment charter school that serves youth referred to or placed in a residential trade center by a local or state agency, a person may be employed as a teacher for a noncore vocational course without holding a baccalaureate degree if the person has demonstrated subject matter expertise related to the subject taught, such as professional work experience, formal training and education, holding a relevant active professional industry license, certification, or registration, or any combination of work experience, training and education, and industry license, certification, or registration, and received as least 20 hours of classroom management training as determined by the governing body of the open-enrollment charter school.

Education Code 12.129(b).

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; Education Code Sections 21.002, 21.003, and 29.304; or appropriate state agency credentials.

19 TAC 89.1131(a).

Sec. 10. NOTICE TO PARENTS – QUALIFICATIONS

The Superintendent or designee shall provide to the parent or guardian of each student enrolled in Amigos Por Vida - Friends for Life Public Charter School written notice of the qualifications of each teacher employed by Amigos Por Vida - Friends for Life Public Charter School.

Additionally, the Superintendent or designee shall, at the beginning of each school year, notify the parents of each student attending Amigos Por Vida - Friends for Life Public Charter School that the parents may request, and Amigos Por Vida - Friends for Life Public Charter School shall provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
3. Whether the teacher is teaching in the field of discipline of the certification of the teacher.
4. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

Amigos Por Vida - Friends for Life Public Charter School shall also provide to each individual parent timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification standards or licensure requirements at the grade level and subject area in which the teacher has been assigned.

Sec. 1. ADMISSION, REVIEW AND DISMISSAL COMMITTEES

Amigos Por Vida, Friends for Life Housing and Education Corporation shall establish an admission, review and dismissal (“ARD”)committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted. The ARD committee shall be the individualized education program (“IEP”) team defined at 34 CFR 300.321.

Sec. 2. ARD COMMITTEE RESPONSIBILITIES

The ARD committee and Amigos Por Vida - Friends for Life Public Charter School are responsible for:

1. Evaluating, reevaluating, and determining eligibility for special education and related services;
2. Placement of students with disabilities, including disciplinary changes in placement;
3. Development of student IEPs;
4. Development and implementation of service plans for students who have been placed by their parents in private schools and who have been designated to receive special education and related services;
5. Compliance with the least restrictive environment standard;
6. Compliance with state requirements for reading diagnosis and state assessments;
7. Development of personal graduation plans;
8. Development of accelerated instruction under Education Code 28.0211 and intensive programs of instruction under Education Code 28.0213;
9. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
10. Determining eligibility for extracurricular activities, under Education Code 33.081.

34 CFR 300.116(a), 300.321(a); 19 TAC 89.1050(a).

Sec. 3. COMMITTEE MEMBERS

Amigos Por Vida - Friends for Life Public Charter School shall ensure that each ARD committee meeting includes:

1. The parents of a child with a disability;
2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment) who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student’s IEP;
3. At least one special education teacher, or where appropriate, at least one special education provider of the child;
4. A representative of Amigos Por Vida - Friends for Life Public Charter School who:

- a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - b. Is knowledgeable about the general education curriculum; and
 - c. Is knowledgeable about the availability of Amigos Por Vida - Friends for Life Public Charter School's resources;
5. An individual who can interpret the instructional implications of evaluation results, who may be a member of team described in Section 3(2)-(6);
 6. At the discretion of the parent or Amigos Por Vida - Friends for Life Public Charter School, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
 7. The child, whenever appropriate;
 8. To the extent appropriate, with the consent of the parent(s) or a student who has reached the age of majority, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;
 9. A representative from career and technical education ("CTE"), preferably the teacher, when considering initial or continued placement of a student in CTE;
 10. For a child who is an emergent bilingual student, a member of the child's language-proficiency assessment committee ("LPAC");
 11. For a child with an auditory impairment, including deaf-blindness, a teacher who is certified in the education of children with auditory impairments; and
 12. For a child with a visual impairment, including deaf-blindness, a teacher who is certified in the education of children with visual impairments.

19 TAC 89.1050.

An Amigos Por Vida - Friends for Life Public Charter School member of the ARD committee shall not be required to attend an IEP meeting, in whole or in part, if the parent and Amigos Por Vida - Friends for Life Public Charter School agree in writing that the attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed during the meeting.

An Amigos Por Vida - Friends for Life Public Charter School member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and Amigos Por Vida - Friends for Life Public Charter School consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

20 U.S.C. 1414(d)(1)(C); 34 CFR 300.321(e).

a) *Transition Meeting Membership*

If the ARD committee is meeting to consider postsecondary goals and the transition services needed to assist the student in reaching those goals, Amigos Por Vida - Friends for Life Public Charter School shall invite:

1. The student. If the student does not attend, Amigos Por Vida - Friends for Life Public Charter School shall take other steps to ensure that the student's preferences and interests are considered.
2. To the extent appropriate, and with the consent of the parent or student who has reached the age of majority, a representative of any other agency that is likely to be responsible for providing or paying for transition services.

34 CFR 300.321(b).

Sec. 4. PARENTAL INVOLVEMENT

Amigos Por Vida - Friends for Life Public Charter School shall take steps to ensure that one or both of the parents of a student with a disability are present at each ARD committee meeting or are afforded the opportunity to participate, including:

1. Notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend (the notice shall include all information required by applicable regulation); and
2. Scheduling the meeting at a mutually agreed time and place.

34 CFR 300.322(a)-(b); 19 TAC 89.1050.

Sec. 5. ALTERNATIVE PARTICIPATION METHODS

If neither parent can attend an ARD committee meeting, Amigos Por Vida - Friends for Life Public Charter School must use other methods to ensure parent participation, including individual or conference telephone calls.

20 U.S.C. 1414(f); 34 CFR 300.322(c).

An ARD committee meeting may be conducted without a parent in attendance if Amigos Por Vida - Friends for Life Public Charter School is unable to convince the parents that they should attend. In such event, Amigos Por Vida - Friends for Life Public Charter School must keep a record of its attempts to arrange a mutually agreed time and place, such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;

2. Copies of correspondence sent to the parents 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.

34 CFR 300.322(d).

Sec. 6. ARD COMMITTEE MEETINGS

Amigos Por Vida - Friends for Life Public Charter School shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability. The committee shall review each student's IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year. The ARD committee must also determine the child's placement once per year.

A meeting does not include informal or unscheduled conversations involving Amigos Por Vida - Friends for Life Public Charter School personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that Amigos Por Vida - Friends for Life Public Charter School personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

20 U.S.C. 1414(d)(4); 34 CFR 300.116(b)(1), 300.324(b), (c)(1); 300.501(b)(3).

a) *Meeting at Parent Request*

Upon request of a written request for an ARD committee meeting from a parent, the Amigos Por Vida - Friends for Life Public Charter School must (1) schedule and convene a meeting; or (2) within five school days, provide the parent with written notice explaining why the district refuses to convene a meeting.

19 TAC 89.1050(e).

b) *Transfer Students*

If a student transfers to Amigos Por Vida - Friends for Life Public Charter School, and the student had a previous IEP in place, Amigos Por Vida - Friends for Life Public Charter School shall provide the student with a free appropriate public education ("FAPE"), including services comparable to those described in the previous IEP, in consultation with the parents, until:

1. In the case of a student who transfers within the state, Amigos Por Vida - Friends for Life Public Charter School adopts the previous IEP or develops, adopts, and implements a new IEP.

2. In the case of a student who had an IEP in effect in another state, Amigos Por Vida - Friends for Life Public Charter School conducts an evaluation, if determined necessary by Amigos Por Vida - Friends for Life Public Charter School, and develops, adopts, and implements a new IEP, if appropriate.

20 U.S.C. 1414(d)(2)(C)(i); 34 CFR 300.323(e), (f).

c) *Transfer of Records*

Amigos Por Vida - Friends for Life Public Charter School shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the child's previous district. *20 U.S.C. 1414(d)(2)(C)(ii); 34 CFR 300.323(g).*

d) *Military Dependents*

Amigos Por Vida - Friends for Life Public Charter School shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude Amigos Por Vida - Friends for Life Public Charter School from performing subsequent evaluations to ensure appropriate placement of the student. Education Code 162.002 art. V, § C.

Sec. 7. ELIGIBILITY DETERMINATIONS

The group of qualified professionals that determines whether a child is a child with a disability and the child's educational needs is the ARD committee.

19 TAC 89.1040(b), 89.1050(a)(5); 34 CFR 300.306(a)(1).

Amigos Por Vida - Friends for Life Public Charter School shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

20 U.S.C. 1414(b)(4)(B); 34 CFR 300.306(a).

The ARD committee must make its decisions regarding a student's initial eligibility determination and, when appropriate, the student's IEP and placement within the timeframes prescribed by state and federal law.

19 TAC 89.1011(d), (e).

Sec. 8. INDIVIDUALIZED EDUCATION PROGRAM

Amigos Por Vida - Friends for Life Public Charter School shall develop, review, and revise an IEP for each child with a disability.

20 U.S.C. 1412(a)(4); 34 CFR 300.320(a).

Amigos Por Vida - Friends for Life Public Charter School shall have an IEP in effect for each child with a disability at the beginning of each school year.

20 U.S.C. 1414(d)(2)(A); 34 CFR 300.323(a).

The term “individualized education program” means a written statement for each child with a disability that includes:

1. A statement of the child’s present levels of academic achievement and functional performance;
2. A statement of measurable annual goals, including academic and functional goals;
3. A description of how the child’s progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;
4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child;
5. A statement of the program modifications or supports for school personnel that will be provided for the child;
6. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;
7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;
8. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state or system-wide assessments;
9. If the ARD committee determines that the child must take an alternative assessment instead of a particular regular state or system-wide assessment, a statement of why the child cannot participate in the regular assessment and why the particular assessment selected is appropriate for the child;
10. Beginning not later than the first IEP to be in effect when the child is 16, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate, measurable postsecondary goals and transition services needed to assist the child in reaching those goals; and

11. Beginning not later than one year before the child reaches the age of 17, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority.

20 U.S.C. 1414(d); 34 CFR 300.320; 19 TAC 89.1055.

Sec. 9. TRANSLATING IEPs

If the child's parent is unable to speak English, Amigos Por Vida - Friends for Life Public Charter School shall:

1. Provide the parent with a written or audio-taped copy of the child's IEP translated into Spanish if Spanish is the parent's native language; or
2. If the parent's native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audiotaped copy of the child's IEP translated into the parent's native language.

Education Code 29.005(d).

Sec. 10. AUTISM/PERVASIVE DEVELOPMENTAL DISORDERS

For students with autism/pervasive developmental disorders, the following strategies shall be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time and active engagement in learning activities;
3. In-home training and community-based training or viable alternatives that assist the student with the acquisition of social/behavioral skills;
4. Positive behavior support strategies based on relevant information;
5. Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;
6. Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders ("ASD");
7. Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the child's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence;

8. Communication interventions, including language forms and functions that enhance effective communication across settings;
9. Social skills supports and strategies based on social skills assessment/curriculum and provided across settings;
10. Professional educator/staff support; and
11. Teaching strategies based on peer-reviewed, research-based practices for students with ASD.

If the ARD committee determines that services are not needed in one or more of the areas in 1–11 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made.

19 TAC 89.1055(e)–(f).

Sec. 11. VISUAL IMPAIRMENT

Amigos Por Vida - Friends for Life Public Charter School shall adopt written procedures as required in Education Code 30.002(c)(10) for providing special education services to students with visual impairments, if such services are necessary. *19 TAC 89.1075(b).*

An IEP for a student with a visual impairment must include instruction in braille unless the student’s ARD committee determines and documents that braille is not an appropriate literacy medium for the student, based on an evaluation of the student’s appropriate literacy media and literacy skills and the student’s current and future instructional needs.

Education Code 30.002.

Sec. 12. STUDENTS WHO ARE DEAF OR HARD OF HEARING

Amigos Por Vida - Friends for Life Public Charter School must develop an IEP for students who are deaf or hard of hearing in which the students have an education in which their unique communication mode is respected, used, and developed to an appropriate level of proficiency.

Education Code 29.303.

Sec. 13. COLLABORATIVE PROCESS

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions concerning the required elements of the IEP shall be made by agreement of the required members, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

a) *Recess*

When agreement about all required elements of the IEP is not achieved, the parent or adult student who disagrees shall be offered a single opportunity to have the ARD committee recess for a period not to exceed ten school days. This recess is not required when:

1. The student's presence on campus represents a danger of physical harm to the student or others;
2. The student has committed an expellable offense; or
3. The student has committed an offense that may lead to placement in a disciplinary alternative education program.

These requirements do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than failure of the parents and Amigos Por Vida - Friends for Life Public Charter School to reach agreement about all required elements of an IEP.

During the recess, the ARD committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons to enable the ARD committee to reach agreement.

The date, time, and place for continuing the ARD committee meeting shall be determined by agreement before the recess.

19 TAC 89.1050(g).

b) *No Agreement Reached*

If, after the ten-day recess, the ARD committee still cannot reach agreement, Amigos Por Vida - Friends for Life Public Charter School shall implement the IEP that it has determined to be appropriate for the student. A written statement of the basis for the disagreement shall be included in the IEP. The ARD committee members who disagree shall be offered the opportunity to write their own statements.

When Amigos Por Vida - Friends for Life Public Charter School implements an IEP with which the parents, or an adult student disagree, it shall provide prior written notice in compliance with applicable regulations and Amigos Por Vida - Friends for Life Public Charter School policy.

19 TAC 89.1050.

Sec. 14. IEP MODIFICATION

After a student's annual ARD committee meeting, changes to an IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP. To do so, the parent and Amigos Por Vida - Friends for Life Public Charter School must agree to not convene an ARD committee meeting to amend the IEP and Amigos Por Vida - Friends for Life Public Charter School must develop a written document to amend or modify the IEP.

Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.

Decisions regarding eligibility, changes of placement, and manifestation determination reviews may not be conducted through the amendment process.

34 CFR 300.324(a)(4),(6).

To the extent possible, Amigos Por Vida - Friends for Life Public Charter School shall encourage the consolidation of reevaluation meetings for the child and other ARD committee meetings for the child.

20 U.S.C. 1414(d)(3)(D)–(F); 34 CFR 300.324(a)(4)–(a)(6).

Sec. 15. LEAST RESTRICTIVE ENVIRONMENT

Amigos Por Vida - Friends for Life Public Charter School shall ensure that, to the maximum extent possible, children with disabilities shall be educated with children who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved.

20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2).

Sec. 16. EXTENDED SCHOOL YEAR SERVICES

Amigos Por Vida - Friends for Life Public Charter School shall ensure that ESY services are available as necessary to provide a student with a disability with a FAPE.

ESY services must be provided only if the ARD committee determines, on an individual basis, that the services are necessary for a FAPE. Amigos Por Vida - Friends for Life Public Charter School may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

34 CFR 300.106; 19 TAC 89.1065.

Sec. 17. GRADUATION

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

19 TAC 101.3023(a).

Sec. 18. STATE ASSESSMENTS

The TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's ARD committee, including assessment instruments approved by the Commissioner that measures growth. The assessment instruments developed or adopted, including the assessment instruments approved by the Commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students.

