

**REGION 10 EDUCATION SERVICE CENTER  
Texas Support for Homeless Education Program (TEXSHEP), 2006-2009**

County-District No.:	Check Applicable Year: 2006-2007 (Year 1) _____ 2007-2008 (Year 2) _____ 2008-2009 (Year 3) _____	Amendment No.:
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**SCHEDULE #14: Provisions and Assurances**

Statement of provisions and assurances for the program(s) in this application:

- A. Terms defined:** As used in these Provisions and Assurances,  
 "Contract" means the entire document, whatever its name or form, of which these Provisions and Assurances and other attachments and schedules, if any, are a part;  
 "Region 10" means the Region 10 Education Service Center;  
 "Contractor" means the party or parties to this contract other than Region 10;  
 "Project Administrator" means the person representing Region 10 or Contractor, as indicated by the contract, for the purposes of administering the contract project;  
 "Contract Project" means the purpose intended to be achieved through the contract of which these Provisions and Assurances are a part;  
 "Applicant" means the same as "Contractor;"  
 "SAS" means the Standard Application System of which the application document is a part;  
 "Application" means the entire package submitted by the Applicant including the schedules contained in the application and so indicated on the General Information page of the application package;  
 "Amendment" means an application that is revised in budget categories and/or in program activities. It includes both the original application and any subsequent amendments;  
 "Subgrant" means the same as "Contract;"  
 "Subgrantee" means the same as "Contractor;" and  
 "Grantor" means the same as "Region 10."
  
- B. Contingency:** This contract is executed by Region 10 subject to the availability of funds appropriated by legislative act for the purposes stated. All amendments and/or extensions or subsequent contracts entered into for the same or continued purposes are executed contingent upon the availability of appropriated funds. Notwithstanding any other provision in this contract or any other document, this contract is void upon appropriated funds becoming unavailable. In addition, this contract may be terminated by Region 10 at any time upon notice to Contractor. Expenditures and/or activities for which Contractor may claim reimbursement shall not be accrued or claimed subsequent to receipt of such notice from Region 10. This contract may be extended or otherwise amended only by formal written amendment properly executed by both Region 10 and Contractor. No other agreement, written or oral, purporting to alter or amend this contract shall be valid.
  
- C. Contractor's Application:** Furnished to Region 10 in response to a request for application, is incorporated in this contract by reference for all necessary purposes. It is specifically provided, however, that the provisions of this contract shall prevail in all cases of conflict arising from the terms of Contractor's application whether such application is a written part of this contract or is attached as a separate document.
  
- D. Requirements, Terms, Conditions, and Assurances:** Which are stated in the Request for Application, in response to which Applicant is submitting this application, are incorporated herein by reference for all purposes. The instructions to the Standard Application System are incorporated herein by reference.
  
- E. Signature Authority:** Applicant certifies that the person signing this application has been properly delegated this authority.
  
- F. State of Texas Laws:** In the conduct of the contract project, Contractor shall be subject to Texas State Board of Education and Commissioner rules pertaining to this contract and the contract project and to the laws of the State of Texas governing this contract and the contract project. This contract constitutes the entire agreement between Region 10 and Contractor for the accomplishment of the contract project. This contract shall be interpreted according to the laws of the State of Texas except as may be otherwise provided for in this contract.
  
- G. Monitoring:** Desk reviews or on-site monitoring reviews may be conducted by Region 10 to determine compliance with the approved application and the applicable statute(s), law(s), regulations, and guidelines.
  
- H. Sanctions for Failure to Perform or for Noncompliance:** If Contractor, in Region 10's sole determination, fails or refuses for any reason to comply with or perform any of its obligations under this contract, Region 10 may impose such sanctions as it may deem appropriate. This includes, but is not limited to, the withholding of payments to Contractor until Contractor complies; the cancellation, termination, or suspension of this contract in whole or in part; and the seeking of other remedies as may be provided by this contract or by law. Any cancellation, termination, or suspension of this contract, if imposed, shall become effective at the close of business on the day of Contractor's receipt of written notice thereof from Region 10.
  
- I. Contract Cancellation, etc.:** If this contract is canceled, terminated, or suspended by Region 10 prior to its expiration date, the monetary value of services properly performed by Contractor pursuant to this contract shall be determined by Region 10 and paid to Contractor as soon as reasonably possible.

