Texas Education Agency
No Child Left Behind Act of 2001 Provisions and Assurances

The following special provisions apply to all programs funded under the Elementary and Secondary Education Act, as amended by Public Law (P.L.) 107-110, No Child Left Behind (NCLB) Act of 2001. By certifying and submitting the eGrants application, 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, 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 the Texas Education Agency (TEA), the US 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 TEA (which shall make the reports available to the governor) and the US Secretary of Education, as TEA and the US Secretary of Education may require to enable TEA and the US 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 the Agency (after consultation with the governor) or the Secretary may find necessary to carry out the Agency'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 educational 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 United States Code (USC) 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 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).

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 US 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 School 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 US Department of Education shall deny equal access or a fair opportunity to meet, or shall 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 unless 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 US 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 student 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 agency 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 TEA, 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).

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 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 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
   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

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
      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
         (A) Holds at least a bachelor's degree and
         (B) 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
         (A) 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
         (B) Successfully completing, in each of the academic subjects in which the teacher teaches, 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
         (A) Is set by the state for both grade-appropriate academic subject-matter knowledge and teaching skills
         (B) 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
         (C) Provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches
         (D) Is applied uniformly to all teachers in the same academic subject and the same grade level throughout the state
         (E) Takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject
         (F) Is made available to the public upon request
         (G) 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

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 school-wide and district-wide 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:
      i. Based on scientifically based research (except for programs under Title II, Part D, Enhancing Education through Technology of this Act)
      ii. Strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers
      iii. 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
   h. Are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this Act
   i. 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
   j. 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
   k. 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
   l. Provide instruction in methods of teaching children with special needs
   m. Include instruction in the use of data and assessments to inform and instruct classroom practice
   n. Include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents
   o. 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
      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
   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

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

(A) Involves the assistance of an exemplary teacher and other appropriate individuals from a school, local educational agency, or institution of higher education

(B) May include coaching, classroom observation, team teaching, and reduced teaching loads

(C) 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

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 US 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 the Public Education Information Management System (PEIMS) and that it will report such data to the Agency in the time and manner requested.

X. **Transfer of School Disciplinary Records:** The LEA assures it has a procedure in place to transfer disciplinary records, with respect to a suspension or expulsion, to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school. This requirement shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level (P.L. 107-110, section 4155).

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By certifying and submitting the eGrants application, the applicant agrees, as a matter of legal contract, to: 1) accept and comply with all requirements described on this schedule; 2) accept and comply with all provisions and requirements of past and current Texas AYP Guides; and 3) accept and comply with all applicable AYP Guides, whether promulgated by rule or by policy and procedure of TEA.