

KI EDUCATIONAL FOUNDATION
BOARD POLICY MANUAL
POLICY GROUP 5 – FISCAL MANAGEMENT

PG-5.001: AUTHORITY OVER FISCAL MATTERS

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;
- (b) Texas Education Code (“Tex. Ed. Code”) Sections 12.111(a)(16), 12.115(a)(2) and 12.121;
- (c) Texas Administrative Code, Title 19 (“19 TAC”), §§ 100.1033 and 100.1101;
- (d) Code of Federal Regulations, Title 2 (“2 CFR”), § 200.303;
- (e) *Standards for Internal Control in the Federal Government* (September 2014) promulgated by the Comptroller General of the United States;
- (f) *Internal Control – Integrated Framework* (2013 Update) issued by Committee of Sponsoring Organizations of the Treadway Commission;
- (g) *Government Auditing Standards* (2018 Revision) promulgated by the U.S. Government Accountability Office; and
- (h) Financial Accountability System Resource Guide.

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 2. APPLICABILITY.

This policy shall act as a keystone fiscal policy and shall apply to all other Board policies or administrative procedures. In the event of any conflict with other Board policy or administrative procedure, the requirements set forth in this policy shall prevail and govern. Accordingly, Board policies should include an appropriate reference to this policy.

Sec. 3. FINAL AUTHORITY.¹

Sec. 3.1. Absent a specific delegation of a power or duty (as approved by the commissioner of education, where applicable), the Board may not delegate, and thus retains, functioning as a body corporate, final authority to exercise the following powers and duties:

- (a) Adopt and amend policy;
- (b) Adopt and amend the budget, including the number and type of personnel units to be employed by the School;

¹ Tex. Bus. Org. Code §§ 3.101 and 22.201; Tex. Ed. Code §§ 12.111(a)(16) and 12.121; 19 TAC §§ 100.1033(b)(14)(C)(ii)-(iv) and 100.1101(a)/(d)

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- (c) Approve amendments to School’s charter with TEA, including the organizational structure of the School;
- (d) Approve the obligation and expenditure of funds;
- (e) Approve the use of property;²
- (f) Approve the purchase, lease or sale of real property.³
- (g) Direct the disposition and safekeeping of records, including access to, control over and possession of such records;
- (h) Approve the annual financial and compliance report;
- (i) Set compensation for the CEO/Superintendent and for officers, as defined in Sec. 5 of this policy, and employees through the adoption of policy and the annual operating budget, including the School’s compensation plan and salary and wage schedules;
- (j) Approve contracts for the acquisition of personal property⁴ and the purchase of goods and services;⁵
- (k) Amend its governing documents (articles of incorporation or certificate of formation, corporate bylaws and any other document or record establishing the protocols and practices of the Board and School) subject to approval of a charter amendment by the commissioner of education; and
- (l) Establish and staff committees to support the Board with its fiscal oversight of the School’s business affairs, finances and operations.

² At 19 TAC § 100.1001(6), certain economic and financial resources, such as cash, bank accounts, loans and other such items, are defined as personal property. At 19 TAC § 100.1063(a), personal property is public property. Consequently, the use of public property, such as cash, bank accounts, and loans, are subject to the Board’s final authority.

³ Tex. Ed. Code § 12.106(f)(4). 19 TAC § 100.1101(b), (c) requires that the Board of a charter holder maintain the primary responsibility for implementing the public school program authorized by the open-enrollment charter and ensuring the performance of the students enrolled in its charter schools in accordance with the Tex. Ed. Code. The rule further provides, under (b)(1), that “An open-enrollment charter grants to the governing body of a charter holder the authority to operate a charter school” and, under (b)(2), that, “Except as provided by this section, the governing body’s powers and duties to operate the charter school shall not be delegated, transferred, assigned, encumbered, pledged, subcontracted, or in any way alienated by the governing body of the charter holder. Any attempt to do so shall be null and void and of no force or effect and shall constitute abandonment of the contract for charter.”

⁴ See 19 TAC § 100.1001(6) and 2 CFR § 200.1 for legal definitions of personal property.