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- J. Indemnification:**  
**For local educational agencies (LEAs), regional education service centers (ESCs), and institutions of higher education (IHEs):** Contractor, to the extent permitted by law, shall hold Region 10 harmless from and shall indemnify Region 10 against any and all claims, demands, and causes of action of whatever kind or nature asserted by any third party and occurring or in any way incident to, arising from, or in connection with, any acts of Contractor, its agents, employees, and subcontractors, done in the conduct of the contract project.
- For all other grantees, subgrantees, contractors, and subcontractors, including nonprofit organizations and for-profit businesses:** Contractor shall hold Region 10 harmless from and shall indemnify Region 10 against any and all claims, demands, and causes of action of whatever kind or nature asserted by any third party and occurring or in any way incident to, arising from, or in connection with, any acts of Contractor, its agents, employees, and subcontractors, done in the conduct of the contract project.
- K. Encumbrances/Obligations:** All encumbrances shall occur on or between the beginning and ending dates of the contract. All goods must be received and services rendered and subsequently liquidated (recorded as an expenditure or accounts payable) within the contract dates. In no manner shall encumbrances be considered or reflected as accounts payable or as expenditures. Obligations that are liquidated and recognized as expenditures must meet the allowable cost principles in OMB Circular A-87, A-21, or A-122 (as applicable) and program rules, regulations, and guidelines contained elsewhere.
- L. Financial Management and Accounting:** Subgrantee assures it will maintain a financial management system that provides for accurate, current, and complete disclosure of the financial results of each grant project. The financial management system records will identify adequately the source and application of funds and will contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays (i.e., expenditures), income, and interest. Fiscal control and accounting procedures will permit the tracing of funds to a level of expenditure adequate to establish that funds have been used in accordance with the approved grant application. The applicant agrees to maintain effective control over and accountability for all funds, property, and other assets. Public school districts, open enrollment and home-rule charter schools, and regional education service centers in Texas must comply with the accounting requirements in the Financial Accounting and Reporting module of the *Financial Accountability System Resource Guide*, Texas Education Agency (34 CFR 74.21; 34 CFR 80.20; TEA *Financial Accountability System Resource Guide*).
- M. Expenditure Reports:** Contractor shall submit expenditure reports in the time and manner requested by Region 10 as specified in the instructions to the Standard Application System (SAS), which are incorporated by reference. Unless otherwise specified, interim reports are due to Region 10 within 30 days after the end of each reporting period. The final expenditure report is due within 45 days after the ending date of the grant. Revised expenditure reports, where the grantee is claiming additional expenditures beyond that originally requested, must be submitted within 60 days of the ending date of the grant.
- N. Refunds Due to Region 10:** If Region 10 determines that Region 10 is due a refund of money paid to Contractor pursuant to this contract, Contractor shall pay the money due to Region 10 within 30 days of Contractor's receipt of written notice that such money is due to Region 10. If Contractor fails to make timely payment, Region 10 may obtain such money from Contractor by any means permitted by law, including but not limited to offset, counterclaim, cancellation, termination, suspension, total withholding, and/or disapproval of all or any subsequent applications for said funds.
- O. Records Retention:** Contractor shall maintain its records and accounts in a manner that shall assure a full accounting for all funds received and expended by Contractor in connection with the contract project. These records and accounts shall be retained by Contractor and made available for programmatic or financial audit by Region 10 and by others authorized by law or regulation to make such an audit for a period of not less than five years from the date of completion of the contract project or the date of the receipt by Region 10 of Contractor's final claim for payment or final expenditure report in connection with this contract, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed.
- P. Time and Effort Recordkeeping:** For those personnel whose salaries are prorated between or among different funding sources, time and effort records will be maintained by Applicant that will confirm the services provided within each funding source. Applicant must adjust payroll records and expenditures based on this documentation. This requirement applies to all projects, regardless of funding source, unless otherwise specified. For federally funded projects, time and effort records must be in accordance with the requirements in the applicable OMB cost principles.
- Q. Forms, Assurances, and Reports:** Contractor shall timely make and file with the proper authorities all forms, assurances and reports required by federal laws and regulations. Region 10 shall be responsible for reporting to the proper authorities any failure by Contractor to comply with the foregoing laws and regulations coming to Region 10's attention, and may deny payment or recover payments made by Region 10 to Contractor in the event of Contractor's failure so to comply.