The TEA may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's ARD committee.

The student's ARD committee shall determine whether any allowable modification is necessary in administering to the student a required end-of-course ("EOC") assessment instrument under Education Code 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

Sec. 19. TRANSPORTATION

Amigos Por Vida - Friends for Life Public Charter School shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP.

19 TAC 89.1096(e).

Sec. 20. TRANSITION SERVICES

a) *Definitions*

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

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

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

b) *Individual Transition Planning*

In accordance with Education Code 29.011 and 29.0111, not later than when a student reaches 14 years of age, the ARD committee must consider, and if appropriate, address the following issues in the 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 Amigos Por Vida - Friends for Life Public Charter School;
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.

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

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

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

Amigos Por Vida - Friends for Life Public Charter School shall post the transition and employment guide on the Amigos Por Vida - Friends for Life Public Charter School website if Amigos Por Vida - Friends for Life Public Charter School maintains a website; provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at: (A) the first meeting of the student's ARD committee at which transition is discussed; and (B) the first committee meeting at which transition is discussed that occurs after the date on which the guide is updated. Upon request, Amigos Por Vida - Friends for Life Public Charter School shall provide a printed copy of the guide to a student or parent.

Education Code 29.0112.

c) *Graduation*

Graduation with a regular high school diploma under 19 TAC 89.1070(b)(1), (b)(2)(D), (f)(1), (f)(2), or (f)(3)(D) terminates a student's eligibility for special education services. For students who receive a diploma according to 19 TAC 89.1070(b)(2)(A), (B), or (C) or (f)(3)(A), (B), or (C), the ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age requirements.

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

Amigos Por Vida - Friends for Life Public Charter School is not required to conduct an evaluation before termination of eligibility due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for a FAPE under state law.

Amigos Por Vida - Friends for Life Public Charter School shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

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

Sec. 21. BEHAVIOR IMPROVEMENT PLANS/BEHAVIOR INTERVENTION PLANS

The ARD committee may determine that a behavior improvement plan or a behavioral intervention plan ("BIP") is appropriate for a student with an IEP. If deemed appropriate, the BIP shall be included as part of the student's IEP and provided to each teacher with responsibility for educating the student.

If a BIP is included as part of a student's IEP, the ARD committee shall review the plan at least annually and more frequently if appropriate to address:

1. changes in a student's circumstances that may impact the student's behavior, such as:
 - a. the placement of the student in a different educational setting;
 - b. an increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents;
 - c. a pattern of unexcused absences; or
 - d. an unauthorized unsupervised departure from an educational setting; or
2. the safety of the student or others.

Education Code 29.005(g), (h).

Sec. 22. COVID-19 SPECIAL EDUCATION RECOVERY ACT

a) IEP Supplement Applicability

Not later than May 1, 2022, Amigos Por Vida - Friends for Life Public Charter School shall prepare a supplement to be included with the IEP developed under Education Code 29.005(b) for each child who was enrolled in Amigos Por Vida - Friends for Life Public Charter School special education program during the 2019-2020 school year or the 2020-2021 school year.

b) Required Content

The supplement must include information indicating:

1. if applicable, whether the written report of the child's full individual and initial evaluation under Education Code 29.004 was completed during the 2019-2020 school year or the 2020-2021 school year and, if so, whether the report was completed by the date required under section 29.004;
2. if applicable, whether the child's initial IEP was developed under Education Code 29.005(b) during the 2019-2020 school year or the 2020-2021 school year and, if so, whether the program was developed by the date required under 34 CFR 300.323(c)(1);
3. whether the provision of special services to the child under an IEP during the 2019-2020 school year or the 2020-2021 school year was interrupted, reduced, delayed, suspended, or discontinued; and
4. whether compensatory educational services are appropriate for the child based on the information under (1)-(3) above or any other factors.

c) *Exception*

Education Code 29.0052 does not apply to a child if during the 2020-2021 school year the child's IEP documents the information described in Subsections (b)(1)-(4) above.

Education Code 29.0052.

Sec. 23. SUPPLEMENTAL SPECIAL EDUCATION SERVICES PROGRAM

The Texas Education Agency ("TEA") shall establish and administer a supplemental special education services program under Chapter 29, Education Code, Subchapter A-1 ("the SSES Program"). The SSES Program provides a grant of not more than \$1,500 to the parent of an eligible student for purchase certain supplemental special education services and supplemental special education instructional materials.

a) *ARD Committee Duties*

For a student who has been approved to participate in the SSES Program, the ARD committee shall meet and provide to the parent:

1. Information regarding the types of supplemental special education services available under the SSES Program and provided by TEA-approved providers for which an account maintained under Education Code 29.042(b) may be used; and
2. Instructions regarding accessing the SSES Program account.

Education Code 29.048(b).

b) ARD Committee Prohibited Considerations

The ARD committee shall not consider a student's receipt of services under the SSES Program when developing the student's IEP.

Education Code 29.048(a).

Sec. 1. CHILD FIND

Amigos Por Vida, Friends for Life Housing and Education Corporation shall ensure that all children residing within Amigos Por Vida - Friends for Life Public Charter School's boundaries who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to all children with disabilities, including:

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

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

Sec. 2. PRIVATE SCHOOL STUDENTS

Amigos Por Vida - Friends for Life Public Charter School shall coordinate with home school districts, who are primarily responsible for consulting with private school representatives regarding the child find process and the provision of special education and related services to children enrolled in private schools within Amigos Por Vida - Friends for Life Public Charter School's boundaries.

Amigos Por Vida - Friends for Life Public Charter School shall undertake activities similar to those undertaken for public school children and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending the public schools within Amigos Por Vida - Friends for Life Public Charter School's boundaries.

20 U.S.C. 1412(a)(10)(A)(ii)-(iv).

Sec. 3. PRESCHOOL STUDENTS

Amigos Por Vida - Friends for Life Public Charter School shall develop a system to notify residents within Amigos Por Vida - Friends for Life Public Charter School's boundaries with children who are at least three but younger than six and who are eligible for enrollment in a special education program of the availability of such programs.

Education Code 29.009.

Sec. 4. STUDENT RECORDS

After each student is enrolled in Amigos Por Vida - Friends for Life Public Charter School, Amigos Por Vida - Friends for Life Public Charter School will promptly request all student records from the student's previous school.

Sec. 1. STUDENTS WHO TRANSFER WITH AN IEP

a. Texas Transfers

When a student transfers to Amigos Por Vida - Friends for Life Public Charter School from another school within Texas, Amigos Por Vida - Friends for Life Public Charter School shall provide a free appropriate public education (“FAPE”) to the student. Amigos Por Vida - Friends for Life Public Charter School shall provide comparable services as those described in the individualized education program (“IEP”) the student transferred with until Amigos Por Vida - Friends for Life Public Charter School adopts the student’s IEP from the previous school, or develops, adopts, and implements a new IEP.

b. Out-of-State Transfers

If the student with a disability transfers to Amigos Por Vida - Friends for Life Public Charter School from a school outside of Texas, Amigos Por Vida - Friends for Life Public Charter School shall provide the student with FAPE, including comparable services, until Amigos Por Vida - Friends for Life Public Charter School conducts an evaluation and develops, adopts, and implements a new IEP.

34 CFR 300.323/.

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

If a student transfers from Amigos Por Vida - Friends for Life Public Charter School, Amigos Por Vida - Friends for Life Public Charter School will furnish the student’s special education records to the student’s new school not later than the 10th working day after the date a request for the information is received by Amigos Por Vida - Friends for Life Public Charter School.

19 TAC 89.1050(j)(3).

Sec. 1. Amigos Por Vida - Friends for Life Public Charter School shall conduct an evaluation in accordance with 34 C.F.R. 104.35(b) before taking any action with respect to any significant change in placement of a student with a disability who needs or is believed to need special education and related services. *34 CFR 104.35(a)*.

Amigos Por Vida - Friends for Life Public Charter School may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or alcohol to the same extent that Amigos Por Vida - Friends for Life Public Charter School would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action. *29 U.S.C. 705(20)(C)(iv)*.

PART II: DISCIPLINE OF STUDENTS RECEIVING SPECIAL EDUCATION SERVICES

Sec. 1. SPECIAL EDUCATION STUDENTS

Except as set forth below, the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal (“ARD”) committee. Any disciplinary action shall be determined in accordance with federal law and regulations, including those requiring the provision of:

1. functional behavioral assessments (“FBAs”);
2. positive behavioral interventions, strategies, and supports;
3. behavioral intervention plans/behavior improvement plans (“BIPs”); and
4. the manifestation determination review (“MDR”).

Education Code 37.004(b).

Sec. 2. REMOVAL FOR TEN DAYS OR LESS

A student with a disability who violates the Amigos Por Vida - Friends for Life Public Charter School Student Code of Conduct may be moved from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days, to the extent those alternatives are applied to children without disabilities. *20 U.S.C. 1415(k)(1)(B); 34 C.F.R. 300.530(b)(1)*.

Services During Removal for Ten Days or Less. Amigos Por Vida - Friends for Life Public Charter School is required to provide services during the period of removal if Amigos Por Vida - Friends for Life Public Charter School provides services to a child without disabilities who is similarly removed. *34 C.F.R. 300.530(d).*

Sec. 3. SUBSEQUENT REMOVALS OF TEN DAYS OR LESS

Amigos Por Vida - Friends for Life Public Charter School personnel may remove the student for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement under 34 CFR 300.536. *34 C.F.R. 300.530(b)(1).*

Services During Subsequent Removals of Ten Days or Less. After a student has been removed from his or her current placement for ten school days in the same school year, during any subsequent removal of ten consecutive school days or less, school personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's individualized education program ("IEP"). *20 U.S.C. 1415(k)(1)(D); 34 C.F.R. 300.530(d)(4).*

Sec. 4. NOTICE OF PROCEDURAL SAFEGUARDS

Not later than the date on which the decision to take the disciplinary action is made, Amigos Por Vida - Friends for Life Public Charter School shall notify the student's parents of the decision and of all procedural safeguards. *20 U.S.C. 1415(k)(1)(H).*

Sec. 5. CHANGES IN PLACEMENT

Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts a manifestation determination review ("MDR")

For purposes of disciplinary removal of a student with a disability, a change in placement occurs if a student is:

1. Removed from the student's current educational placement for more than ten consecutive school days; or
2. Subjected to a series of removals that constitute a pattern because:
 - a. The series of removals total more than ten school days in a school year;
 - b. The student's behavior is substantially similar to the student's behavior in the previous incidents that resulted in the series of removals; and
 - c. Additional factors exist, such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

Amigos Por Vida - Friends for Life Public Charter School determines, on a case-by-case basis, whether a pattern of removals constitutes a change in placement. Amigos Por Vida - Friends for Life Public Charter School's determination is subject to review through due process and judicial proceedings. *34 C.F.R. 300.536*.

Amigos Por Vida - Friends for Life Public Charter School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates the Student Code of Conduct. *20 U.S.C. 1415(k)(1)(A)*.

Sec. 6. MANIFESTATION DETERMINATION

Within ten school days of any decision to change the placement of a student because of a violation of the Student Code of Conduct, Amigos Por Vida - Friends for Life Public Charter School, parents, and relevant members of the ARD committee (as determined by the parent and Amigos Por Vida - Friends for Life Public Charter School) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

1. Caused by, or had a direct and substantial relationship to, the student's disability; or
2. The direct result of Amigos Por Vida - Friends for Life Public Charter School's failure to implement the IEP.

If Amigos Por Vida - Friends for Life Public Charter School, the parent, and relevant members of the ARD committee determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's disability.

20 U.S.C. 1415(k)(1)(E); 34 C.F.R. 300.530(e).

a) *Not a Manifestation*

If the determination is that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as for students without disabilities. The ARD committee shall determine the interim alternative educational setting. *20 U.S.C. 1415(k)(1)(C), (k)(2); 34 C.F.R. 300.530(c)*.

i. Services During Removal

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.

2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting. *34 C.F.R. 300.530(d)(1)–(2)*.

b) *Manifestation*

If Amigos Por Vida - Friends for Life Public Charter School, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student’s disability, the ARD committee shall:

1. Conduct a functional behavioral assessment (“FBA”), unless Amigos Por Vida - Friends for Life Public Charter School had conducted an FBA before the behavior that resulted in the change in placement occurred, and implement a behavioral intervention plan (“BIP”) for the student; or
2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.

Except as provided at SPECIAL CIRCUMSTANCES below, the ARD committee shall return the student to the placement from which the student was removed, unless the parent, and Amigos Por Vida - Friends for Life Public Charter School agree to a change in placement as part of the modification of the BIP.

20 U.S.C. 1415(k)(1)(F); 34 C.F.R. 300.530(f).

i. Special Circumstances

Amigos Por Vida - Friends for Life Public Charter School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student’s disability, if the student:

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of Texas Education Agency (the “TEA”) or Amigos Por Vida - Friends for Life Public Charter School; or
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the TEA or Amigos Por Vida - Friends for Life Public Charter School;
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the TEA or Amigos Por Vida - Friends for Life Public Charter School.

20 U.S.C. 1415(k)(1)(G); 34 C.F.R. 300.530(g).

The ARD committee shall determine the interim alternative education setting. *20 U.S.C. 1415(k)(2).*

c) *Services During Removal*

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 C.F.R. 300.530(d)(1).

Sec. 7. APPEALS

A parent who disagrees with a placement decision or the manifestation determination may request a hearing. Additionally, Amigos Por Vida - Friends for Life Public Charter School may request a hearing if it believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others.

20 U.S.C. 1415(k)(3)(A); 34 C.F.R. 300.532(a); 19 TAC 89.1151.

a) *Placement During Appeals*

When an appeal has been requested by a parent or Amigos Por Vida - Friends for Life Public Charter School, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and Amigos Por Vida - Friends for Life Public Charter School agree otherwise.

20 U.S.C. 1415(k)(4); 34 C.F.R. 300.533.

Sec. 8. REPORTING CRIMES

Federal law does not prohibit Amigos Por Vida - Friends for Life Public Charter School from reporting a crime committed by a student with a disability to appropriate authorities. If Amigos Por Vida - Friends for Life Public Charter School reports a crime, Amigos Por Vida - Friends for Life Public Charter School shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom Amigos Por Vida - Friends for Life Public Charter School reported the crime. Amigos Por Vida - Friends for Life Public Charter School may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act (“FERPA”).