⁵ *El Paso Education Initiative, Inc. v. Amex Properties, LLC*, 385 S.W.3d 701, 706, 708 (Tex. App.–El Paso 2012, pet. denied.). Tex. Bus. Org. Code §§ 3.101 and 22.201; Tex. Ed. Code §§ 12.115(a)(2) and 12.121; 19 TAC §§ 100.1033(b)(14)(C)(ii), 100.1043(a)(2) and 100.1101(a)/(d)

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Sec. 3.2. This final authority notwithstanding, the Board hereby authorizes the Chief Financial Officer (the “Delegate”) to initially exercise the authority set forth in Sec. 3.1(d), (e), and (g) of this policy in a manner consistent with this and other Board policy. Notwithstanding the above initial delegation, the Delegate shall bring recommendations through the Board’s committee process and to the Board for final review and consideration of approval.⁶

Sec. 3.3. In accordance with applicable Board policy, the Delegate shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of this policy, and any conflicted,⁷ interested,⁸ or related⁹ party, as defined in other Board policy or applicable law, expressly including family members by blood or marriage to the third-degree. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 3.4. At the Board’s discretion, the Board may, at any time, review any business arrangement or transaction subject to this policy and approve or disapprove the Delegate’s initial action on the Board’s behalf.

Sec. 3.5. Any delegation of authority notwithstanding, the Board remains responsible for any business arrangement or transaction undertaken by the Delegate.¹⁰

Sec. 4. DESIGNEE.

Sec. 4.1. In Board policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee. If the Delegate confers authority to a designee, the Delegate shall do so in writing through an administrative procedure, job description, or internal memorandum. The Delegate’s conferred authority to a designee must be specific and must cite the policy section from which it is derived. Any delegation of authority to a designee not documented as set forth in this section shall be null and void.

Sec. 4.2. Any delegation of authority notwithstanding, the Delegate remains responsible for the business arrangement or transaction undertaken or that should have been undertaken pursuant to this and other Board policy, including the reporting and accounting of business expenses by School officers and employees.

⁶ Consistent with the *Standards for Internal Control in the Federal Government*, the Board is segregating the duties over finances from the duties over operations. Although, through this and other policy, the Board requires that the Delegate report to the Board and the Board authorizes the Delegate to initially exercise certain authority over the School’s finances, the Superintendent shall be the Chief Financial Officer’s immediate supervisor for all purposes.

⁷ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

⁸ 19 TAC § 100.1047(f)

⁹ Tex. Ed. Code § 12.1166

¹⁰ Tex. Ed. Code § 12.121; 19 TAC § 100.1101(d)

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Sec. 5. OFFICER.

For the purposes set forth in this and other Board policy, *Officer* means a person charged with the duties of, or acting as, a chief executive officer, a central administration officer, a campus administration officer, or a business manager¹¹ including individuals employed in the following central administrative and campus leadership positions:

- (a) Chief Executive Officer and Superintendent,
- (b) Deputy Superintendent,
- (c) Assistant Superintendent of Curriculum and Instruction,
- (d) Business Manager,
- (e) Director of Federal Programs,
- (f) Principal,
- (g) Assistant Principal, and
- (h) Any other person that may be characterized as an officer under applicable law.

Sec. 6. BOARD AUTHORIZATION REQUIRED.

Sec. 6.1. Consistent with Sec. 3 of this policy and the Board’s fiduciary duties and standard of care established under applicable law, the Delegate shall present to the Board for approval any business arrangement or transaction with a cost or value of \$50,000 or that relates to an officer, as defined in Sec. 5 of this policy, or conflicted,¹² interested,¹³ or related¹⁴ party, as defined in other Board policy or applicable law.