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- R. Copyright/Ownership:**  
**For School Districts and Nonprofit Organizations:** All materials, conceptions, and products created or conceived by Contractor, its employees, agents, consultants or subcontractors arising out of the contract shall be the sole property of Region 10. Region 10 shall hold the copyright and shall have the exclusive right to patent and trademark all materials, conceptions, and products, created or conceived under this contract. Contractor shall so bind all concerned through written agreement with subcontractors.  
**For Education Service Centers (ESCs):** All materials, conceptions and products created or conceived by Contractor hired by the Education Service Center (ESC), its employees, agents, consultants or any subcontractors arising out of the contract shall be the sole property of Region 10, and the Region 10 shall hold the copyright to all materials, conceptions, and products, created or conceived under this contract. Contractor shall so bind all concerned through written agreement with subcontractors. If Contractor/Subcontractor(s) express an interest in obtaining a license agreement to modify, market, or sell the derived material or product developed using grant or contract funds given any of the above parties, then contact shall be made with the Region 10 prior to any action being taken.  
**For Colleges and Universities:** All materials, conceptions and products created or conceived by Contractor, its employees, agents, consultants, or subcontractors arising out of the contract shall be the sole property of Region 10. Region 10 shall hold the copyright to all materials, conceptions, and products created or conceived under this contract. Contractor shall so bind all concerned through written agreement with subcontractors. For all materials, conceptions and products created or conceived under the contract, Contractor is granted a non-exclusive, non-transferable, royalty-free license to use the materials for its academic mission purposes only, provided, however, that Contractor is prohibited from selling or marketing said materials, conceptions, and products, created or conceived under this contract.
- S. Unfair Business Practices:** Contractor certifies that no funds provided under this grant shall be used to purchase supplies, equipment, or services from any companies found to be guilty of unfair business practices within 12 months from the determination of guilt.
- T. Subcontracting:** Contractor shall not assign or subcontract any of its rights or responsibilities under this contract, except as may be otherwise provided for in this application, without prior formal written amendment to this contract properly executed by both Region 10 and Contractor.
- U. Use of Consultants:** Notwithstanding any other provision of this application, Applicant shall not use or pay any consultant in the conduct of this application if the services to be rendered by any such consultant can be provided by Applicant's employees.
- V. Capital Outlay:** If Contractor purchases capital outlay (furniture and/or equipment) to accomplish the objective(s) of the project, title will remain with Contractor for the period of the contract. Region 10 reserves the right to transfer capital outlay items for contract noncompliance during the contract period or as needed after the ending date of the contract. This provision applies to any and all furniture and/or equipment regardless of unit price and how the item is classified in Contractor's accounting record.
- W. Region 10 Property (terms):** In the event of loss, damage or destruction of any property owned by or loaned by Region 10 while in the custody or control of Contractor, its employees, agents, consultants or subcontractors, Contractor shall indemnify Region 10 and pay to Region 10 the full value of or the full cost of repair or replacement of such property, whichever is the greater, within 30 days of Contractor's receipt of written notice of Region 10's determination of the amount due. This applies whether the property is developed or purchased by Contractor pursuant to this contract or is provided by Region 10 to Contractor for use in the contract project. If Contractor fails to make timely payment, Region 10 may obtain such money from Contractor by any means permitted by law, including but not limited to offset or counterclaim against any money otherwise due to Contractor by Region 10.
- X. Travel Costs:** Amounts authorized for maximum recovery for travel and per diem costs against any state or federal funding source are restricted to those amounts that are approved in the State of Texas Appropriations Bill in effect for the particular funding period. Any amount over this limit must come from local funding sources. Applicant must recover funds at a lesser rate if local policy amounts are less than the maximum allowed by the state. Out-of-state travel may not exceed the federal government rate for the locale. Travel allowances are not allowable costs.
- Y. Funds for Religious Worship, Instruction:** No funds will be used to pay for religious worship, instruction, or proselytization, or for any equipment or supplies for such, or for any construction, remodeling, repair, operation, or maintenance of any facility or part of a facility to be used for religious worship, instruction, or proselytization (34 CFR 76.532 and P. L. 107-110, section 9505).
- Z. Disclosure of Gifts and Campaign Contributions:** The grantee shall file disclosures of gifts and campaign contributions as required by State Board of Education Operating Rule 4.3, which is incorporated as if set out in full. The grantee has a continuing obligation to make disclosures through the term of the contract. Failure to comply with State Board of Education Operating Rule 4.3 is grounds for canceling the grant.