20 U.S.C. 1415(k)(6); 34 C.F.R. 300.535.

Sec. 9. STUDENTS NOT YET IDENTIFIED

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated the Student Code of Conduct may assert any of the protections provided for in the Individuals with Disabilities Education Act if Amigos Por Vida - Friends for Life Public Charter School had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred. *20 U.S.C. 1415(k)(5)(A); 34 C.F.R. 300.534(a).*

a) *School Knowledge*

Amigos Por Vida - Friends for Life Public Charter School shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

1. The parent of the student expressed concern in writing to Amigos Por Vida - Friends for Life Public Charter School supervisory or administrative personnel, or to the teacher of the student, that the student was in need of special education and related services;
2. The parent requested an evaluation of the student for special education and related services;
or
3. The student’s teacher, or other Amigos Por Vida - Friends for Life Public Charter School personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other Amigos Por Vida - Friends for Life Public Charter School supervisory personnel.

20 U.S.C. 1415(k)(5)(B); 34 C.F.R. 300.534(b).

b) *Exceptions*

Amigos Por Vida - Friends for Life Public Charter School shall not be deemed to have knowledge that the student had a disability if:

1. The parent has not allowed an evaluation of the student;
2. The parent has refused services; or
3. The student has been evaluated and it was determined that the student did not have a disability.

20 U.S.C. 1415(k)(5)(C); 34 C.F.R. 300.534(c).

If Amigos Por Vida - Friends for Life Public Charter School does not have knowledge, before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

20 U.S.C. 1415(k)(5)(D); 34 C.F.R. 300.534(d).

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Sec. 1. DYSLEXIA AND RELATED DISORDERS

The Board shall ensure that procedures for identifying and providing appropriate instructional services to students for dyslexia and related disorders are implemented by Amigos Por Vida - Friends for Life Public Charter School. These procedures shall be implemented in accordance with the most recently updated version of the State Board of Education's *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)*.

SEC. 2. PARENTAL NOTIFICATIONS AND CONSENT

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

Amigos Por Vida - Friends for Life Public Charter School shall provide to parents of children suspected to have dyslexia or a related disorder a copy of or link to the electronic version of the most recently updated version of the State Board of Education's *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)*.

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

Sec 3. IDENTIFICATION AND TESTING

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

Amigos Por Vida - Friends for Life Public Charter School may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder.

SEC 4. PERSONNEL QUALIFICATIONS

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

not have to be certified as a special educator when serving a student who also receives special education and related services if that provider is the most appropriate person to offer dyslexia instruction.

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SEC. 5. TREATMENT AND SERVICES

Amigos Por Vida - Friends for Life Public Charter School shall provide each identified student access at his or her campus to instructional programs and to the services of a teacher trained in dyslexia and related services. Amigos Por Vida - Friends for Life Public Charter School may, with the approval of each student's parents or guardians, offer additional services at a centralized location, so long as such centralized services do not preclude each student from receiving services at his or her campus.

a) *Reading Program*

Amigos Por Vida - Friends for Life Public Charter School shall purchase a reading program or develop its own reading program for students with dyslexia and related disorders that is aligned with the descriptors found in the *Dyslexia Handbook*.

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

b) *Reassessment*

Unless otherwise provided by law, a student determined to have dyslexia during testing or accommodated because of dyslexia may not be retested for dyslexia for the purpose of reassessing the student's need for accommodations until Amigos Por Vida - Friends for Life Public Charter School reevaluates the information obtained from previous testing of the student.

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SEC 6. PARENT EDUCATION PROGRAM

Amigos Por Vida - Friends for Life Public Charter School shall develop and provide a parent education program for parents and guardians of students with dyslexia and related disorders. This program should include:

- Awareness of characteristics of dyslexia and related disorders;
- Information on testing and diagnosis of dyslexia;

- Information on effective strategies for teaching dyslexic students; and
- Awareness of information on modification, especially modifications allowed on standardized testing.

Education Code 38.003; 19 TAC 74.28.

Sec. 7. REPORTING

Amigos Por Vida - Friends for Life Public Charter School must report through the Public Education Information Management System to the Texas Education Agency the number of students enrolled who are identified as having dyslexia.

Sec. 1. REFERRAL FOR FULL AND INDIVIDUAL INITIAL EVALUATION

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of Amigos Por Vida - Friends for Life Public Charter School's overall general education referral or screening system. Either a parent, the Texas Educational Agency ("TEA"), another state agency, or Amigos Por Vida - Friends for Life Public Charter School may initiate a request for an initial evaluation.

a) *Obligation to Refer*

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions, Amigos Por Vida - Friends for Life Public Charter 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.

b) *Parent Request*

If a parent submits a written request for a full individual and initial evaluation of a student, Amigos Por Vida - Friends for Life Public Charter School shall, not later than the 15th school day after the date Amigos Por Vida - Friends for Life Public Charter School receives the request:

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

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

Sec. 2. NOTICE OF RIGHTS

Amigos Por Vida - Friends for Life Public Charter School shall provide written notice to a student's parent or guardian within a reasonable time before proposing or refusing to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education ("FAPE").

34 CFR §300.8(c)(10)

Sec. 3. INITIAL EVALUATION

Amigos Por Vida - Friends for Life Public Charter 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)*.

Amigos Por Vida - Friends for Life Public Charter School shall ensure that evaluations of children who transfer from one district 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)*.

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)*.

a) *Consent for Initial Evaluation*

Amigos Por Vida - Friends for Life Public Charter School shall make reasonable efforts to obtain informed parental consent before conducting an initial evaluation.

If the parent does not provide consent for an initial evaluation or fails to respond to a request to provide consent, Amigos Por Vida - Friends for Life Public Charter School may—but is not required to—pursue the initial evaluation by utilizing due process procedures, except to the extent inconsistent with state law relating to such parental consent.

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

b) *Wards of the State*

If the child is a ward of the state and is not residing with the child's parent, Amigos Por Vida - Friends for Life Public Charter School shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

1. Amigos Por Vida - Friends for Life Public Charter School cannot discover the whereabouts of the parent, despite reasonable efforts to do so;
2. The rights of the parent have been terminated; or
3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

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

Sec. 4. PROVIDING ASSISTANCE TO STUDENTS WHO HAVE LEARNING DIFFICULTIES OR NEED SPECIAL EDUCATION SERVICES

If a student is experiencing learning difficulties, the parent may contact their child's campus principal to learn about Amigos Por Vida - Friends for Life Public Charter School's overall general education referral or screening system for support services. This system links students to a variety of support options, including referral for a special education evaluation. Students having difficulty in the regular classroom should be considered for tutorial, compensatory, and other academic or behavior support services that are available to all students, including a process based on Response to Intervention ("RtI"). The implementation of RtI has the potential to have a positive impact on Amigos Por Vida - Friends for Life Public Charter School's ability to meet the needs of all struggling students.

At any time, a parent is entitled to request an evaluation for special education services by presenting a written request to Alexandra Crane, Special Education Teacher, or to a Amigos Por Vida - Friends for Life Public Charter School administrative employee. Amigos Por Vida - Friends for Life Public Charter School must, within 15 school days of receiving the request, either (1) give the parent an opportunity to give written consent for the evaluation or (2) refuse to provide the evaluation and provide the parent with written notice that explains why the child will not be evaluated. This written notice will include a statement that informs the parents of their rights if they disagree with Amigos Por Vida - Friends for Life Public Charter School. Additionally, the parent will receive a copy of the *Notice of Procedural Safeguards – Rights of Parents of Students with Disabilities*.

If consent for evaluation is obtained, Amigos Por Vida - Friends for Life Public Charter School must generally complete the evaluation and report within 45 school days of the date Amigos Por Vida - Friends for Life Public Charter School receives the written consent. Amigos Por Vida - Friends for Life Public Charter School must give a copy of the evaluation report to the parent.

Sec. 5. NOTIFICATION TO PARENTS REGARDING INTERVENTION STRATEGIES

Each school year, Amigos Por Vida - Friends for Life Public Charter School shall notify a parent of each child, other than a child enrolled in a special education program, who receives assistance from the Amigos Por Vida - Friends for Life Public Charter School for learning difficulties, including through the use of intervention strategies that Amigos Por Vida - Friends for Life Public Charter School provides to the child. The notice must:

1. Be provided when the child begins to receive the assistance for that school year;
2. Be written in English or, to the extent practicable, the parent's native language; and
3. Include:
 - a. A reasonable description of the assistance that may be provided to the child, including any intervention strategies that may be used;

- b. Information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the child;
- c. An estimate of the duration for which the assistance, including through the use of intervention strategies, will be provided;
- d. The estimated time frames within which a report on the child's progress with the assistance, including any intervention strategies used, will be provided to the parent; and
- e. A copy of a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services or for aids, accommodations, or services under Section 504 of the Rehabilitation Act ("Section 504").

The notice under this policy may be provided to a child's parent at a Section 504 meeting.

A parent is entitled to access to all written records of Amigos Por Vida - Friends for Life Public Charter School concerning the parent's child, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and school counselor evaluations, reports of behavioral progress, and records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child.

Sec. 1. FULL AND INDIVIDUAL EVALUATION (FIE)

Amigos Por Vida - Friends for Life Public Charter School shall ensure that upon completion of the administration of such tests and other evaluation materials administered according to the evaluation procedures of the Individuals with Disabilities Education Act (“IDEA”), and preparation of the written report, the admission, review and dismissal (“ARD”) committee determines if the student is a student with a disability under state and federal standards.

Amigos Por Vida - Friends for Life Public Charter School shall conduct a full and individual initial evaluation (“FIE”) prior to providing special education and related services to any student. All students must be evaluated in accordance with the IDEA and the Texas Education Code.

Amigos Por Vida - Friends for Life Public Charter School shall have procedures in place to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of students with disabilities are selected and administered so as to not be racially, culturally, or gender discriminatory. Assessment and procedures shall be provided and administered in the student’s native language or most proficient mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so.

34 CFR 300.301; Education Code 29.310.

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

19 TAC 89.1230.

No single procedure shall be the sole criterion for determining whether a student is a student with a disability or for determining an appropriate education program for a student with a disability. The evaluation must be sufficiently comprehensive to identify all of the student’s special education and related services’ needs. Each student must be evaluated in all suspected areas of disability.

34 CFR 300.301,300.304; Education Code 29.310.

All assessments must be administered in accordance with the instructions provided and by a trained and knowledgeable person.

34 CFR 300.301, 300.304.

Sec. 2. TIMELINE

If a student's parent provides a written request for an evaluation to the school's director of special education services or to a district administrative employee, Amigos Por Vida - Friends for Life Public Charter School shall, within 15 school days, (1) provide the parent with prior written notice of its proposal to conduct an evaluation, a copy of the procedural safeguards, and an opportunity to give written consent for the evaluation, or (2) provide prior written notice and procedural safeguards if the school is denying the request for evaluation.

Education Code 29.004(c).

A written FIE report must be completed not later than the 45th school day following the date on which Amigos Por Vida - Friends for Life Public Charter School receives written consent for the evaluation, signed by the student's parent. If the student is absent for more than three days in that time period, the timeline must be extended by the number of days the student was absent.

Education Code 29.004(a).

This timeframe shall not apply if:

1. A student enrolls in the current school after the relevant time frame has begun and before the previous school made a determination as to whether the student 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 student for the evaluation.

34 CFR 300.301(d).

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

Education Code 29.004.

If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, individualized education program ("IEP"), and placement, unless the full individual and initial evaluation indicates that the student will need extended school year services during that summer.

If the student is an English language learner, the language proficiency assessment committee (LPAC) must also attend the meeting to determine services. (19 TAC §89.1050(c)(J))

If Amigos Por Vida - Friends for Life Public Charter School receives written consent for an FIE from a student's parent at least 35 but less than 45 school days before the last instructional day of

the school year, the evaluation must be completed and the written report of the evaluation must be provided to the parent not later than June 30 of that year. The ARD committee must meet by the 15th school day of the following school year to consider the evaluation.

If Amigos Por Vida - Friends for Life Public Charter School receives written consent signed by a student's parent less than 35 school days before the last instructional day of the school year or if the school receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the FIE must be completed not later than the 45th school day after receiving consent.

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

Education Code 29.004.

Sec. 3. SPECIFIC LEARNING DISABILITY EVALUATION

The Texas Education Agency cannot require Amigos Por Vida - Friends for Life Public Charter School to use the severe discrepancy between intellectual ability and achievement for determining whether a student has a specific learning disability. TEA must permit the use of a process based on the child's response to scientific, research-based intervention; and may permit the use of other alternative research-based procedures for determining whether a student has a specific learning disability.

34 CFR 300.307.

The evaluation process for specific learning disability includes an observation of the child in the learning environment, including the regular classroom setting, to document academic performance and behavior in the areas of difficulty.

34 CFR 300.310 (a).

Sec. 4. FUNCTIONAL BEHAVIOR ASSESSMENT (FBA)

A functional behavior assessment ("FBA") may be necessary for a student whose behavior impedes their education. Prior to completing an FBA, Amigos Por Vida - Friends for Life Public Charter School shall get consent from the parent.

34 CFR 300.9.

If an ARD committee determines a change of placement is necessary due to the student's behavior, it must conduct an FBA and implement a behavioral intervention plan ("BIP"). If an FBA was already completed, the ARD committee must review and update the BIP.

34 CFR 300.350(f).

Sec. 5. 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 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 student;
- 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 student's parents, the ARD committee members must identify what additional data, if any, are needed to determine:

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

Amigos Por Vida - Friends for Life Public Charter School shall administer any assessments or other evaluation measures needed to produce the data identified by the REED in accordance with applicable procedural requirements regarding notice and consent.

If additional data is not needed, the ARD committee must notify the parent of the determination decision and provide information about the parent's right to request additional assessments to determine student needs and eligibility.

34 CFR 300.305.

Amigos Por Vida - Friends for Life Public Charter School shall conduct a reevaluation of the student if the school determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation or if the child's parent or teacher requests a reevaluation. A reevaluation may not occur more than once per year, unless agreed to by the school and the parent. A reevaluation must occur at least every three years, unless the school and parent agree the evaluation is unnecessary.

34 CFR 300.303.

Sec. 6. CHANGE IN ELIGIBILITY

Amigos Por Vida - Friends for Life Public Charter School shall evaluate a student with a disability before determining a student is no longer eligible for special education and related services.

An evaluation is not required if a student is no longer eligible due to graduation or exceeding the age eligibility in Texas. Amigos Por Vida - Friends for Life Public Charter School shall create a summary of performance and include recommendations on how to assist the student in meeting postsecondary goals.

34 CFR 300.305(e).

Sec. 7. CONSIDERATION OF SERVICES PROVIDED IN REGULAR EDUCATION SETTING

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

- Data that demonstrate that prior to, or as part of, the referral process, the student 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 student's parents.

34 CFR 300.309(b).

Sec. 8. COORDINATION OF EVALUATIONS WITH PRIOR AND SUBSEQUENT SCHOOLS

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

20 U.S.C. 1414(b)(3)(D).

Sec. 9. PSYCHOLOGICAL EXAMINATIONS AND TESTS

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, Amigos Por Vida - Friends for Life Public 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 IEP for the child.

If Amigos Por Vida - Friends for Life Public Charter School determines that an additional examination or test is required for the evaluation of a child's need for special education, Amigos Por Vida - Friends for Life Public Charter School shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test.