Sec. 6.2. The Delegate shall present all contracts to the Board for its approval.¹⁵

Sec. 7. PRUDENT PERSON RULE.¹⁶

In their use of the funds, property and other organizational resources, such as established lines of credit and the talents of and time worked by employees and contractors, officers and employees shall limit their use of funds and property to purposes pertaining to the School’s mission and to those activities, functions, programs, and services that are ordinary and necessary for the conduct of the School’s mission. Importantly, in their use of funds, officers and employees shall only incur

¹¹ 19 TAC § 100.1001(16)

¹² Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

¹³ 19 TAC § 100.1047(f)

¹⁴ Tex. Ed. Code § 12.1166

¹⁵ *El Paso Education Initiative, Inc. v. Amex Properties, LLC*, 385 S.W.3d 701, 706, 708 (Tex. App.–El Paso 2012, pet. denied.). Tex. Bus. Org. Code §§ 3.101 and 22.201; Tex. Ed. Code §§ 12.115(a)(2) and 12.121; 19 TAC §§ 100.1033(b)(14)(C)(ii), 100.1043(a)(2) and 100.1101(a)/(d)

¹⁶ Tex. Bus. Org. Code § 22.221; Tex. Prop. Code §§ 163.004, 163.005 and 163.006; 2 CFR § 200.303(a) and *Standards for Internal Control in the Federal Government* § 8.03; 2 CFR § 200.404; *Government Auditing Standards* §§ 6.23, 7.25, and 8.122.

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costs that, by their nature and amount, do not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time that the decision was made to incur the cost.

Sec. 8. ABUSE AND WASTE PROHIBITED.

Sec. 8.1. Officers and employees shall not abuse or waste funds, property and other organizational resources, such as established lines of credit and the talents of and time worked by employees and contractors.

Sec. 8.2. For purposes of this policy, abuse is defined as behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate.¹⁷

Sec. 8.3. For purposes of this policy, waste is defined as the act of using or expending resources carelessly, extravagantly, or to no purpose. In this context, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight.¹⁸

Sec. 9. TRAINING AND UPDATES.¹⁹

The Delegate or designee shall properly train or ensure training is provided to School officers and employees on the requirements of this policy and any administrative procedures adopted to implement this policy. Additionally, the Delegate or designee shall keep School officers and employees informed of any changes to this policy and related requirements.

Sec. 10. ADMINISTRATIVE PROCEDURES.²⁰

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or

¹⁷ *Government Auditing Standards*, Sec. 6.23, 7.25 and 8.122

¹⁸ *Government Auditing Standards*, Sec. 6.21, 7.23 and 8.120

¹⁹ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

²⁰ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

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the Board’s approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 11. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022 and became effective on March 21, 2022.

Sec. 12. RETENTION.²¹

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter in accordance with state law.

Sec. 13. CERTIFICATION.

The Undersigned, being the Secretary of the Board, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Authority Over Fiscal Matters, as originally adopted by the Board on March 21, 2022, which Policy is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

²¹ Tex. Ed. Code § 12.1052; 19 TAC § 100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, § 7.125(a)(1).

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**PG-5.020: AUTHORIZATION FOR
THE OBLIGATION AND EXPENDITURE OF FUNDS**

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Constitution, Article III, Sec. 51, 52 and 53;
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;
- (c) Texas Education Code (“Tex. Ed. Code”) Sections 12.104(b)(1), 12.107, 12.111(a)(10), 12.115(a)(2), 12.121 and 44.052;
- (d) Texas Administrative Code, Title 19 (“19 TAC”), §§ 100.1033 and 100.1101;
- (e) Code of Federal Regulations, Title 2 (“2 CFR”), § 200.303; and
- (f) Financial Accountability System Resource Guide (“FASRG”).

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,²² interested²³ or related²⁴ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

²² Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

²³ 19 TAC § 100.1047(f)

²⁴ Tex. Ed. Code § 12.1166

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Sec. 3. INITIAL ADOPTION.²⁵

Sec. 3.1. Proposed Budget. In accordance with the policy statements set forth in Sec. 8 of this policy, the Delegate or designee shall prepare and recommend an annual budget for the School (“Proposed Budget”), for consideration and adoption by the Board. In preparing the Proposed Budget, the Delegate or designee shall include any and all descriptions and amounts for estimated revenues from all sources of local, state and Federal funding, both known and anticipated, and proposed expenses and outlays for personnel, professional and contracted services, real and personal property, debt service, materials, supplies, and other operating expenses reasonable and necessary for the conduct of the School’s operations and the furtherance of its mission.