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- AA. Federal Rules, Laws, and Regulations That Apply to all Federal Programs:** Contractor shall be subject to and shall abide by all federal laws, rules and regulations pertaining to the contract project, including but not limited to:
1. **Americans With Disabilities Act**, P. L. 101-336, 42 U.S.C. sec. 12101, and the regulations effectuating its provisions contained in 28 CFR Parts 35 and 36, 29 CFR Part 1630, and 47 CFR Parts 0 and 64;
  2. **Title VI of the Civil Rights Act of 1964**, as amended (prohibition of discrimination by race, color, or national origin), and the regulations effectuating its provisions contained in 34 CFR Part 100;
  3. **Title IX of the Education Amendments of 1972**, as amended (prohibition of sex discrimination in educational institutions) and the regulations effectuating its provisions contained in 34 CFR Part 106, if Contractor is an educational institution;
  4. **Section 504 of the Rehabilitation Act of 1973**, as amended (nondiscrimination on the basis of handicapping condition), and the regulations effectuating its provisions contained in 34 CFR Part 104;
  5. the **Age Discrimination Act of 1975**, as amended (prohibition of discrimination on basis of age), and any regulations issued there under, including the provisions contained in 34 CFR Part 110;
  6. the **Family Educational Rights and Privacy Act (FERPA) of 1975**, as amended (ensures access to educational records for students and parents while protecting the privacy of such records), and any regulations issued there under, including **Privacy Rights of Parents and Students** (34 CFR Part 99), if Contractor is an educational institution (20 USC 1232g);
  7. Section 509 of H.R. 5233 as incorporated by reference in P. L. 99-500 and P. L. 99-591 (**prohibition against the use of federal grant funds to influence legislation pending before Congress**);
  8. **Pro-Children Act of 2001**, which states that no person shall permit smoking within any indoor facility owned or leased or contracted and utilized for the provision of routine or regular kindergarten, elementary, or secondary education or library services to children [P. L. 107-110, Section 4303(a)]. In addition, no person shall permit smoking within any indoor facility (or portion of such a facility) owned or leased or contracted and utilized for the provision of regular or routine health care or day care or early childhood development (Head Start) services [P. L. 107-110, Section 4303(b)(1)]. Any failure to comply with a prohibition in this Act shall be considered to be a violation of this Act and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty, as determined by the Secretary of Education (P. L. 107-110, Section 4303(e)(1)).
  9. **Fair Labor Standards Act (29 USC 207), Davis Bacon Act (40 USC 276(a), and Contract Work Hours and Safety Standards Act (40 USC 327 et seq.)**, as applicable, and their implementing regulations in 29 CFR 500-899, 29 CFR Parts 1,3,5, and 7, and 29 CFR Parts 5 and 1926, respectively.
  10. **Buy America Act:** Contractor certifies that it is in compliance with the Buy America Act in that each end product purchased under any federally funded supply contract exceeding \$2,500 is considered to have been substantially produced or manufactured in the United States. End products exempt from this requirement are those for which the cost would be unreasonable, products manufactured in the U. S. that are not of satisfactory quality, or products for which the agency head determines that domestic preference would be inconsistent with the public interest. Contractor also certifies that documentation will be maintained that documents compliance with this requirement (FAR 25.1-2).
- BB. Federal Regulations Applicable to All Federal Programs:**
1. **For Local Education Agencies (LEAs):** 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 75 or 76 as applicable, 77, 79, 80, 81, 82, 85, 99, 104, 47 CFR 0 and 64, and OMB Circulars A-87 (Cost Principles) and A-133 (Audits);
  2. **For Education Service Centers (ESCs):** 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 75 or 76 as applicable, 77, 79, 80, 81, 82, 85, 99, 104, 47 CFR 0 and 64, and OMB Circulars A-87 (Cost Principles) and A-133 (Audits);
  3. **For Institutions of Higher Education (IHEs):** 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 74, 77, 79, 81, 82, 85, 86, 99, 104, OMB Circular A-21 (Cost Principles), 47 CFR 0 and 64, OMB Circular A-133 (Audits), and OMB Circular A-110 (Uniform Administrative Requirements);
  4. **For Nonprofit Organizations:** 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 74, 77, 79, 81, 82, 85, 99, 104, 47 CFR 0 and 64, OMB Circulars A-122 (Cost Principles) and A-133 (Audits), and OMB Circular A-110 (Uniform Administrative Requirements);
  5. **For State Agencies:** 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 76, 80, 81, 82, 85, 99, 104, 47 CFR 0 and 64, OMB Circulars A-87 (Cost Principles) and A-133 (Audits), and OMB Circular A-110 (Uniform Administrative Requirements); and
  6. **For Commercial (for-profit) Organizations:** 29 CFR 1630 and 48 CFR Part 31.
- CC. General Education Provisions Act (GEPA), as Amended, Applicable to All Federal Programs Funded or Administered Through or by the U. S. Department of Education:**
1. **Participation in Planning:** Applicant will provide reasonable opportunities for the participation by teachers, parents, and other interested parties, organizations, and individuals in the planning for and operation of each program described in this application (20 USC 1232(e)).
  2. **Availability of Information:** Any application, evaluation, periodic program plan, or report relating to each program described in this application will be made readily available to parents and other members of the general public (20 USC 1232(e)).
  3. **Sharing of Information:** Contractor certifies that it has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program described in this application significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects (20 USC 1232(e)).