Education Code 29.0041(a), (b).

If Amigos Por Vida - Friends for Life Public Charter School determines that an additional examination or test is required for the evaluation, Amigos Por Vida - Friends for Life Public Charter School shall provide the information required by Education Code 29.0041(a) and shall obtain parental consent. If a parent does not give consent within 20 calendar days after the School provides the information, the parent's consent is considered denied.

The time required for Amigos Por Vida - Friends for Life Public Charter School to provide information and seek consent may not be counted toward the timeframe for completion of an evaluation.

Education Code 29.0041.

Sec. 10. EXTENSION OF TIMELINES

For a specific learning disability, the timelines for evaluation under this policy may be extended by mutual written agreement of the student's parents and the ARD committee.

34 CFR 300.309(c).

Sec. 11. 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.

Education Code 29.016.

Sec. 12. INDEPENDENT EDUCATIONAL EVALUATIONS

The parent of a student with a disability has the right to obtain an independent educational evaluation (“IEE”) of the parent’s child if the parent disagrees with the evaluation of the student that was obtained by Amigos Por Vida - Friends for Life Public Charter School.

If the parent requests an IEE, Amigos Por Vida - Friends for Life Public Charter School must provide the parent with information about where the parent may obtain an IEE and about Amigos Por Vida - Friends for Life Public Charter School’s criteria that apply to IEE.

Sec. 13. DEFINITIONS

An 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 Amigos Por Vida - Friends for Life Public 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.

34 CFR 300.502.

Sec. 14. RIGHT TO AN INDEPENDENT EVALUATION AT PUBLIC EXPENSE

The parent has the right to request an IEE of the parent’s child at public expense if the parent disagrees with an evaluation of the student completed by Amigos Por Vida - Friends for Life Public Charter School.

If the parent requests an IEE, Amigos Por Vida - Friends for Life Public Charter School must respond to the parent by either:

1. without unnecessary delay, filing a due process complaint to request a hearing to show that its evaluation of the student is appropriate; or
2. providing an IEE at public expense, unless Amigos Por Vida - Friends for Life Public Charter School demonstrates in a due process hearing that the evaluation of the student that the parent obtained did not meet Amigos Por Vida - Friends for Life Public Charter School's criteria.

If Amigos Por Vida - Friends for Life Public Charter School requests a hearing and the final decision is that Amigos Por Vida - Friends for Life Public Charter School's evaluation of the student is appropriate, the parent still has the right to an IEE, but not at public expense.

If the parent requests an IEE of the student, Amigos Por Vida - Friends for Life Public Charter School may ask why the parent objects to the evaluation of the student obtained by Amigos Por Vida - Friends for Life Public Charter School; however, Amigos Por Vida - Friends for Life Public Charter School may not require an explanation and may not unreasonably delay either providing the IEE of the student at public expense or filing a due process complaint to request a due process hearing to defend Amigos Por Vida - Friends for Life Public Charter School's evaluation of the student.

The parent is entitled to only one IEE of the student at public expense each time Amigos Por Vida - Friends for Life Public Charter School conducts an evaluation of the student with which the parent disagrees.

34 CFR 300.502.

a) *Parent-Initiated Evaluations*

If the parent obtains an IEE of the student at public expense or the parent shares with Amigos Por Vida - Friends for Life Public Charter School an evaluation of the student that the parent obtained at private expense:

1. Amigos Por Vida - Friends for Life Public Charter School must consider the results of the evaluation of the student, if it meets Amigos Por Vida - Friends for Life Public Charter School's criteria for IEE, in any decision made with respect to the provision of a free appropriate public education to the student; and
2. the parent or Amigos Por Vida - Friends for Life Public Charter School may present the evaluation as evidence at a due process hearing regarding the student.

34 CFR 300.502.

b) *Requests for Evaluations by Hearing Officers*

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

Sec. 15. CRITERIA FOR OBTAINING IEE AT PUBLIC EXPENSE

The criteria under which the IEE is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE.

a) *Location*

The evaluator conducting an IEE of a child with a disability at public expense must be located within a 100-mile radius of Amigos Por Vida - Friends for Life Public Charter School. This will allow the evaluator access to Amigos Por Vida - Friends for Life Public Charter School for observation of the student and access to the student's cumulative and special education eligibility folders.

b) *Cost*

Parents are free to select whomever they choose to perform the IEE, so long as the examiner meets Amigos Por Vida - Friends for Life Public Charter School's criteria. Amigos Por Vida - Friends for Life Public Charter School will pay a fee for an IEE that allows a parent to choose from among qualified professionals in the area.

Amigos Por Vida - Friends for Life Public Charter School will not pay unreasonably excessive fees. An unreasonably excessive fee is one which is 20% above the prevailing fees in the area as established by the Medicaid/Medicare Service Provider Manual for the specific test being considered.

Parents will be offered the opportunity to demonstrate to their child's ARD committee that unique circumstances exist which justify an IEE that does not meet Amigos Por Vida - Friends for Life Public Charter School criteria outlined in this document.

When evaluators have a sliding scale fee based on parent income, Amigos Por Vida - Friends for Life Public Charter School will pay the amount charged to the parent if the evaluator meets Amigos Por Vida - Friends for Life Public Charter School criteria or Amigos Por Vida - Friends for Life Public Charter School has approved the IEE that does not meet Amigos Por Vida - Friends for Life Public Charter School criteria.

In the event a parent pursues an IEE independently or pursues an IEE provider that is not on Amigos Por Vida - Friends for Life Public Charter School independent evaluator list, Amigos Por Vida - Friends for Life Public Charter School will determine if the evaluator meets Amigos Por Vida - Friends for Life Public Charter School criteria prior to authorizing payment or reimbursement. If payment will be authorized, an original billing form and an original written report with original signature must be submitted to Amigos Por Vida - Friends for Life Public Charter School prior to payment.

Amigos Por Vida - Friends for Life Public Charter School will deny payment for an IEE conducted by an evaluator who does not meet Amigos Por Vida - Friends for Life Public Charter School criteria. Amigos Por Vida - Friends for Life Public Charter School will deny payment for an IEE that does not meet TEA criteria for the specific disability identified.

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

Travel costs for evaluators will not exceed Amigos Por Vida - Friends for Life Public Charter School rates for travel as established by state guidelines.

A contract for an IEE between an evaluator and Amigos Por Vida - Friends for Life Public Charter School will not exceed one year. All terms will become void after the expiration date of one year.

c) *Evaluator Criteria*

The evaluator conducting the IEE must meet Amigos Por Vida - Friends for Life Public Charter School criteria and possess comparable credentials to the examiner that conducted the evaluation that is in dispute.

Evaluators must possess current licensure/certification to conduct the evaluation and must provide copies of his or her license or certification with the evaluation, if not previously provided.

Evaluators must comply with all requirements specified in state and federal law, including those outlined in the professional board responsible for providing the license or certification.

Evaluators must meet the examiner qualifications for the tests administered as outlined by the test producer.

The evaluator will have access to the student's cumulative folder and special education folders in gathering information about the student.

The evaluator will have the ability to interview teachers and observe the student in the educational setting.

Prior to conducting the assessment, the evaluator agrees to submit to a national criminal history review and to provide any and all information necessary to secure the national criminal history review, including fingerprints and photographs, or other information required by Texas Education Code § 22.0834 concerning Contractor or Contractor's Subcontractors.

The evaluator agrees to conduct a thorough evaluation in the area(s) performed by Amigos Por Vida - Friends for Life Public Charter School with which the parent disagrees.

Copies of protocols must be provided to Amigos Por Vida - Friends for Life Public Charter School.

The report must comply with all federal and state requirements, including addressing the presence or absence of a disability condition as defined under the IDEA and the Texas Education Code.

The evaluation must be provided to Amigos Por Vida - Friends for Life Public Charter School upon completion.

Except for the criteria described above, Amigos Por Vida - Friends for Life Public Charter School may not impose conditions or timelines related to obtaining an IEE at public expense.

34 CFR 300.502(e).

Sec. 1. NONEDUCATIONAL COMMUNITY BASED SUPPORT SERVICES

Students with disabilities and their families may be eligible to receive noneducational community based support services paid for by public funds.

The Texas Education Agency (“TEA”) is responsible for establishing procedures and criteria for the allocation of noneducational funds to open-enrollment charter schools for the provision of noneducational community-based support services to certain students with disabilities and their families so that those students may receive a free appropriate public education (“FAPE”) in the least restrictive environment.

Education Code 29.013(a).

Amigos Por Vida – Friends for Life Public Charter School shall use any funds allocated under Education Code Section 29.013 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.

Education Code 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.

Education Code 29.013(c).

The provision of services under Education Code Section 29.013 does not supersede or limit the responsibility of other agencies to provide or pay for costs of noneducational community-based support services to enable any student with disabilities to receive a FAPE in the least restrictive environment. Specifically, services provided under Education Code Section 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. Funds cannot be used to cover services already required through the student’s individual education program or for long-term care.

Education Code 29.013(d).

Sec. 1. SHARED SERVICES ARRANGEMENT

Amigos Por Vida, Friends for Life Housing and Education Corporation may enter into a written contract to jointly operate its special education programs. 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, Texas Education Agency Guidance and Texas Government. Code Chapter 791 (interlocal agreements).

Sec. 1. COMPLIANCE WITH GENERAL AND FISCAL GUIDELINES

Amigos Por Vida, Friends for Life Housing and Education Corporation must comply with the Texas Education Agency General and Fiscal Guidelines.

Sec. 2. CHARGING COSTS TO SPECIAL EDUCATION GRANT

Amigos Por Vida, Friends for Life Housing and Education Corporation may charge costs to a special education grant when those costs follow the Amigos Por Vida, Friends for Life Housing and Education Corporation's local written procedures for allowability of costs and meet the following criteria:

- Are reasonable for the performance of the special education grant and are allocable under the applicable cost principles;
- Conform to limitations or exclusions set forth in applicable cost principles or the special education grant agreement as to types or amount of costs;
- Are consistent with policies and procedures that apply uniformly to federally or state-funded activities funded from other sources;
- Are accorded consistent treatment among all grant programs, regardless of funding source;
- Are not included as a cost or used to meet cost-sharing or matching requirements of any other federally or state-funded program in the current or a prior period; and
- Are adequately documented.

Sec. 3. REASONABLE COST

A cost can be considered reasonable if it meets the following standards:

- The cost is of a type generally recognized as ordinary and necessary for the operation of Amigos Por Vida, Friends for Life Housing and Education Corporation or grant performance;
- Restrictions or requirements are imposed for generally accepted sound business practices, arms-length bargaining, federal or state laws and regulations, and grant award terms and conditions;
- Consideration is given to market prices for comparable goods or services for the geographical area;
- Individuals are acting with prudence in the circumstances of responsibility to Amigos Por Vida, Friends for Life Housing and Education Corporation and federal and state government; and
- There are no significant deviations from established practices of Amigos Por Vida, Friends for Life Housing and Education Corporation that may unjustifiably increase grant costs.

a) *Allocating Costs*

A cost is allocable to the special education grant in accordance with relative benefits received if it is treated consistently with other costs incurred for the same purposes in like circumstance and if it meets the following:

- Is incurred specifically for the grant;
- Benefits both the grant and the other work and can be distributed in reasonable proportion to the benefits received; and
- Is necessary to the overall operation of Amigos Por Vida, Friends for Life Housing and Education Corporation and is assignable in part to the special education grant award in accordance with the principles of this framework.

Sec. 1. CHILD FIND PRIVATE SCHOOL STUDENTS

Amigos Por Vida - Friends for Life Public Charter School shall coordinate with home school districts, who are primarily responsible for consulting with private school representatives, regarding the child find process and the provision of special education and related services to children enrolled in private schools within Amigos Por Vida - Friends for Life Public Charter School's boundaries.

Amigos Por Vida - Friends for Life Public Charter School shall undertake activities similar to those undertaken for children enrolled in public schools and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending the public schools within Amigos Por Vida - Friends for Life Public Charter School's boundaries.

20 U.S.C. 1412(a)(10)(A)(ii)-(iv).

Sec. 2. SPECIAL EDUCATION STUDENTS PLACED IN PRIVATE SCHOOL

a) *Placement by Amigos Por Vida - Friends for Life Public Charter School*

If Amigos Por Vida - Friends for Life Public Charter School places a child with a disability in a private school or facility, or refers the child to a private school or facility, as a means of carrying out the requirements of the special education laws, Amigos Por Vida - Friends for Life Public Charter School shall ensure that the child is provided special education and related services, in accordance with an individualized education program ("IEP"), at no cost to the parents.

20 U.S.C. 1412(a)(10)(B)(i).

b) *Placement by the Parent*

When a student with a disability who has been placed by his or her parent directly in a private school is referred to Amigos Por Vida - Friends for Life Public Charter School, Amigos Por Vida - Friends for Life Public Charter School shall convene an admission, review, and dismissal ("ARD") committee to determine whether Amigos Por Vida - Friends for Life Public Charter School can offer the child a free appropriate public education ("FAPE"). If Amigos Por Vida - Friends for Life Public Charter School determines that it can offer a FAPE to the student, Amigos Por Vida - Friends for Life Public Charter School is not responsible for providing educational services to the student, except as provided in 34 CFR 300.130-300.144 or 19 TAC 89.1096(e), until such time as the parents choose to enroll the student in Amigos Por Vida - Friends for Life Public Charter School full time.

19 TAC 89.1096(b).

Sec. 3. REJECTION OF OFFER OF FAPE

a) *Student Receives ISP*

If Amigos Por Vida - Friends for Life Public Charter School offers to provide a FAPE to a child with a disability and the parents elect to place the child in a private school or facility, Amigos Por Vida - Friends for Life Public Charter School is not required to pay for the cost of education, including special education and related services. However, Amigos Por Vida - Friends for Life Public Charter School must develop and implement an individualized services plan (“ISP”) for the child.

20 U.S.C. 1412(a)(10)(C)(i); 34 CFR 300.148(a).

b) *Reimbursement*

If the parents of a child with a disability, who previously received special education and related services under the authority of Amigos Por Vida - Friends for Life Public Charter School, enroll the child in a private school without the consent or referral by Amigos Por Vida - Friends for Life Public Charter School, a court or a hearing officer may require Amigos Por Vida - Friends for Life Public Charter School to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that Amigos Por Vida - Friends for Life Public Charter School had not made a FAPE available to the child in a timely manner before the enrollment.

20 U.S.C. 1412(a)(10)(C)(ii); 34 CFR 300.148(c).

Sec. 1. PROCEDURAL SAFEGUARDS

The Superintendent or designee shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (“FAPE”).