Sec. 3.2. TEDS Compliance. The Delegate or designee shall prepare the Proposed Budget in a form to facilitate the School’s compliance with the Texas Education Data Standards (“TEDS”) and submission of the required budgeted financial data to the Texas Student Data System Public Education Information Management System.

Sec. 3.3. Coordination and Collaboration. The Delegate or designee shall coordinate and collaborate with the Superintendent and other officers, as defined in Sec. 5 of the Controlling Policy, to develop the Proposed Budget.

Sec. 3.4. Compensation Plan. As part of the Proposed Budget, the Delegate or designee shall prepare a compensation plan that identifies all remuneration to be provided to School employees, including, but not limited to, salary, hourly wages, stipends and supplemental pay, extra-duty pay, incentives, and fringe benefits.²⁶ In the compensation plan, the Delegate or designee shall identify the salary and hourly wage range for each position. Additionally, the Delegate or designee shall identify the amount for each stipend and supplement pay by type of qualification or requirement, such as having an advanced degree or teaching certification, or performing additional duties to chair a campus department. The Delegate or designee shall base extra-duty pay upon the position’s salary, as an hourly amount, or hourly wage in a manner consistent with applicable law.

Sec. 3.5. Incentives. As part of the compensation plan, the Delegate or designee shall develop a performance incentive program that provides incentive compensation to employees for longevity, perfect attendance, retention, safety, student performance, and other data driven, measurable performance related outcomes.

Sec. 3.6. Superintendent Review. Prior to submitting the Proposed Budget to the Board, the Superintendent shall review and approve the Proposed Budget.

²⁵ FASRG Module 2; Tex. Ed. Code § 44.002; 19 TAC § 100.1033(b)(14)(C)(ii)

²⁶ The Delegate or designee shall address the reimbursement of travel and other expenses incurred by employees for the official conduct of School business through other Board policy.

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Sec. 3.7. Finance Committee Review. Prior to submitting the Proposed Budget to the Board, the Delegate shall first submit the Proposed Budget to the Board’s Finance Committee. The Finance Committee may propose modifications to the Proposed Budget.

Sec. 3.8. Adopted Budget. After reviewing, deliberating, and as appropriate and necessary, revising the Proposed Budget, the Board shall adopt the Proposed Budget during a meeting conducted pursuant to the Texas Open Meetings Act and applicable Board policy (“Adopted Budget”).

Sec. 4. AMENDMENT.²⁷

Sec. 4.1. During the course of the fiscal year, and in accordance with the policy statements set forth in Sec. 8 of this policy, the Delegate or designee shall prepare a proposed amendment to the Adopted Budget (“Proposed Amendment”) to account for any material variances between realized and estimated revenues and actual and budgeted expenses and outlays.

Sec. 4.2. For purposes of this section and in regard to revenues, a material variance is any difference between realized and estimated revenues that is equal to or greater than ten percent (10%) of the estimated revenues, as amended. For purposes of this subsection, the comparison shall be by major object classification.

Sec. 4.3. For purposes of this section and in regard to expenses, a material variance is any difference between actual and budgeted expenses that is equal to or greater than ten percent (10%) of the budgeted expenses, as amended. For purposes of this subsection, the comparison shall be at the level of detail as disclosed in the Adopted Budget.

Sec. 4.4. For purposes of this section, the Delegate or designee shall prepare a Proposed Amendment for an affected line item as presented to and adopted by the Board in the Adopted Budget, as amended. The Delegate shall submit Proposed Amendments to the Board for review and approval. After reviewing, deliberating, and as appropriate and necessary, revising the Proposed Amendment, the Board shall approve the Proposed Amendment (“Approved Amendment”).

Sec. 4.5. At the Board’s discretion, the Board may, at any time, review any Approved Amendment subject to this policy and approve or disapprove the Finance Committee’s initial action on the Board’s behalf.

Sec. 4.6. The Delegate shall obtain an Approved Amendment required under this section prior to the obligation and expenditure of funds.