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4. **Prohibition of Funds for Busing:** The applicant certifies that no federal funds (except for funds appropriated specifically for this purpose) will be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system (20 USC 1228).
5. **Direct Financial Benefit:** Contractor certifies that funds expended under any federal program will not be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization [20 USC 1232(b)(8)].

Rev. 04/02

The signing of <i>Schedule #1—General Information</i> by applicant indicates acceptance of and compliance with all requirements described on this schedule.
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**SCHEDULE #14A: Special Provisions and Assurances**

The following special provisions apply to all programs funded under the Elementary and Secondary Education Act, as amended by P. L. 107-110, No Child Left Behind Act of 2001. By signing *Schedule #1* of this SAS, the applicant is assuring it is in compliance with the following provisions:

- A. Each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications.
- B. The control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities.
- C. The public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes.
- D. The applicant will adopt and use proper methods of administering each such program, including the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program and the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation.
- E. The applicant will cooperate in carrying out any evaluation of each such program conducted by or for Region 10, the Texas Education Agency, the Secretary of Education, or other federal officials.
- F. The applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, federal funds paid to such applicant under each such program.
- G. The applicant will submit such reports to Region 10 Education Service Center (which shall make the reports available to the Governor) and the Secretary of Education, as Region 10 and the Secretary of Education may require to enable Region 10 and the Secretary of Education to perform their duties under each such program.
- H. The applicant will maintain such records, provide such information, and afford access to the records as Region 10 (after consultation with the Governor) or the Secretary may find necessary to carry out the Region 10's or the Secretary's duties.
- I. Before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.
- J. **Gun-Free Schools Act:** The local education agency assures that it is in compliance with Section 37.007(e) of the Texas Education Code, which requires expulsion of a student who brings to school or possesses at school a firearm as defined by 18 U.S.C. Section 2891 [pursuant to the requirements in P. L. 107-110, Section 4141(d)(1)]. In addition, the local educational agency certifies that it has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school [P. L. 107-110, Section 4141(h)(1)].
- K. **Student Records Transfer:** The local educational agency shall ensure that a student's records and, if applicable, a student's individualized education program (IEP) as defined in section 602(11) of the Individuals with Disabilities Education Act, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable state law (P. L. 107-110, section 5208).
- L. **Consolidation of Administrative Funds:** A local educational agency, with the approval of TEA, may consolidate and use for the administration of one or more programs under the No Child Left Behind Act not more than the percentage, established in each program, of the total available for the local educational agency under those programs. A local educational agency that consolidates administrative funds shall not use any other funds under the programs included in the consolidation for administration for that fiscal year. Consolidated administrative funds shall be used for the administration of the programs covered and may be used for coordination of these programs with other federal and non-federal programs and for dissemination of information regarding model programs and practices.
- M. **Privacy of Assessment Results:** Any results from an individual assessment referred to in the No Child Left Behind Act of a student that become part of the education records of the student shall have the protections provided in section 444 of the General Education Provisions Act [P. L. 107-110, section 9523 and the Family Educational Rights and Privacy Act (FERPA) of 1975, as amended].