20 U.S.C. 1415(a)–(b).

These procedures shall include:

1. An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. *34 CFR 300.501.*
2. An opportunity for the parents to obtain an independent educational evaluation of the child. *34 CFR 300.502.*
3. Assignment of an individual to act as a surrogate for the parent when no parent can be identified, Amigos Por Vida - Friends for Life Public Charter School cannot locate the parents, or the child is a ward of the state. *34 CFR 300.519.*
4. Prior written notice to the parents whenever Amigos Por Vida - Friends for Life Public Charter School proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.503.*
5. Procedures to allow parties to resolve disputes through a mediation process. *34 CFR 300.506.*
6. An opportunity for any party to file a due process complaint on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.507.*
7. Procedures that require either party, or the attorney representing a party, to provide the other party a due process complaint (which shall remain confidential). *34 CFR 300.508.*

Sec. 2. LANGUAGE OF NOTICES

The procedural safeguards and prior written notices described below must be written in a 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.

34 CFR 300.503(c), 300.504(d).

a) *Electronic Delivery of Notices*

A parent who has a child with a disability may elect to receive required notices required by 34 CFR 300.503, 300.504 and 300.508 by electronic mail, if Amigos Por Vida - Friends for Life Public Charter School makes that option available.

34 CFR 300.505.

b) *Notice of Procedural Safeguards*

Amigos Por Vida - Friends for Life Public Charter School shall provide a copy of the procedural safeguards to parents only once per year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

Amigos Por Vida - Friends for Life Public Charter School may also place a current copy of the procedural safeguards notice on its Internet website.

c) *Contents of Notice*

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
 - a. The time period in which to file a complaint,
 - b. The opportunity for Amigos Por Vida - Friends for Life Public Charter School to resolve the complaint; and
 - c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
6. The availability of mediation;
7. The child's placement during pendency of any due process proceedings;
8. Procedures for children who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents of children in private schools at public expense;

10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees.

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

Sec. 3. DISPUTE RESOLUTION

The possible options for resolving disputes that arise between a parent and Amigos Por Vida - Friends for Life Public Charter School relating to the identification, evaluation, or educational placement of or the provision of FAPE to a student with a disability include, but are not limited to:

1. ARD committee meetings, including IEP facilitation if offered by Amigos Por Vida - Friends for Life Public Charter School, under 19 TAC 89.1196;
2. Meetings or conferences with the student's teachers;
3. Meetings or conferences, subject to Amigos Por Vida - Friends for Life Public Charter School policies, with the principal, special education director, Superintendent, or Board;
4. Requesting state IEP facilitation in accordance with 19 TAC 89.1197 (relating to State Individualized Education Program Facilitation);
5. Requesting mediation through the Texas Education Agency ("TEA") in accordance with 34 CFR 300.506;
6. Filing a complaint with TEA in accordance with 34 CFR 300.153; or
7. Requesting a due process hearing through TEA in accordance with 34 CFR 300.507-300.514.

19 TAC 89.1150.

Sec. 4. DUE PROCESS COMPLAINT

Whenever a due process complaint has been received by Amigos Por Vida - Friends for Life Public Charter School, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by TEA.

a) *Time Limits*

1. *Due Process Complaints Filed Before September 1, 2022:*

A due process complaint filed before September 1, 2022 must set forth an alleged violation that occurred not more than one year before the date the parent or Amigos Por Vida - Friends for Life Public Charter School knew or should have known about the alleged action that forms the basis of the complaint. *20 U.S.C. 1415(f)(1)(A); 19 TAC 89.1151(c).*

2. Due Process Complaints Filed On or After September 1, 2022:

A due process complaint filed on or after September 1, 2022 must set forth an alleged violation that occurred not more than two years before the date the parent or Amigos Por Vida - Friends for Life Public Charter School knew or should have known about the alleged action that forms the basis of the complaint. *20 U.S.C. 1415(f)(1)(A); Education Code 29.0164.*

b) Exceptions

These time limits shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by Amigos Por Vida - Friends for Life Public Charter School that it had resolved the problem forming the basis of the complaint; or
2. Amigos Por Vida - Friends for Life Public Charter School's withholding of information from the parent that Amigos Por Vida - Friends for Life Public Charter School was required by the IDEA to provide.

20 U.S.C. 1415(f)(3)(D); 34 CFR 300.511(f); 19 TAC 89.1151(d).

c) "Stay Put"

During the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing, the child shall remain in the then-current educational placement unless Amigos Por Vida - Friends for Life Public Charter School and the parent agree otherwise. If the child is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed. *20 U.S.C. 1415(j); 34 CFR 300.518, 300.533.*

d) Exception

When a due process hearing has been requested by a parent or Amigos Por Vida - Friends for Life Public Charter School concerning a disciplinary change of placement or manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the child's assignment to the alternative setting, or the 45-day timeline, if applicable, whichever occurs first, unless the parent and Amigos Por Vida - Friends for Life Public Charter School agree otherwise. *20 U.S.C. 1415(k)(3)(A), 1415(k)(4)(A); 34 CFR 300.533.*

e) Resolution Process

Within 15 days of receiving notice of a parent’s due process complaint, and before initiating a due process hearing under 34 CFR 300.511, Amigos Por Vida - Friends for Life Public Charter School shall convene a meeting with the parent and the relevant member or members of the ARD committee. The purpose of the meeting is for the parent to discuss the due process complaint and the facts that form the basis of the due process complaint, so that Amigos Por Vida - Friends for Life Public Charter School has the opportunity to resolve the dispute.

The meeting need not be held if the parent and Amigos Por Vida - Friends for Life Public Charter School agree in writing to waive the meeting, or the parent and Amigos Por Vida - Friends for Life Public Charter School agree to use the mediation process.

If Amigos Por Vida - Friends for Life Public Charter School has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the complaint, the due process hearing may occur. If Amigos Por Vida - Friends for Life Public Charter School is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, Amigos Por Vida - Friends for Life Public Charter School may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent’s due process complaint.

34 CFR 300.510.

Sec. 5. TRANSFER OF RIGHTS TO ADULT STUDENTS

When a student reaches the age of 18, Amigos Por Vida - Friends for Life Public Charter School shall notify the student and the parents of the transfer of parental rights. This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student’s IEP include a statement regarding transfer of parental rights.

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. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

34 CFR 300.520; Education Code 29.017(a)–(b); 19 TAC 89.1049(c).

Student records shall be maintained for each student from the time the student is in attendance at Amigos Por Vida - Friends for Life Public Charter School until withdrawal or graduation from Amigos Por Vida - Friends for Life Public Charter School. These records shall move with the respective student from campus to campus. Records for students not in attendance and/or withdrawn students and graduates shall be retained for the period of time required by law. No permanent records may be destroyed without explicit written permission from the Superintendent.

Sec. 1. EDUCATION RECORDS

a) *“Education Records” Defined*

For the purposes of this policy, the term “education records” means those records, files, documents, and other materials that contain information directly related to a student and are maintained by Amigos Por Vida - Friends for Life Public Charter School or by a person acting for Amigos Por Vida - Friends for Life Public Charter School.

The term “education records” does not include:

1. Records that are created or received by Amigos Por Vida - Friends for Life Public Charter School after an individual is no longer a student in attendance, and that are not directly related to the individual’s attendance as a student.
2. Records made by Amigos Por Vida - Friends for Life Public Charter School personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
3. Records maintained by a law enforcement unit of Amigos Por Vida - Friends for Life Public Charter School that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is eighteen years of age or older, or who is attending an institution of postsecondary education, that are:
 - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - b. Made, maintained, or used only in connection with treatment of the student; and
 - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, “treatment” does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

State and federal law safeguard educational records from unauthorized inspection or use. All information relating to student performance, including grades, test results, and disciplinary records are considered confidential educational records. Release of those records are restricted to parents; school staff members with a legitimate educational interest; various governmental agencies or in

response to a subpoena or court order; or a school to which the student transfers or subsequently enrolls. Release to any other person or agency will occur only with prior written consent of the parent.

b) *Screening Records*

The Principal of each Amigos Por Vida - Friends for Life Public Charter School campus shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in Amigos Por Vida - Friends for Life Public Charter School. Records shall be open for inspection by the state or local health department. The Texas-Mexico Border Health Coordination Office may, directly or through local health departments, enter a school and inspect records relating to assessment for type 2 diabetes. Individual screening records may be transferred among schools in accordance with Section 2-d (Access by Other Persons) below.

c) *Immunization Records*

Amigos Por Vida - Friends for Life Public Charter School shall maintain an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency (“TEA”) or by representatives of local health departments or the Texas Department of State Health Services (“TDSHS”). Amigos Por Vida - Friends for Life Public Charter School shall cooperate with other districts and schools in transferring students’ immunization records between other schools. Specific approval from students or parents is not required prior to making such record transfers.

d) *Medical Records*

The parent of a student is entitled to access the student’s medical records maintained by Amigos Por Vida - Friends for Life Public Charter School. On request of a student’s parent, Amigos Por Vida - Friends for Life Public Charter School shall provide a copy of the student’s medical records to the parent. Amigos Por Vida - Friends for Life Public Charter School may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code.

e) *Privacy Rule for Non-“Education Records”*

To the extent Amigos Por Vida - Friends for Life Public Charter School is a covered entity under the Health Insurance Portability and Accountability Act (“HIPAA”), Amigos Por Vida - Friends for Life Public Charter School must comply with the Privacy Rule, 45 CFR Part 164, with respect to protected health information that is not an education record.

f) *Food Allergy Information*

Information regarding a child's food allergy, regardless of how it is received by Amigos Por Vida - Friends for Life Public Charter School, shall be retained in the child's student records, but may not be placed in the health record maintained for the child by Amigos Por Vida - Friends for Life Public Charter School.

i. Exceptions

If Amigos Por Vida - Friends for Life Public Charter School receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by Amigos Por Vida - Friends for Life Public Charter School. A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by Amigos Por Vida - Friends for Life Public Charter School, including a notation that the child's student records indicate that a parent has notified Amigos Por Vida - Friends for Life Public Charter School of the child's possible food allergy.

g) **Assessment Instruments**

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by Amigos Por Vida - Friends for Life Public Charter School are confidential and may be made available only to the student, the student's parent, and to Amigos Por Vida - Friends for Life Public Charter School personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and school system, and made available to the public, with appropriate interpretations, at regularly scheduled Board meetings. The information may not contain the names of individual students or teachers.

h) **Academic Achievement Records (Grades 9–12)**

Amigos Por Vida - Friends for Life Public Charter School shall use the academic achievement record (transcript) form adopted by the State Board of Education ("SBOE"). This form shall serve as the academic record for each student and shall be maintained permanently by Amigos Por Vida - Friends for Life Public Charter School. Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the receiving district or to both. Amigos Por Vida - Friends for Life Public Charter School shall respond promptly to all requests for student records from receiving districts.

i) **Enrollment Records**

If a parent or other person with legal control of a child enrolls the child in Amigos Por Vida - Friends for Life Public Charter School, the parent or other person, or the school district in which the child most recently attended school, shall furnish to Amigos Por Vida - Friends for Life Public Charter School all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the Commissioner of Education in the Student Attendance Accounting Handbook.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

Amigos Por Vida - Friends for Life Public Charter School must furnish information under items 1 and 2 not later than the tenth working day after the date Amigos Por Vida - Friends for Life Public Charter School receives a request for the information.

If a parent or other person with legal control of a child under a court order requests that Amigos Por Vida - Friends for Life Public Charter School transfer a child's student records, Amigos Por Vida - Friends for Life Public Charter School shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

Sec. 2. ACCESS, DISCLOSURE, AND AMENDMENT

a) *Definitions*

i. "Attendance"

"Attendance" includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

ii. "Disclosure"

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

iii. "Parent"

"Parent" includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

iv. "Personally Identifiable Information"

“Personally identifiable information” includes, but is not limited to:

1. The student’s name;
2. The name of the student’s parent or other family members;
3. The address of the student or student’s family;
4. A personal identifier, such as the student’s biometric record, defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting); social security number; or student number;
5. Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who Amigos Por Vida - Friends for Life Public Charter School reasonably believes knows the identity of the student to whom the education record relates.

v. “Record”

“Record” means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audiotape, film, microfilm, and microfiche.

vi. “Authorized Representative”

“Authorized representative” means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 C.F.R. 99.31(a)(3) to conduct—with respect to federal- or state-supported education programs—any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

vii. “Education Program”

“Education program” means any program that is principally engaged in the provision of education, including but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by Amigos Por Vida - Friends for Life Public Charter School.

viii. “Signed and Dated Written Consent”

“Signed and dated written consent” may include a record and signature in electronic form that:

1. Identifies and authenticates a particular person as the source of the electronic consent; and
2. Indicates such person’s approval of the information contained in the electronic consent.

b) *Access by Parents*

Access to the education records of a student who is or has been in attendance at Amigos Por Vida - Friends for Life Public Charter School shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes.

Amigos Por Vida - Friends for Life Public Charter School shall presume that a parent has authority to inspect and review the student’s records unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. A court may order the custodian of records to delete all references in a child’s records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator.

c) *Access by Student*

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student.

Nothing in this section prevents Amigos Por Vida - Friends for Life Public Charter School from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 CFR 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency.

If material in the education record of a student includes information on another student, only the portion of the material relating to the student whose records were requested may be inspected and reviewed.

d) *Access by Other Persons*

Personally identifiable information in education records shall not be released without the written consent of the student’s parents, except to the following:

- i. *School Officials*

Amigos Por Vida - Friends for Life Public Charter School may disclose personally identifiable information without parent consent when disclosure is made to school officials with legitimate educational interest in the information. A school official is:

1. A person employed by Amigos Por Vida - Friends for Life Public Charter School as an administrator, instructor, or support staff member (including health or medical staff and law enforcement unit personnel).
2. A person serving on the Board.
3. A person or company with whom Amigos Por Vida - Friends for Life Public Charter School has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist).
4. A consultant, contractor, volunteer, or other party to whom Amigos Por Vida - Friends for Life Public Charter School has outsourced institutional services or functions, provided that the outside party:
 - a. Performs an institutional service or function for which Amigos Por Vida - Friends for Life Public Charter School would otherwise use employees;
 - b. Is under the direct control of Amigos Por Vida - Friends for Life Public Charter School with respect to the use and maintenance of education records; and
 - c. Is subject to the requirements of 34 CFR 99.33(a) governing the use and redisclosure of personally identifiable information from education records.
5. A parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an educational record in order to fulfill his or her professional responsibility.

Amigos Por Vida - Friends for Life Public 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.

ii. Officials of Other Schools

Officials of other schools or school systems in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, provided that Amigos Por Vida - Friends for Life Public Charter School either:

1. Includes in its policies a statement that notifies the parent or student that it forwards education records on request of the other school to such officials; or
2. Makes a reasonable attempt to notify the parent (unless the record transfer is initiated by the parent).

In either case, Amigos Por Vida - Friends for Life Public Charter School shall furnish a copy of the transferred records to the parent if requested and shall give the parent an opportunity for a hearing to challenge the content of the record.

iii. Authorized Governmental Representatives

Authorized representatives of the officials or agencies headed by the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs.