Sec. 4.7. Prior to the conclusion of the fiscal year, the Delegate or designee shall prepare a final Proposed Amendment to the Adopted Budget, as amended, to account for all unfavorable, material variances between actual and budgeted expenses. For purposes of this subsection, and for the

²⁷ FASRG Module 2; Tex. Ed. Code §§ 44.006 and 44.052; 19 TAC § 100.1033(b)(14)(C)(ii)

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specific line item authorized by the Board, “unfavorable” means that actual expenses exceed budgeted expenses, as adopted and amended by the Board, and “material” means that the variance exceeds ten percent (10%) of the budgeted expenses, as adopted and amended by the Board.

Sec. 5. AUTHORITY TO OBLIGATE AND EXPEND.²⁸

Sec. 5.1. The Adopted Budget, as amended, constitutes the Board’s authorization to the School to obligate and expend funds. The School shall not obligate or expend any funds without the Board’s authorization as set forth in the Adopted Budget, as amended.

Sec. 5.2. Because the Board’s appropriation of funds is contingent on continued funding from the state and federal governments, the Delegate or designee shall include the following provisions in any agreement or contract, including a purchase order, that results in a business arrangement or transaction that extends beyond the current fiscal year.

- (a) A clause that enables the Board to terminate the agreement or contract at the end of the fiscal year due to the non-appropriation of funds.
- (b) A clause that allows the Board to make a best effort attempt to obtain and appropriate funds for the payment of the contract.²⁹

Sec. 6. NOTICE TO THE PUBLIC.³⁰

Recognizing that transparency in the administration of public funds is of paramount importance to the administration of the School, the Board or designee shall publish a notice to the public of the meeting(s) at which it will deliberate and adopt the Proposed Budget and Proposed Amendments. The notice shall conform to the form and content requirements for other notices to the public of the meetings of the Board.

Sec. 7. DEADLINE FOR ADOPTION.³¹

The Delegate shall submit the Proposed Budget to the Board and the Finance Committee at least ten (10) business days prior to the start of the fiscal year or school year, whichever date is earliest.

Sec. 8. FORM AND CONTENT OF BUDGET AND AMENDMENTS.

Sec. 8.1. The Proposed Budget and all Proposed Amendments to the Adopted Budget presented by the Delegate to the Board shall conform to the requirements set forth in this section. At its discretion, the Board may disapprove any Proposed Budget or Proposed Amendment not conforming to the requirements set forth herein.

²⁸ FASRG Module 1 and 2; Tex. Ed. Code § 44.052

²⁹ Texas Local Government Code § 271.903(a)

³⁰ FASRG Module 2

³¹ *Ibid.*

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Sec. 8.2. The Delegate or designee shall prepare the Proposed Budget and Proposed Amendments utilizing the account code structure required by the Texas Education Agency (“TEA”) and providing sufficient itemization to provide the Board and the Finance Committee meaningful financial information to make an informed decision.³² In the Proposed Budget, except for net assets (or fund balance), the Delegate or designee shall exclude any amounts set aside for future use without a specific purpose in mind and not include any amounts that do not constitute anticipated expenses.

Sec. 8.3. The Delegate or designee shall prepare a Proposed Budget and Proposed Amendments that include an adequate and sufficiently descriptive disclosure of the proposed expenses for:

- (a) salaries, wages and fringe benefits, including allowances, awards, gifts, incentives of any kind, and any form of monetary or in-kind benefit, both taxable and tax-exempt and irrespective of value;
- (b) professional services, as defined in state law;
- (c) public works and construction services contracts;
- (d) supplies, materials, travel, non-employee incentives, and other operating costs;
- (e) debt service;
- (f) the acquisition of capital assets, other than for public works; and
- (g) any other type of activity, cost, expense function, program, or service required by the Board or Finance Committee.

Sec. 9. ACCURACY OF REVENUE ESTIMATE.³³

Recognizing the critical significance of an accurate revenue estimate upon which to make an informed decision as to the amounts to be appropriated for expenses in the Adopted Budget, the Delegate or designee shall prepare a revenue estimate that is found to be within ten percent (10%) of the School’s realized revenues.