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- N. School Prayer:** The local educational agency certifies that it is in compliance with Section 25.901 of the Texas Education Code. In addition, as a condition of receiving funds under the No Child Left Behind Act, the local educational agency certifies that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools, as detailed in the guidance provided by the U. S. Secretary of Education pertaining to such. The state educational agency shall report to the Secretary of Education each year a list of those local educational agencies that have not filed this assurance or against which complaints have been made to the State educational agency that the local educational agencies are not in compliance with this requirement (P. L. 107-110, section 9524(b)).
- O. Equal Access to Public Schools Facilities – Boy Scouts of America Equal Access Act:** No public elementary school, public secondary school or local educational agency that has a designated open forum or a limited public forum and that receives funds made available from the U. S. Department of Education shall deny equal access or a fair opportunity to meet, or to discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code (as a patriotic society), that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in Title 36 of the United States Code (as a patriotic society). For the purposes of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory. Nothing in this section shall be construed to require any school, agency, or a school served by an agency to sponsor any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code (as a patriotic society). Compliance with this provision will be enforced through rules and orders issued by the Office for Civil Rights. If the public school or agency does not comply with the rules or orders, no funds made available through the Department of Education shall be provided by a school that fails to comply with such rules or orders or to any agency or school served by an agency that fails to comply with such rules or orders (P. L. 107-110, section 9525).
- P. General Prohibitions:** None of the funds authorized under the No Child Left Behind Act shall be used to develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual; to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds; to provide sex education or HIV-prevention education in schools that instruction is age appropriate and includes the health benefits of abstinence; or to operate a program of contraceptive distribution in schools (P. L. 107-110, section 9526).
- Q. Armed Forces Recruiter Access to Students and Student Recruiting Information:** In accordance with guidance issued by the U. S. Department of Education, each local educational agency receiving assistance under the No Child Left Behind Act shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students names, address, and telephone listings, upon prior written consent of a student or the parent of a student. A secondary school student or the parent of the student may request that the student's name, address, and telephone listing not be released without prior written parental consent, and the local educational or private nonprofit school shall notify parents of the option to make a request and shall comply with any request. Each local educational agency receiving assistance under the No Child Left Behind Act shall provide military recruiters the same access to secondary school students as is provided generally to post secondary educational institutions or to prospective employers of those students (P. L. 107-110, section 9528).
- R. Unsafe School Choice Option:** The local educational agency certifies that it shall establish and implement a policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by the Texas Education Agency, or who becomes a victim of a violent criminal offense, while in or on the grounds of a public elementary or secondary school that the student attends, be allowed to attend a safe public elementary or secondary school within the local educational agency, including a public charter school (P. L. 107-110, section 9532).
- S. Civil Rights:** Nothing in the No Child Left Behind Act shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under Title IX of the Education Amendments of 1972), national origin, or disability in any program funded under the No Child Left Behind Act (P. L. 107-110, section 9534).
- T. Student Privacy, Parental Access to Information, and Administration of Certain Physical Examinations to Minors:** The local educational agency assures that it is in compliance with Chapter 26 of the Texas Education Code concerning parental rights and responsibilities. In addition, the local educational agency receiving funds under the No Child Left Behind Act certifies that it shall develop and adopt policies, in consultation with parents, regarding certain rights of a parent to access and inspect information; student privacy; the administration of physical examinations or screenings (except for examinations or screenings required by state law); and the collection, disclosure, or use of personal information collected from students for the purpose of marketing or selling that information. The local educational agency also assures that it is in compliance with the requirements for annually notifying parents of such policies and specific events (P. L. 107-110, Title X, Part F, section 1061).

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- U. Assurances related to the **education of homeless children and youth**:
- (1) The LEA assures that each child of a homeless individual and each homeless youth shall have equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth.
  - (2) The LEA assures that homeless children and youth are afforded the same free, appropriate public education as provided to other children and youth.
  - (3) The LEA assures that it will review and undertake steps to revise any laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth.
  - (4) The LEA assures that it will not separate students from the mainstream school environment on the basis of homelessness alone.
  - (5) The LEA assures that homeless children and youth have access to the education and other services that they need to in order to meet the same challenging State student academic achievement standards to which all students are held.
- V. **Definitions:** The following terms shall be defined as follows for programs authorized and carried out under the No Child Left Behind Act of 2001:
1. **Charter School:** An open enrollment charter school receiving federal funds of any type must meet the federal definition of a charter school as provided in P. L. 107-110, Section 5210(1). The term "charter school" means a school that:
    - (A) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is **operated under public supervision and control**;
    - (B) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency [i.e., the State Board of Education (SBOE)];
    - (C) provides a program of elementary or secondary education, or both;
    - (D) is **nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious instruction**;
    - (E) **does not charge tuition**;
    - (F) **complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and Part B of the Individuals with Disabilities Education Act**;
    - (G) is a school to which parents choose to send their children, and that **admits students on the basis of a lottery, if more students apply for admission than can be accommodated**;
    - (H) **agrees to comply with the same Federal and State audit requirements** as so other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;
    - (I) **meets all applicable** Federal, State, and local **health and safety requirements**;
    - (J) operates in accordance with State law; and
    - (K) has a written performance contract with the authorized public chartering agency in the State (i.e., SBOE) that includes a description of how student performance will be measured pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the SBOE.
  2. **Community-Based Organization:** A public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segment of a community and that provides educational or related services to individuals in the community.
  3. **Core Academic Subjects:** English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, art, history, and geography.

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**4. Highly Qualified:**

- (A) when used with respect to any public elementary school or secondary school teacher teaching in a State, means that—
  - (i) the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, 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; and
  - (ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis;
- (B) when used with respect to—
  - (i) an elementary school teacher who is new to the profession, means that the teacher—
    - (I) holds at least a bachelor's degree; and
    - (II) has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or
  - (ii) a middle or secondary school teacher who is new to the profession, means that the teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by—
    - (I) passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or
    - (II) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing; and
- (C) when used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means that the teacher holds at least a bachelor's degree and—
  - (i) has met the applicable standard in clause (i) or (ii) of subparagraph (B), which includes an option for a test; or
  - (ii) demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that—
    - (I) is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;
    - (II) is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;
    - (III) provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;
    - (IV) is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;
    - (V) takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;
    - (VI) is made available to the public upon request; and
    - (VII) may involve multiple, objective measures of teacher competency.

