

Applicability of Title Relating to Health and Safety

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

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

Access to Medical Records

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

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

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

Parental Access to Medical Records

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

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

Referral to Outside Counselors

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

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

(TEC §38.010(a))

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

Implementation of Coordinated Health Program

Each open-enrollment charter school shall:

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

Reporting of Certain Health and Safety Information

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

Self-Administration of Prescription Asthma or Anaphylaxis Medicine by Students

For purposes of TEC §38.015:

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

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

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

(TEC §38.015(b))

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

TEC §38.015 does not:

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

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

Psychotropic Drugs and Psychiatric Evaluations or Examinations

For purposes of TEC §38.016:

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

(TEC §38.016(a))

An open-enrollment charter school employee may not:

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

(TEC §38.016(b))

TEC §38.016(b) does not:

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

- (3) prohibit a school employee from discussing any aspect of a child's behavior or academic progress with the child's parent or another school employee.
(TEC §38.016(c))

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

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

School-Based Health Centers

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

[INSERT local policies consistent with Subchapter B (School-Based Health Centers), Chapter 38, Texas Education Code, if establishing or operating a school-based health center.]