Sec. 10. PROPOSED EXPENSES TO COMPLY WITH ALLOWABLE USES OF FUNDS.³⁴

The Delegate or designee shall prepare a Proposed Budget and Proposed Amendments that include proposed expenses that comply with applicable Board policy and state and federal law and are not prohibited as to purpose, for an activity, function, program, or service or for the purchase of a particular item or service.

³² *Ibid.*

³³ 19 TAC § 109.1001(f)(5); FIRST Indicator 10

³⁴ Tex. Ed. Code §§ 12.107 and 45.105(c); 19 TAC § 100.1043(a)

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Sec. 11. FISCAL COMPLIANCE.³⁵

The Delegate or designee shall prepare a Proposed Budget and Proposed Amendment(s) that comply with:

- (a) The Financial Integrity Rating System of Texas (“FIRST”) to yield a favorable financial accountability rating.
- (b) The maintenance of effort requirements for Federal awards received under the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act.
- (c) State law mandating the minimum percentage that must be expended for the following student-based allotments:
 - (1) Special education allotment,
 - (2) Allotment for student with dyslexia or other related disorder,
 - (3) Compensatory education allotment,
 - (4) Bilingual education allotment,
 - (5) Career and technology education allotment,
 - (6) Early education allotment,
 - (7) Gifted and talented education allotment, and
 - (8) College, career, or military readiness outcomes bonus.
- (d) Other applicable Federal or state legal requirements.

Sec. 12. PUBLICATION OF ADOPTED BUDGET.³⁶

After the Board adopts the Proposed Budget, the Delegate or designee shall post the Adopted Budget on the School’s website.

Sec. 13. REPORT TO THE FINANCE COMMITTEE.³⁷

Within ten (10) business days after each calendar month, the Delegate shall provide to the Board’s Finance Committee a comparison of actual expenses to budgeted expenses, as amended, and provide a statement accounting for any variances exceeding ten percent (10%). In the statement, the Delegate shall disclose any corrective measures undertaken to address any and all variances exceeding ten percent (10%), including the preparation of a Proposed Amendment. The Finance Committee Chair shall report to the Board any findings under this section.

Sec. 14. TRAINING AND UPDATES.³⁸

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the

³⁵ 19 TAC § 100.1047(b)(4)

³⁶ 19 TAC § 100.1032(2)K)

³⁷ FASRG Module 2

³⁸ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

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Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 15. ADMINISTRATIVE PROCEDURES.³⁹

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board’s approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 16. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022 and became effective on March 21, 2022.

Sec. 17. RETENTION.⁴⁰

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

Sec. 18. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to the Authorization for the Obligation and

³⁹ Tex. Ed. Code § 12.115(a)(2); FASRG Module 2; 2 CFR § 200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School’s Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School’s governing authority and, as such, manages and directs School’s business and affairs through Board actions, resolutions and policy.

⁴⁰ Tex. Ed. Code § 12.1052; 19 TAC § 100.1203; *See* Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, § 7.125(a)(1).

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Expenditure of Funds, as originally adopted by the Board on March 21, 2022, which Policy is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to the allowable and prohibited uses of funds, notably public funds. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

NOT LEGAL ADVICE. As legal advice must be tailored to the specific circumstances of each case, nothing provided herein should be used as a substitute for advice of competent counsel. The statements in this template do not constitute legal advice, do not necessarily reflect the opinions of Schulman, Lopez, Hoffer & Adelstein, LLP or any of its lawyers or clients, and are not guaranteed to be correct, complete or up-to-date. Further, if your corporation and its charter school(s) are not clients of the Firm, this template is not intended to create, and does not create, an attorney-client relationship between your corporation and its charter school(s) and Schulman, Lopez, Hoffer & Adelstein, LLP; commensurately, you should not act or rely on any information in this template without consulting your own legal and other qualified advisors. Accordingly, please do not send the Firm any information about any legal matter, which may involve your corporation or your charter school unless or until you have received a written statement from the Firm in the form of an engagement letter confirming that we represent you.