**5. Parental Involvement:** The participation of parents in regular, two-way and meaningful communication involving student academic learning and other school activities, including ensuring:

- (A) that parents play an integral role in assisting their child's learning;
- (B) that parents are encouraged to be actively involved in their child's education at school;
- (C) that parents are full partners in their child's education and are included, as appropriate, in decision making and on advisory committees to assist in the education of their child; and
- (D) the carrying out of other activities, such as those described in section 1118 of P. L. 107-110.

**6. Professional Development** includes activities that:

- (A) improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;
- (B) are an integral part of broad schoolwide and districtwide educational improvement plans;
- (C) give teachers, principals, and administrators the knowledge and skills to provide the students with the opportunity to meet challenging State academic content standards and student academic achievement standards;
- (D) improve classroom management skills;
- (E) are high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom and are not one-day or short-term workshops or conferences;
- (F) support the recruiting, hiring, and training of highly qualified teachers, including teachers who became highly qualified through State and local alternative routes to certification;
- (G) advance teacher understanding of effective instructional strategies that are:

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- (H) based on scientifically based research (except for programs under Title II, Part D, Enhancing Education Through Technology of this Act); and
- (I) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers; and
- (J) are aligned with and directly related to State academic content standards, student academic achievement standards, and assessments and the curricula and programs tied to the standards;
- (K) are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this Act;
- (L) are designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;
- (M) to the extent appropriate, provide training for teachers and principals in the use of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and core academic subjects in which the teachers teach;
- (N) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement with the findings of the evaluations used to improve the quality of professional development;
- (O) provide instruction in methods of teaching children with special needs;
- (P) include instruction in the use of data and assessments to inform and instruct classroom practice;
- (Q) include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents; and
- (R) may include activities that:
  - (i) involve the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and beginning teachers with an opportunity to work under the guidance of experienced teachers and college faculty;
  - (ii) create programs to enable paraprofessionals (assisting teachers employed by an LEA receiving assistance under Title I Part A) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers; and
  - (iii) provide follow-up training to teachers who have participated in activities described previously in this definition that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom.

**7. Scientifically Based Research:**

- (A) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and
- (B) includes research that:
  - (i) employs systematic, empirical methods that draw on observation or experiment;
  - (ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
  - (iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
  - (iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
  - (v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
  - (vi) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

**8. Teacher Mentoring:** Activities that—

- (A) consist of structured guidance and regular and ongoing support for teachers, especially beginning teachers, that—
  - (i) are designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and part of an ongoing developmental induction process that—
    - (I) involves the assistance of an exemplary teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and
    - (II) may include coaching, classroom observation, team teaching, and reduced teaching loads; and
    - (III) may include the establishment of a partnership by a local educational agency with an institution of higher education.

**9. Technology:** State-of-the-art technology products and services.

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**W. ESEA Performance Goals, Indicators, and Performance Reporting:** The LEA assures it has adopted the five performance goals and the related performance indicators established by the U. S. Department of Education and as submitted in the *Texas Consolidated State Application for Funds Under the No Child Left Behind Act*. The LEA also assures that it will develop and implement procedures for collecting data related to the performance indicators where such data is not already collected through the Academic Excellence Indicator System (AEIS) or PEIMS and that it will report such data to the Region 10 in the time and manner requested.

**X. The following special provisions only apply to programs funded by the McKinney-Vento Homeless Education Assistance Act.**

1. The applicant shall coordinate with local social service agencies and other agencies or programs providing services to such children or youth and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) and with other local educational agencies on interdistrict issues, such as transportation or transfer of school records.
2. The applicant shall designate a homeless liaison to ensure: 1) that homeless children and youth are identified by school personnel and through coordination activities with other entities and agencies; and 2) that homeless children and youth enroll and have a full and equal opportunity to succeed in school. The liaison shall ensure that homeless families, children, and youth receive educational services for which they are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental care services, mental health services, and other appropriate services.

The liaison shall ensure that the parents or guardians of homeless children and youth are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children. The liaison shall ensure that public notice of the educational rights of homeless children and youth is disseminated where such children and youth receive services under this Act, such as schools, family shelters, and soup kitchens. The liaison shall ensure that enrollment disputes are mediated in accordance with the McKinney-Vento Act and that the parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin, and is assisted in accessing transportation to the school that is selected.

Local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the local educational agency liaisons. Local educational agency liaisons for homeless children and youth shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth.