Amigos Por Vida - Friends for Life Public Charter School may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act (“FERPA”) and any regulation implementing FERPA. Amigos Por Vida - Friends for Life Public Charter School is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 CFR 214.3, or any corresponding regulation.

iv. Financial Aid Personnel

Personnel involved with a student’s application for, or receipt of, financial aid.

v. Juvenile Justice Officials

State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute if:

1. The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released, and
2. The officials and authorities to whom such information is disclosed certify in writing to Amigos Por Vida - Friends for Life Public Charter School that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent of the student.

vi. Organizations Conducting Surveys

Organizations conducting studies for, or on behalf of, Amigos Por Vida - Friends for Life Public Charter School for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies who have legitimate interests

in the information. Such information must be destroyed when no longer needed for the original purposes of the studies.

Amigos Por Vida - Friends for Life Public Charter School must enter into a written agreement with the organization that:

1. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
2. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
3. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
4. Requires the organization to destroy or return to Amigos Por Vida - Friends for Life Public Charter School all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be returned or destroyed.

If Amigos Por Vida - Friends for Life Public Charter School enters into an agreement with an organization conducting a study, it may redisclose personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to Amigos Por Vida - Friends for Life Public Charter School in accordance with the requirements of 34 C.F.R. 99.33(b).

Amigos Por Vida - Friends for Life Public Charter School is not required to initiate a study or agree with or endorse the conclusions or results of the study.

vii. Accrediting Organizations

Accrediting organizations that require the information for purposes of accreditation.

viii. Health & Safety Emergency

Appropriate persons, including the student's parents, who, in an emergency, must have such information in order to protect the health or safety of the student or other person.

In making a determination, Amigos Por Vida - Friends for Life Public Charter School may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If Amigos Por Vida - Friends for Life Public Charter School determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

ix. Secretary of Agriculture

The Secretary of Agriculture, or authorized representative from the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of schools receiving funding or providing benefits of programs authorized under the National School Lunch Act or the Child Nutrition Act.

x. State or Local Child Welfare Agency

An agency caseworker or other representative of a state or local child welfare agency who has the right to access a student's case plan when the agency is legally responsible, in accordance with state law, for the care and protection of the student.

xi. Directory Information

Any person requesting directory information after Amigos Por Vida - Friends for Life Public Charter School has given public notice of that definition

e) *Written Consent*

The parent shall provide a signed and dated written consent before Amigos Por Vida - Friends for Life Public Charter School discloses personally identifiable information from a student's education records to any individual, agency, or organization other than the parent, the student, or those listed above. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released.

f) *Instructional Resources and Parental Rights*

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material that will be used in connection with any survey, analysis, or evaluation as part of any program funded in whole or in part by the U. S. Department of Education ("DOE") shall be available for inspection by the parents of students.

g) *Information Collection*

i. DOE Funded Surveys

No student shall be required, as part of any program funded in whole or in part by the DOE, to submit to a survey, analysis, or evaluation that reveals information concerning the following topics without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent:

1. Political affiliations or beliefs of the student or the student's parents.
2. Mental and psychological problems of the student or the student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom students have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student's parent.
8. Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

ii. Information Collection Funded by Other Sources

Except as provided by 20 U.S.C. 1232h(a) or (b), as a condition of receiving funds from programs funded in whole or in part by the DOE, Amigos Por Vida - Friends for Life Public Charter School shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), and provide for parent notification in accordance with 20 U.S.C. 1232(c)(2).

iii. Subpoenaed Records

Amigos Por Vida - Friends for Life Public Charter School shall release student records to an entity or persons designated in a subpoena. Amigos Por Vida - Friends for Life Public Charter School shall not disclose to any person the existence or contents of the subpoena if a court orders Amigos Por Vida - Friends for Life Public Charter School to refrain from such disclosure. Unless the court or other issuing agency orders Amigos Por Vida - Friends for Life Public Charter School to refrain from such disclosure or the order is an *ex parte* court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331, Amigos Por Vida - Friends for Life Public Charter School shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance.

iv. Sex Offenders

Amigos Por Vida - Friends for Life Public Charter School may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to Amigos Por Vida - Friends for Life Public Charter School under 42 U.S.C. 14071 and applicable federal guidelines.

h) Parental Rights and Student Privacy

As a condition of receiving funds under any applicable program, Amigos Por Vida - Friends for Life Public Charter School adopts the following policies, pursuant to 20 U.S.C. 1232h(c)(1):

1. Parents have a right to inspect any survey created by a third party before the survey is administered or distributed by Amigos Por Vida - Friends for Life Public Charter School to the student. Parents should submit such a request to the Principal, and shall be provided an opportunity to inspect the survey within a reasonable period of time as determined by the Principal. Upon a parent's request to inspect a survey, the parent's child shall not participate in the survey until the parent has had a reasonable opportunity to inspect the survey, as determined by the Principal.
2. In the event a survey contains the items listed above, and is administered or distributed to students, Amigos Por Vida - Friends for Life Public Charter School shall comply with FERPA and other applicable law to protect student privacy.
3. Parents have a right to inspect any instructional material used in the educational curriculum for the student. Parents should submit such a request to the Principal. The Principal shall provide reasonable access to parents within a reasonable period of time, as determined by the Principal.
4. Amigos Por Vida - Friends for Life Public Charter School may administer physical examinations or other screenings to students as required and/or authorized by state or federal law and in accordance with other applicable policy.
5. Amigos Por Vida - Friends for Life Public Charter School shall not collect, disclose, or use a student's personal information for the purpose of marketing or selling that information to third parties. This policy does not apply to or restrict the use of personal information collected from students for the purpose of developing, evaluating, or providing educational products or services offered by Amigos Por Vida - Friends for Life Public Charter School, for or to students or educational institutions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products or services to raise funds for school-related or education-related activities, or student recognition programs, or as otherwise required by law. This policy is also subject to state and federal public information laws and FERPA, that makes some student personal information, defined in this policy as "Directory Information," public.
6. Parents have a right to inspect any instrument used in collection of personal information, described above, before the instrument is administered to the student. Parents should submit such a request to the Principal. The Principal shall provide reasonable access to parents within a reasonable period of time, as determined by the Principal. Upon a parent's request to inspect such an instrument, the parent's child shall not participate until the parent has had a reasonable opportunity to inspect the instrument, as determined by the Principal.

The Superintendent shall ensure that parents are provided reasonable notice of the adoption or continued use of these policies. Such notice shall be provided directly to the parents of the students

in attendance at Amigos Por Vida - Friends for Life Public Charter School. At a minimum, Amigos Por Vida - Friends for Life Public Charter School shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and
2. Offer an opportunity for the parent to opt the student out of participation in an activity described above.

i) *Request Procedure*

Amigos Por Vida - Friends for Life Public Charter School must permit parents to inspect and review education records related to their children that are collected, maintained, or used by the Amigos Por Vida - Friends for Life Public Charter School under the IDEA. Amigos Por Vida - Friends for Life Public Charter School must comply with the request without unnecessary delay and before any meeting regarding an IEP, any due process hearing, or resolution session, and in no case more than 45 days after the request has been made.

j) *Destruction of Records*

Amigos Por Vida - Friends for Life Public Charter School shall not destroy any education records if there is an outstanding request to inspect and review the records.

k) *De-Identified Records*

Amigos Por Vida - Friends for Life Public Charter School, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that Amigos Por Vida - Friends for Life Public Charter School or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

l) *Education Research*

Amigos Por Vida - Friends for Life Public Charter School, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. Amigos Por Vida - Friends for Life Public Charter School or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;

2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

m) *Authenticating Requestors' Identities*

Amigos Por Vida - Friends for Life Public Charter School must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom Amigos Por Vida - Friends for Life Public Charter School discloses personally identifiable information from education records.

n) *Transfer Not Permitted*

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent. If a third party permits access to information in violation of this policy, Amigos Por Vida - Friends for Life Public Charter School shall not permit access to information from education records to that third party for a period of not less than five years.

Amigos Por Vida - Friends for Life Public Charter School shall inform a party to whom a disclosure is made of the requirements of 34 CFR 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a student who is not an eligible student or to a student.

Amigos Por Vida - Friends for Life Public Charter School may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of Amigos Por Vida - Friends for Life Public Charter School if:

1. The disclosures meet the requirements of 34 CFR 99.31; and
2. Amigos Por Vida - Friends for Life Public Charter School has complied with the requirements of 34 CFR 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting information through a subpoena or ex parte order has complied with the requirements of 34 CFR 99.32(b)(2).

o) *Record of Access to Student Records*

Each campus shall maintain a record, kept with the education record of each student, that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's

education records, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 CFR 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. Amigos Por Vida - Friends for Life Public Charter School must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 CFR 99.32(b)(2) and make it available in response to a parent's request to review the record.

Amigos Por Vida - Friends for Life Public Charter School must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception (see Section 2-d-viii above):

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom Amigos Por Vida - Friends for Life Public Charter School disclosed the information.

The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as Amigos Por Vida - Friends for Life Public Charter School maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system.

The record shall not include requests for access by, or access granted to, parents of the student or officials of Amigos Por Vida - Friends for Life Public Charter School, requests accompanied by prior written consent of the parent, requests for directory information, or a party seeking or receiving records in accordance with a subpoena or ex parte order.

p) *Right to Amend Records*

The parent of a student whose records are covered by this policy may ask Amigos Por Vida - Friends for Life Public Charter School to amend the student's record if the parent believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. If Amigos Por Vida - Friends for Life Public Charter School decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student's education records.

If Amigos Por Vida - Friends for Life Public Charter School decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, Amigos Por Vida - Friends for Life Public Charter School decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with the decision of Amigos Por Vida - Friends for Life Public Charter School. Any explanation shall be maintained with the contested part of the record

for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed.

q) *Fees for Copies*

No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for the parents or students under this policy provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis.

r) *Records of Students with Disabilities*

Amigos Por Vida - Friends for Life Public Charter School shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities.

i. Access Rights

In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect school records relating to the education of their child:

1. Parents may request that a representative inspect and review the records.
2. Amigos Por Vida - Friends for Life Public Charter School shall comply with a request without unnecessary delay and before any meeting regarding an IEP or hearing relating to the identification, evaluation, or placement of the child, and in no case longer than 45 days after the request.
3. Amigos Por Vida - Friends for Life Public Charter School shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records.

ii. List of Types and Locations of Information

Amigos Por Vida - Friends for Life Public Charter School shall provide parents on request a list of types and locations of education records.

iii. Parental Consent

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the IDEA or disclosed to anyone other than officials of agencies collecting or using this information. Amigos Por Vida - Friends for Life Public

Charter School may not release information from these records without parental consent except as provided in FERPA.

iv. Confidentiality

Amigos Por Vida - Friends for Life Public Charter School shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in Amigos Por Vida - Friends for Life Public Charter School shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. Amigos Por Vida - Friends for Life Public Charter School shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information.

v. Destruction of Information

Amigos Por Vida - Friends for Life Public Charter School shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.

A permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

s) *Annual Notification of Rights*

Amigos Por Vida - Friends for Life Public Charter School shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA.

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

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 CFR 99.31 authorize disclosure without consent; and
4. File with the DOE a complaint under 34 CFR 99.63 and 99.64 concerning alleged failures by Amigos Por Vida - Friends for Life Public Charter School to comply with the requirements of the Act and 34 CFR part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 CFR 99.20.
3. If Amigos Por Vida - Friends for Life Public Charter School has a policy of disclosing education records under 34 CFR 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

Amigos Por Vida - Friends for Life Public Charter School may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights. Amigos Por Vida - Friends for Life Public Charter School shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

t) *Custodian of Records*

The Superintendent or designee is designated as the custodian of all student records. The Principal of each campus is designated as an agent of the Superintendent or designee for the purposes of the receipt of requests concerning the disclosure of student records.

Sec. 3. DIRECTORY INFORMATION

Certain information about students is considered “directory information” and will be released to anyone who follows procedures for requesting it unless the parent or eligible student objects in writing to its release, within a reasonable time period set by the Superintendent, of receiving notice of FERPA rights. A parent or eligible student may also choose to opt out of the release of directory information at any time during the school year. At any time after restricting the release of directory information, a parent or eligible student may in writing authorize Amigos Por Vida - Friends for Life Public Charter School to release directory information.

a) *Definition*

Amigos Por Vida - Friends for Life Public Charter School has designated the following categories of information as directory information for the purpose of disclosure relating solely to school-sponsored/school-affiliated purposes:

1. Student’s name;
2. Address;
3. Telephone listing;
4. Electronic mail address;
5. Photographs (including video images);
6. Date and place of birth;
7. Major field of study;
8. Dates of attendance;

9. Grade level;
10. Participation in officially recognized activities and sports;
11. Weight and height of members of athletic teams;
12. Degrees, honors, and awards received; and
13. The most recent educational agency or institution attended.

“Directory information” does not include a student’s:

1. Social security number; or
2. Student identification number, unless the student identification number, user identification number, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user’s identity, such as a personal identification number, password, or other factor known or possessed only by the authorized user.

School-sponsored/school-affiliated purposes are those events/activities that Amigos Por Vida - Friends for Life Public Charter School conducts and/or sponsors to support Amigos Por Vida - Friends for Life Public Charter School’s educational mission. Examples include, but are not limited to:

1. Extracurricular programs or events (e.g., school plays, concerts, athletic events, graduation ceremonies).
2. Publications (e.g., newsletters, yearbook, etc.).
3. Honor roll and other student recognition lists.
4. Marketing materials of the School (e.g., print media, website, videos, newspaper, etc.).

Amigos Por Vida - Friends for Life Public Charter School has designated the following categories of information for the purpose of disclosure to military recruiters and institutions of higher education, but only for secondary students:

1. Student’s name;
2. Address;
3. Telephone listing; and
4. E-mail address.

b) *Disclosure of Directory Information*

Amigos Por Vida - Friends for Life Public Charter School shall not release directory information except for the purposes indicated above, namely:

1. Disclosure relating to school-sponsored/school-affiliated purposes; and

2. Disclosure to military recruiters and institutions of higher education, but only for secondary students.

c) *In Class*

A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent Amigos Por Vida - Friends for Life Public Charter School 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.

d) *Former Students*

Amigos Por Vida - Friends for Life Public Charter School may disclose directory information about former students without satisfying the public notice conditions above. However, Amigos Por Vida - Friends for Life Public 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.

e) *Confirmation of Identity or Records*

Amigos Por Vida - Friends for Life Public Charter School may not disclose or confirm directory information without meeting the written consent requirements in 34 CFR 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

f) *Designation of Directory Information*

Amigos Por Vida - Friends for Life Public Charter School may designate as directory information any or all information defined as directory information by FERPA. Directory information under that Act that is not designated by Amigos Por Vida - Friends for Life Public Charter School as directory information is excepted from disclosure by Amigos Por Vida - Friends for Life Public Charter School under Government Code Chapter 552.