3. The applicant shall review and revise any local or other policies that may act as barriers to the enrollment of homeless children and youth in schools. In reviewing and revising such policies, consideration shall be given to issues concerning transportation; requirements of immunization; residency; birth certificates, school records, or other documentation; and guardianship. Special attention shall be given to the enrollment and attendance of homeless children and youth who are not currently attending school.
4. The applicant shall ensure that local or other policies and practices prevent the isolation or stigmatization of homeless children and youth, and that homeless children and youth are not segregated in a separate school or separate program within a school based on such child's or youth's status as homeless.
5. The applicant shall ensure that homeless children and youth who meet the relevant eligibility criteria are able to immediately participate in federal, state, or local food programs, and federal, state, or local before- and after-school care programs.
6. The applicant shall ensure that each homeless child and youth shall be provided services comparable to services offered to other students in the district or service area, including transportation services and educational services for which the child meets the eligibility criteria (e.g., compensatory education programs, special education programs, limited English proficiency programs, vocational education programs, gifted and talented programs, preschool programs, and school meal programs).
7. The applicant shall ensure that any record ordinarily kept on homeless students, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, shall be maintained so that the records are available in a timely fashion when the student enters a new school district. Also, records must be kept in a manner consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

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8. The applicant shall ensure that the combined fiscal effort per student or the aggregate expenditures of the applicant and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.
9. The applicant shall ensure that, where applicable, it will coordinate with local housing agencies responsible for developing the comprehensive housing affordability strategy described in Section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children who become homeless.
10. The applicant will participate in all required evaluation activities.
11. The applicant will participate in all Region 10 ESC-sponsored or other required training activities. Attendance is required at Fall subgrantee training and at the Southern States annual spring training event.
12. The applicant agrees to comply with the following requirements of H.R. 1 (Public Law 107-110), McKinney-Vento Homeless Education Assistance Improvements Act of 2001:
  - Adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin, as defined in the McKinney-Vento Act in accordance with the following, as applicable:

If the homeless child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

If the homeless child's or youth's living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing his or her education in the school of origin, begins living in an area served by another local educational agency, the local educational agency of origin and the local educational agency in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.
  - Determine the child's or youth's best interest and--
    - (i) continue the child's or youth's education in the school of origin (as defined by the McKinney-Vento Homeless Education Assistance Act) for the duration of homelessness--
      - (I) in any case in which a family becomes homeless between academic years or during an academic year; or
      - (II) for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or
    - (ii) enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.
  - In determining the best interest of the child or youth, the local educational agency shall--
    - (i) to the extent feasible, keep a homeless child or youth in the school of origin (the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled), except when doing so is contrary to the wishes of the child's or youth's parent or guardian;
    - (ii) provide a written explanation, including a statement regarding the right to appeal, to the homeless child's or youth's parent or guardian, if the local educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and
    - (iii) in the case of an unaccompanied youth, ensure that the homeless liaison assists in placement or enrollment, considers the views of such unaccompanied youth, and provides notice to such youth of the right to appeal.

The school selected shall immediately enroll the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

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The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records. If the child or youth needs to obtain immunizations, or immunization or medical records, the enrolling school shall immediately refer the parent or guardian of the child or youth to the local educational agency liaison, who shall assist in obtaining necessary immunizations, or immunization or medical records.

- If a dispute arises over school selection or enrollment in a school--
  - (i) the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute;
  - (ii) the parent or guardian of the child or youth shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;
  - (iii) the child, youth, parent, or guardian shall be referred to the local educational agency liaison, who shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute; and
  - (iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.
- The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.
- Services provided through the McKinney-Vento Act may be provided through programs on school grounds or at other facilities and shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate homeless children and youth with nonhomeless children and youth; and shall be designed to expand or improve services provided as part of a school's regular academic program, but not to replace such services provided under such program.

If services are provided on school grounds, schools may use funds under this subtitle to provide the same services to other children and youths who are determined by the local educational agency to be at risk of failing in, or dropping out of, school. Schools shall not provide services in settings within a school that segregate homeless children and youth from other children and youth, except as necessary for short periods of time for health and safety emergencies or to provide temporary, special, and supplementary services to meet the unique needs of homeless children and youths.

Services provided through the McKinney-Vento Act shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

- Definitions of terms used within the McKinney-Vento Act:
  - (i) The terms `enroll' and `enrollment' include attending classes and participating fully in school activities.
  - (ii) The term `homeless children and youths' means individuals who lack a fixed, regular, and adequate nighttime residence; and includes--
    - (I) children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
    - (II) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
    - (III) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
    - (IV) migratory children (as such term is defined in Section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).
  - (iii) The term `unaccompanied youth' includes a youth not in the physical custody of a parent or guardian.
  - (iv) The term "school of origin" means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

The signing of *Schedule #1—General Information* by applicant indicates acceptance of all requirements described on this schedule.