Directory information consented to by a parent for use only for a limited school-sponsored purpose, such as for a student directory, student yearbook, or school publication, if any such purpose has been designated by Amigos Por Vida - Friends for Life Public Charter School, remains otherwise confidential and may not be released under Government Code Chapter 552.

g) *Student Recruiting Information*

Notwithstanding the provisions of Section 3 (Directory Information) above, upon receipt of assistance under the Elementary and Secondary Education Act of 1965 (ESEA), Amigos Por Vida - Friends for Life Public Charter School shall provide, on a request made by military recruiters or

an institution of higher education, access to secondary school students' names, addresses, and telephone listings.

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described above not be released without prior written parental consent. Amigos Por Vida - Friends for Life Public Charter School shall notify parents of the option to make a request and shall comply with any request.

Sec. 4. INFORMATION FROM LAW ENFORCEMENT

a) *Oral Notice of Arrest or Referral*

Upon receipt of oral notice from a law enforcement agency that it has arrested a student or referred a student to the juvenile board for a specified offense, the Superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

b) *Written Notice of Arrest or Referral*

Upon subsequent receipt of confidential, written notice of the arrest or referral, the Superintendent or designee may send the information in the confidential notice to a School employee having direct supervisory responsibility over the student if the Superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

c) *Oral Notice of Conviction or Adjudication*

Upon receipt of oral notice from a prosecuting attorney of a student's conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

d) *Notice of Transfer or Reenrollment*

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

Information received by Amigos Por Vida - Friends for Life Public Charter School under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. Amigos Por Vida - Friends for Life Public Charter School shall destroy the information at the end of the academic year in which the report was filed.

e) *Duty to Flag Records*

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or who is enrolled in Amigos Por Vida - Friends for Life Public Charter School is missing, Amigos Por Vida - Friends for Life Public Charter School shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, Amigos Por Vida - Friends for Life Public Charter School will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made.

i. Request in Person

When a request for a flagged record is made in person, Amigos Por Vida - Friends for Life Public Charter School may not advise the requesting party that the request concerns a missing child and shall:

1. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made, and the name, address, and birth date of the child;
2. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
3. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
4. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

After providing the information listed above, Amigos Por Vida - Friends for Life Public Charter School shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

ii. Request in Writing

When a request for a flagged record is made in writing, Amigos Por Vida - Friends for Life Public Charter School may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written

request. After providing the notification, Amigos Por Vida - Friends for Life Public Charter School shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

iii. Removal of Flag

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, Amigos Por Vida - Friends for Life Public Charter School shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearing-house. If a response is not received after the 45th day after the date of the request for confirmation, Amigos Por Vida - Friends for Life Public Charter School may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearing-house that the flag has been removed.

Sec. 5. ACCESS TO RECORDS UNDER THE IDEA

The IDEA grants parents the right to inspect and review all educational records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. 34 CFR § 300.501(a). Amigos Por Vida - Friends for Life Public Charter School must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the district under the IDEA. Amigos Por Vida - Friends for Life Public Charter School must comply with the request without unnecessary delay and before any meeting regarding an IEP, any due process hearing, or resolution session, and in no case more than 45 days after the request has been made. 34 CFR § 300.613(a).

Sec. 1. DEFINITIONS

a) “Records”

The term “records” means all documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other recording media, regardless of physical form or characteristic, and regardless of whether public access to it is open or restricted under the laws of the state, created or received by Amigos Por Vida - Friends for Life Public Charter School, or any of its officers or employees pursuant to law or in the transaction of public business, are hereby declared to be the records of Amigos Por Vida - Friends for Life Public Charter School and shall be created, maintained, and disposed of in accordance with the provisions of this ordinance or procedures authorized by it and in no other manner.

The term “records” does not include:

1. Convenience copies: “Extra identical copies of documents created only for convenience of reference or research;”
2. Copies of documents furnished to the public (to fulfill a Public Information Act request).
3. Blank forms/stocks of publications; or
4. Library or museum materials.

b) “Essential Record”

The term “essential record” means any record of Amigos Por Vida - Friends for Life Public Charter School necessary to the resumption or continuation of operations of Amigos Por Vida - Friends for Life Public Charter School in an emergency or disaster, to the recreation of the legal and financial status of Amigos Por Vida - Friends for Life Public Charter School, or to the protection and fulfillment of obligations to the people of the state.

c) “Records Management”

The term “records management” means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of record keeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographic and electronic and other records storage systems.

d) “Records Liaison Officers”

The term “records liaison officers” means the persons designated under Section 9 of this policy.

e) ***“Records Management Committee”***

The term “records management committee” means the committee established under Section 5 of this policy.

f) ***“Records Management Officer”***

The term “records management officer” means the person designated in Section 4 of this policy.

g) ***“Records Management Plan”***

The term “records management plan” means the plan developed under Section 6 of this policy.

Sec. 2. RECORDS DECLARED PUBLIC PROPERTY

All records as defined in Section 1 of this policy are hereby declared to be the property of Amigos Por Vida - Friends for Life Public Charter School. No official or employee of Amigos Por Vida - Friends for Life Public Charter School has, by virtue of his or her position, any personal or property right to such records, even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

Sec. 3. POLICY

It is hereby declared to be the policy of Amigos Por Vida - Friends for Life Public Charter School to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all records of this office through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Local Government Records Act and accepted records management practice.

Sec. 4. RECORDS MANAGEMENT OFFICER

<<Title>> will serve as Records Management Officer for Amigos Por Vida - Friends for Life Public Charter School as provided by law, and will ensure that the maintenance, destruction, electronic storage, or other disposition of the records of this office are carried out in accordance with the requirements of the Local Government Records Act.

Sec. 5. ESTABLISHMENT OF RECORDS MANAGEMENT COMMITTEE; DUTIES

The Records Management Officer, in consultation with the Human Resource Director, shall appoint a Records Management Committee consisting of:

1. A Human Resource Department Supervisor; and

2. A financial officer for Amigos Por Vida - Friends for Life Public Charter School; and
3. An executive or administrative officer for Amigos Por Vida - Friends for Life Public Charter School

The committee shall:

1. Assist the Records Management Officer in the development of policies and procedures governing the records management program;
2. Review the performance of the program on a regular basis and propose changes and improvements if needed;
3. Review and approve records control schedules submitted by the Records Management Officer;
4. Give final approval to the destruction of records in accordance with approved records control schedules; and
5. Actively support and promote the records management program throughout Amigos Por Vida - Friends for Life Public Charter School.

Sec. 6. RECORDS MANAGEMENT PLAN TO BE DEVELOPED; APPROVAL OF PLAN; AUTHORITY OF PLAN

The Records Management Officer and the Records Management Committee shall develop a records management plan for Amigos Por Vida - Friends for Life Public Charter School to be submitted to the Board. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of record keeping, to adequately protect the essential records of Amigos Por Vida - Friends for Life Public Charter School, and to properly preserve those records of Amigos Por Vida - Friends for Life Public Charter School that are of historical value. The plan must be designed to enable the Records Management Officer to carry out his or her duties prescribed by state law and this policy effectively.

Once approved by the Board, the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of Amigos Por Vida - Friends for Life Public Charter School, and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

Sec. 7. DUTIES OF RECORDS MANAGEMENT OFFICER

In addition to other duties assigned in this policy, the Records Management Officer shall:

1. Administer the records management program and provide assistance to department heads in its implementation;
2. Plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;

3. In cooperation with Principals and department heads, identify essential records and establish a disaster plan for each Amigos Por Vida - Friends for Life Public Charter School campus and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;
4. Develop procedures to ensure the permanent preservation of the historically valuable records of Amigos Por Vida - Friends for Life Public Charter School;
5. Establish standards for filing and storage equipment and for record keeping supplies;
6. Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for Amigos Por Vida - Friends for Life Public Charter School;
7. Provide records management advice and assistance to all Amigos Por Vida - Friends for Life Public Charter School departments by preparing a manual or manuals of procedure and policy and by on-site consultation;
8. Monitor records retention schedules and administrative rules issued by the Texas State Library and Archives Commission to determine if the records management program and Amigos Por Vida - Friends for Life Public Charter School's records control schedules are in compliance with state regulations;
9. Disseminate to the Board, department heads, and Principals information concerning state laws and administrative rules relating to local government records;
10. Instruct Records Liaison Officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;
11. Direct Records Liaison Officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this policy;
12. Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of Amigos Por Vida - Friends for Life Public Charter School records is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;
13. Maintain records on the volume of records destroyed under approved records -- control schedules, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;
14. Report annually to the Superintendent on the implementation of the records management plan in each department of Amigos Por Vida - Friends for Life Public Charter School; and
15. Bring to the attention of the Superintendent non-compliance by department heads, Principals, or other Amigos Por Vida - Friends for Life Public Charter School personnel with the policies and procedures of the records management program or the Local Government Records Act.

Sec. 8. DUTIES AND RESPONSIBILITIES OF DEPARTMENT HEADS AND PRINCIPALS

In addition to other duties assigned in this policy, department heads and Principals shall:

1. Cooperate with the Records Management Officer in carrying out the policies and procedures established by Amigos Por Vida - Friends for Life Public Charter School for

the efficient and economical management of records and in carrying out the requirements of this policy;

2. Adequately document the transaction of government business and the services, programs, and duties for which the department head, principal, and his or her staff are responsible; and
3. Maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of Amigos Por Vida - Friends for Life Public Charter School and the requirements of this policy.

Sec. 9. DESIGNATION OF RECORDS LIAISON OFFICERS

Each department head and Principal shall designate a member of his or her staff to serve as a Records Liaison Officer for the implementation of the records management program in the department.

If the Records Management Officer determines that in the best interests of the records management program more than one Records Liaison Officer should be designated for a department, the department head or Principal shall designate the number of Records Liaison Officers specified by the Records Management Officer.

Persons designated as Records Liaison Officers shall be thoroughly familiar with all records created and maintained by the department.

In the event of the resignation, retirement, dismissal, or removal by action of the department head or Principal of a person designated as a Records Liaison Officer, the department head or Principal shall promptly designate another person to fill the vacancy.

A department head or Principal may serve as Records Liaison Officer for his or her department.

Sec. 10. DUTIES AND RESPONSIBILITIES OF RECORDS LIAISON OFFICERS

In addition to other duties assigned in this policy, Records Liaison Officers shall:

1. Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;
2. In cooperation with the Records Management Officer, coordinate and implement the policies and procedures of the records management program in their department; and
3. Disseminate information to department staff concerning the records management program.

Sec. 11. RECORDS CONTROL SCHEDULES TO BE DEVELOPED; APPROVAL; FILING WITH STATE

1. The Records Management Officer, in cooperation with department heads, Principals, and Records Liaison Officers, shall prepare records control schedules on a department by department basis, listing all records created or received by the department and the retention period for each record. Records control schedules shall also contain such other information regarding the disposition of Amigos Por Vida - Friends for Life Public Charter School records as the records management plan may require.
2. Each records control schedule shall be monitored and amended as needed by the Records Management Officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the state, and that it continues to reflect the record keeping procedures and needs of the department and the records management program of Amigos Por Vida - Friends for Life Public Charter School.
3. Before its adoption, a records control schedule or amended schedule for a department must be approved by the department head or Principal and the members of the Records Management Committee.
4. Before its adoption, a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The Records Management Officer shall submit the records control schedules to the director and librarian.

Sec. 12. IMPLEMENTATION OF RECORDS CONTROL SCHEDULES; DESTRUCTION OF RECORDS UNDER SCHEDULE

1. A records control schedule for a department that has been approved and adopted under Section 11 shall be implemented by department heads, principals and Records Liaison Officers according to the policies and procedures of the records management plan.
2. A record whose retention period has expired on a record control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the records is pertinent to a pending lawsuit, or the department head or principal requests in writing to the Records Management Committee that the record be retained for an additional period.
3. Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Records Management Officer from the Records Management Committee.

Sec. 13. DESTRUCTION OF UNSCHEDULED RECORDS

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the Records Management Officer has submitted to and received back from the director and librarian an approved destruction authorization request.

Sec. 14. CONTRACT SERVICES

With approval of the Board, the Records Management Officer and Committee may assign and delegate duties under this Policy to contracted services. The engagement of contract services will not relieve persons assigned and responsible under this policy from such assignment and responsibilities.

Sec. 15. RECORD OF ACCESS

Amigos Por Vida - Friends for Life Public Charter School shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student, (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. The record of access shall be maintained with the education records of the student as long as the records are maintained.

Sec. 1. BEHAVIOR MANAGEMENT TECHNIQUES

It is Amigos Por Vida - Friends for Life Public Charter School's policy to treat all students with dignity and respect, including students with disabilities who receive special education services. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

Education Code 37.0021(a); 19 TAC 89.1053(a), (j).

Exceptions. Education Code 37.0021 (regarding use of confinement, seclusion, restraint, and time-out) does not apply to:

1. A peace officer, while performing law enforcement duties, except as provided by Education Code 37.0021(i); and
2. An educational services provider with whom a student is placed by a judicial authority unless the services are provided in a Amigos Por Vida - Friends for Life Public Charter School educational program.

Education Code 37.0021(g).

Sec. 2. CONFINEMENT

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. *Education Code 37.0021(a).*

Education Code 37.0021 does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

1. The student possesses a weapon; and
2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, "weapon" includes any weapon described under Education Code 37.007(a)(1).

Education Code 37.0021(f), 37.007(a)(1); Penal Code 46.01(1), (3), (6), 46.05.

Sec. 3. SECLUSION

A Amigos Por Vida - Friends for Life Public Charter School employee or volunteer or an independent contractor of Amigos Por Vida - Friends for Life Public Charter School may not place a student in seclusion. “Seclusion” means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and
2. Contains less than 50 square feet of space.

Education Code 37.0021(b)(2), (c).

Sec. 4. RESTRAINT

A Amigos Por Vida - Friends for Life Public Charter School employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.
2. Restraint shall be discontinued at the point at which the emergency no longer exists.
3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
4. Restraint shall not deprive the student of basic human necessities.

19 TAC 89.1053(c).

a) *Definitions*

“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.

Education Code 37.0021(b)(1); 19 TAC 89.1053(b)(2).

“Restraint” does not include the use of:

1. Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
2. Limited physical contact with a child to promote safety (*e.g.*, holding a student’s hand), to prevent a potentially harmful action (*e.g.*, running into the street), to teach a skill, or to provide comfort;
3. Limited physical contact or appropriately prescribed adaptive equipment to prevent a child from engaging in ongoing, repetitive self-injurious behaviors; or

4. Seat belts and other safety equipment used to secure children during transportation.

19 TAC 89.1053(f).

“Emergency” means a situation in which a student’s behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or
2. Imminent, serious property destruction.

19 TAC 89.1053(b)(1).

b) *Training*

Training for Amigos Por Vida - Friends for Life Public Charter School employees, volunteers, or independent contractors regarding the use of restraint shall be provided according to the requirements set forth at 19 TAC 89.1053(d).

c) *Data Reporting*

Cumulative data regarding the use of restraint must be electronically reported through the Public Education Information Management System in accordance with reporting standards specified by the Texas Education Agency.

Education Code 37.0021(i); 19 TAC 89.1053(f),(k).

d) *Documentation*

In a case in which restraint is used by Amigos Por Vida - Friends for Life Public Charter School employees, volunteers, or independent contractors, Amigos Por Vida - Friends for Life Public Charter School shall comply with the documentation requirements set forth at 19 TAC 89.1053(e).

Sec. 5. TIME-OUT

A Amigos Por Vida - Friends for Life Public Charter School employee, volunteer, or independent contractor may use time-out with the following limitations:

1. Physical force or threat of physical force shall not be used to place a student in time-out;
2. Time-out must only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student’s individualized education program (“IEP”) and/or behavior intervention plan (“BIP”) if it is utilized on a recurrent basis to increase or decrease targeted behavior; and

3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

19 TAC 89.1053(b)(3), (g).

“Time-out” means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

1. That is not locked; and
2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

Education Code 37.0021(b)(3); 19 TAC 89.1053(b)(3).

a) *Training*

Training for Amigos Por Vida - Friends for Life Public Charter School employees, volunteers, or independent contractors regarding the use of time-out shall be provided according to the requirements set forth at 19 TAC 89.1053(h).

b) *Documentation*

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

19 TAC 89.1053(i).

Sec. 6. PROHIBITED AVERSIVE TECHNIQUES

Amigos Por Vida - Friends for Life Public Charter School and employees, volunteers, and independent contractor of Amigos Por Vida - Friends for Life Public Charter School **may not apply an aversive technique, or by authorization, order, or consent, cause an aversive technique to be applied, to a child.**

Education Code 37.0023(b).

“Aversive technique” means a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. The term includes a technique or intervention that:

1. is designed to or likely to cause physical pain, other than an intervention or technique permitted under Section 37.0011;
2. notwithstanding Section Section 37.0011, is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;
3. involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;
4. denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility;
5. ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;
6. employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor restraint;
7. impairs the student's breathing, including any procedure that involves:
 - a. applying pressure to the student's torso or neck; or
 - b. obstructing the student's airway, including placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;
8. restricts the student's circulation;
9. secures the student to a stationary object while the student is in a sitting or standing position;
10. inhibits, reduces, or hinders the student's ability to communicate;
11. involves the use of a chemical restraint;
12. constitutes a use of time-out that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual goals included in the student's individualized education program, including isolating the student by the use of physical barriers; or
13. except as provided by Section 37.0023 (c), deprives the student of the use of one or more of the student's senses.

Education Code 37.0023(a).

Sec. 1. DEFINITIONS

For purposes of this policy, the following terms will have the meanings set forth below:

“Parent” means a person standing in parental relation to a child, including a guardian, and whose child receives special education and related services and assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day.

“Staff member” means a teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in a self-contained classroom or other special education setting.

“Board” means a majority of the Amigos Por Vida - Friends for Life Public Charter School Board of Directors.

“School business day” means a day that campus or Amigos Por Vida - Friends for Life Public Charter School administrative offices are open.

“Time-Out” has the meaning assigned by Education Code 37.0021.

“Self-contained classroom” means a classroom on a regular Amigos Por Vida - Friends for Life Public Charter School campus (*i.e.*, a campus that serves students in general education and students in special education) in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the Student Attendance Accounting Handbook adopted by the Texas Education Agency (“TEA”):

1. self-contained (mild/moderate/severe) regular campus;
2. full-time early childhood (preschool program for children with disabilities) special education setting;
3. residential care and treatment facility--self-contained (mild/moderate/severe) regular campus;
4. residential care and treatment facility--full-time early childhood special education setting;
5. off home campus--self-contained (mild/moderate/severe) regular campus; or
6. off home campus--full-time early childhood special education setting.

“Other special education setting” means a classroom on a separate Amigos Por Vida - Friends for Life Public Charter School campus (*i.e.*, a campus that serves only students who receive special education and related services) in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the Student Attendance Accounting Handbook adopted by the TEA:

1. residential care and treatment facility--separate campus; or

2. off home campus--separate campus.

“Incident” means an event or circumstance that involves alleged “abuse” or “neglect,” as those terms are described in Texas Family Code Section 261.001, of a student by a Amigos Por Vida - Friends for Life Public Charter School employee or alleged “physical abuse” or “sexual abuse,” as those terms are described in Texas Family Code Section 261.410, of a student by another student; and allegedly occurred in a self-contained classroom or other special education setting in which video surveillance is conducted under Texas Education Code Section 29.022.

Sec. 2. PROMOTION OF STUDENT SAFETY

Amigos Por Vida - Friends for Life Public Charter School will, upon receipt of a written request authorized by this policy, provide equipment, including a video camera, to the school or schools specified in the request

A school or campus that receives equipment due to a video surveillance request shall place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day.

Amigos Por Vida - Friends for Life Public Charter School may not:

1. allow regular or continual monitoring of video recorded under this policy; or
2. use video recorded under this policy for routine teacher evaluation or monitoring or for any purpose other than the promotion of student safety.

Sec. 3. PROCEDURES FOR REQUESTING VIDEO SURVEILLANCE

Video surveillance under this policy is for the purpose of promoting student safety in certain self-contained classrooms and other special education settings.

a) Parent Request

A parent may request in writing that equipment be provided to the school or campus at which the parent’s child receives special education services in one or more self-contained classrooms or other special education settings.

b) Board Request

The Board may request in writing that equipment be provided to one or more specified schools or campuses at which one or more children receive special education services in self-contained classrooms or other special education settings.

c) *Principal or Assistant Principal Request*

The Principal or Assistant Principal of a school or campus at which one or more children receive special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the Principal's or Assistant Principal's school or campus.

d) *Staff Member Request*

A staff member assigned to work with one or more children receiving special education services in a self-contained classroom or other special education settings may request in writing that equipment be provided to the school or campus at which the staff member works.

e) *Additional Procedures*

A school or campus that receives equipment as a result of the request of a parent or staff member is required to place equipment only in classrooms or settings in which the parent's child is in regular attendance or to which the staff member is assigned, as applicable.

A school or campus that receives equipment as a result of the request by the Board, Principal, or Assistant Principal is required to place equipment only in classrooms or settings identified by the requestor, if the requestor limits the request to specific classrooms or settings.

Amigos Por Vida - Friends for Life Public Charter School shall designate an administrator (the "Administrator") at the Amigos Por Vida - Friends for Life Public Charter School Central Office with responsibility for coordinating the provision of equipment to schools and campuses in compliance with this policy.

A written request must be submitted and acted on as follows:

1. A parent, staff member, or Assistant Principal must submit a request to the Principal or designee of the school or campus addressed in the request, and the Principal or designee must provide a copy of the request to the Administrator.
2. A Principal must submit a request by the Principal to the Administrator.
3. The Board must submit a request to the Administrator, and the Administrator must provide a copy of the request to the Principal or designee of the school or campus addressed in the request.

Amigos Por Vida - Friends for Life Public Charter School shall provide a response to a request not later than the seventh school business day after receipt of the request by the person to whom it must be submitted that either authorizes the request or states the reason for denying the request. Unless granted an extension by the TEA, the school or campus must begin operation of a video

camera in compliance with this policy not later than the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the request is authorized.

A parent of a student whose admission, review, and dismissal (“ARD”) committee has determined that the student’s placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed to make a request for the video camera by the later of the date on which the current school year ends, or the 10th school business day after the date of the placement determination by the ARD committee. Unless the TEA grants an extension of time, the school or campus must begin operation of a video camera not later than the later of the 10th school day of the fall semester or the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the date the request is made.

Sec. 4. COORDINATION OF EQUIPMENT

The administrator responsible for coordinating equipment delivery to campuses shall be the Superintendent.

Sec. 5. ADVANCE WRITTEN NOTICE TO CAMPUS STAFF AND PARENTS

Before Amigos Por Vida - Friends for Life Public Charter School activates a video camera in a classroom or other special education setting, Amigos Por Vida - Friends for Life Public Charter School shall provide written notice of the placement to all school or campus staff and to the parents of each student attending class or engaging in school activities in the classroom or setting. This notice shall be in the form of a “Notice of Installation of Video and Audio Recording Equipment” form adopted by the Superintendent or designee, and shall be distributed to all parties prior to the start of recording.

At Amigos Por Vida - Friends for Life Public Charter School’s discretion, campuses may post a notice at the entrance of any self-contained classroom or other special education setting in which video camera are placed stating that video and audio surveillance are conducted in the classroom or setting.

Sec. 6. TIMES OF OPERATION

Cameras shall be operational at all times during the instructional day when students are in the self-contained classroom or other special education setting.

A school or campus that places a video camera in a classroom or other special education setting shall operate and maintain the video camera in the classroom or setting, as long as the classroom or setting continues to satisfy the requirements under this policy, for the remainder of the school year in which the school or campus received the request, unless the requestor withdraws the request in writing.

If for any reason a school or campus will discontinue operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request.

Not later than the 10th school day before the end of each school year, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year submits a new request.

This policy applies to placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.

Sec. 7. RESTRICTIONS ON VIDEO RECORDING

Video cameras must be capable of covering all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out. Video cameras must also be capable of recording audio from all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out.

The inside of a bathroom or any area in the classroom or other special education setting in which a student's clothes are changed may not be visually monitored, except for incidental coverage of a minor portion of a bathroom or changing area because of the layout of classroom or setting.

Sec. 8. RETENTION OF RECORDINGS

Amigos Por Vida - Friends for Life Public Charter School shall retain video recordings from a video camera placed under this policy for at least three months after the date the video was recorded.

If a person described in Section 8-a (Requests to View a Video Recording) as eligible to receive a copy of a video requests to view a video recording from a video camera placed under this policy, Amigos Por Vida - Friends for Life Public Charter School must retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to whether the recording documents an alleged incident. If the recording documents an alleged incident, Amigos Por Vida - Friends for Life Public Charter School shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.

A video recording under this policy is a governmental record only for purposes of 37.10, Penal Code.

Sec. 9. CONFIDENTIALITY OF VIDEO RECORDINGS

A video recording of a student is confidential and may not be released or viewed except as provided by Texas Education Code Section 29.022; the Family Educational Rights and Privacy Act of 1974 (“FERPA”); or other applicable law.

a) *Requests to View a Video Recording*

Amigos Por Vida - Friends for Life Public Charter School will release a recording for viewing by:

1. A Amigos Por Vida - Friends for Life Public Charter School employee who is involved in an alleged incident that is documented by the recording and has been reported to Amigos Por Vida - Friends for Life Public Charter School, on request of the employee;
2. A parent of a student who is involved in an alleged incident that is documented by the recording and has been reported to Amigos Por Vida - Friends for Life Public Charter School, on request of the parent;
3. Appropriate Department of Family and Protective Services (“DFPS”) personnel as part of an investigation under Section 261.406, Family Code;
4. A peace officer, a school nurse, a district-level or campus-level administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the Board in response to a report of an alleged incident or an investigation of Amigos Por Vida - Friends for Life Public Charter School personnel or a report of alleged abuse committed by a student; or
5. Appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation.

A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording is not in violation of this policy.

If a person described by subsections (4) or (5) above who views the video recording believes that the recording documents a possible violation under Subchapter E, Chapter 261, Family Code, the person shall notify the DFPS for investigation in accordance with Family Code Section 261.406.

If any person described by subsections (3), (4), or (5) above who views the recording believes that the recording documents a possible violation of Amigos Por Vida - Friends for Life Public Charter School policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording believed to document a possible violation of Amigos Por Vida - Friends for Life Public Charter School policy relating to the neglect or abuse of a student may be used as part of a disciplinary actions against Amigos Por Vida - Friends for Life Public Charter School personnel and shall be released at the request of the student’s parent in a legal proceeding.

If Amigos Por Vida - Friends for Life Public Charter School determines that the recording is an “education record,” Amigos Por Vida - Friends for Life Public Charter School shall release the recording in accordance with FERPA. State law does not limit the access of a student’s parent to a record regarding the student under FERPA or other law.

In order to review recordings for potential release, and operation and maintenance of the equipment, the following individuals shall have access to the video equipment: list out titles/departments that may have access to video equipment.

Sec. 10. PROCEDURES FOR REPORTING A COMPLAINT AND/OR REQUESTING TO VIEW RECORDING

Video and audio recording equipment shall be used for safety purposes to access documented, specific incidents. To report a complaint of alleged abuse or neglect to Amigos Por Vida - Friends for Life Public Charter School and/or to request to view a recording allowed by Section 8 above, a written “Incident Report Form,” as adopted by the Superintendent or designee, shall be used by the requestor. This form will be completed to the extent of known information, and returned to the Superintendent or designee for validation.

Sec. 11. GRIEVANCE PROCEDURES

The special education dispute resolution procedures in 34 C.F.R. 300.151-300.153 and 300.504-300.515, do not apply to complaints alleging that Amigos Por Vida - Friends for Life Public Charter School has failed to comply with Education Code Section 29.022. Complaints alleging violations of Amigos Por Vida - Friends for Life Public Charter School’s video surveillance obligations for special education settings under Education Code Section 29.022 must be addressed through Amigos Por Vida - Friends for Life Public Charter School’s Student and Parent Grievance Process (see PG-3.30), as adopted by the Board.

Amigos Por Vida - Friends for Life Public Charter School, a parent, staff member, or an administrator may request an expedited review by the TEA of Amigos Por Vida - Friends for Life Public Charter School’s (1) denial of a request, (2) request for an extension of time to begin operation of a video camera, or (3) determination to not release a video recording to an individual. If Amigos Por Vida - Friends for Life Public Charter School, a parent, staff member or administrator requests an expedited review, the TEA shall notify all other interested parties of the request.

If an expedited review has been requested, the TEA shall issue a preliminary judgment as to whether Amigos Por Vida - Friends for Life Public Charter School is likely to prevail on the issue under a full review by the TEA. If the TEA determines Amigos Por Vida - Friends for Life Public Charter School is not likely to prevail, Amigos Por Vida - Friends for Life Public Charter School must fully comply with the policy notwithstanding an appeal of the TEA’s decision. The TEA

shall notify the requestor and Amigos Por Vida - Friends for Life Public Charter School, if Amigos Por Vida - Friends for Life Public Charter School is not the requestor, of the TEA's determination.

Sec. 12. FUNDING

Amigos Por Vida - Friends for Life Public Charter School may solicit and accept gifts, grants, and donations from any person to implement the requirements in Education Code Section 29.022. Amigos Por Vida - Friends for Life Public Charter School is not permitted to use Individuals with Disabilities Education Act, Part B, funds or state special education funds to implement the requirements of Education Code Section 29.022.

Sec. 13. NO WAIVER OF IMMUNITY

The requirements described by this policy do not:

1. Waive any immunity from liability of Amigos Por Vida - Friends for Life Public Charter School, or of Amigos Por Vida - Friends for Life Public Charter School officers or employees; or
2. Create any liability for a cause of action against Amigos Por Vida - Friends for Life Public Charter School or against Amigos Por Vida - Friends for Life Public Charter School officers or employees.