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PG-5.030: ALLOWABLE AND PROHIBITED USES OF FUNDS

Sec. 19. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Constitution, Article III, Sec. 51, 52 and 53;
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;
- (c) Texas Property Code (“Tex. Prop. Code”), Chapter 163;
- (d) Texas Education Code (“Tex. Ed. Code”) Sections 12.104(b)(1), 12.107, 12.111(a)(10), 12.115(a)(2), 12.121, 42.168, 44.052, 45.105(b)/(c) and Chapter 48, Subchapters C and D;
- (e) Texas Administrative Code, Title 19 (“19 TAC”), Sections 89.1125, 100.1033, 100.1043, 100.1047 and 100.1101;
- (f) United States Code, Title 26, §501;
- (g) Code of Federal Regulations (“CFR”), Title 2, Part 200 and Title 26, Part 1;
- (h) *Standards for Internal Control in the Federal Government* promulgated by the Comptroller General of the United States;
- (i) *Internal Control – Integrated Framework* issued by Committee of Sponsoring Organizations of the Treadway Commission;
- (j) *Government Auditing Standards* (2018 Revision) promulgated by the U.S. Government Accountability Office; and
- (k) *Uniform Grant Management Standards* promulgated by the Texas Comptroller of Public Accounts; and
- (l) Financial Accountability System Resource Guide (“FASRG”).

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 20. AUTHORITY OVER FISCAL MATTERS.

Sec. 20.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 20.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5

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of the Controlling Policy, and any conflicted,⁴¹ interested⁴² or related⁴³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 20.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 21. APPLICABILITY OF POLICY.

Unless otherwise noted herein, this policy applies to the use of local, state and Federal funds regardless of the originating source of the funds.

Sec. 22. PRUDENT PERSON RULE.⁴⁴

See Sec. 7 of the Controlling Policy.

Sec. 23. ABUSE AND WASTE PROHIBITED.

See Sec. 8 of the Controlling Policy.

Sec. 24. FIDUCIARY DUTY.⁴⁵

As fiduciaries, the Board and officers, as defined in Sec. 5 of the Controlling Policy, have been entrusted with funds for the benefit of the School’s students. Accordingly, School funds, property and other resources shall be used for the benefit of the School’s students to provide elementary and secondary instruction and to implement the approved open-enrollment charter,⁴⁶ as amended.

Sec. 25. PROHIBITED USE OF PUBLIC FUNDS.⁴⁷

The Board and officers, as defined in Sec. 5 of the Controlling Policy, may not pledge or use public funds to secure loans or bonds for any other organization, including a non-charter operation or out-of-state operation conducted by the charter holder or a related party⁴⁸ or use public funds to support an operation or activity not related to the educational activities of the School.

⁴¹ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

⁴² 19 TAC §100.1047(f)

⁴³ Tex. Ed. Code §12.1166

⁴⁴ Tex. Bus. Org. Code §22.221; Tex. Prop. Code §§ 163.004, 163.005 and 163.006; 2 CFR §200.303(a) and *Standards for Internal Control in the Federal Government* §8.03; 2 CFR §200.404; *Government Auditing Standards* §§ 6.23, 7.25, and 8.122; Uniform Grant Management Standards.

⁴⁵ Tex. Ed. Code §§ 12.102(1), 12.107(a)(2) and 12.128(a)(2); 19 TAC §§ 100.1001(6), 100.1043(a), and 100.1063(b)/(c).

⁴⁶ See 19 TAC §100.1001(15) for pertinent legal definition.

⁴⁷ Tex. Ed. Code §§ 12.106 and 12.107(a)(5); Public funds means state funds as defined at 19 TAC §100.1001(8).

⁴⁸ Tex. Ed. Code §12.1166

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Sec. 26. FUNDS TO SUPPORT INSTRUCTIONAL PLAN.

The Board and officers, as defined in Sec. 5 of the Controlling Policy, shall ensure that funds are used to support the implementation of the School’s instructional plan.

Sec. 27. AUTHORITY TO OBLIGATE AND EXPEND.⁴⁹

As established in the Board’s Policy governing the Authorization for the Obligation and Expenditure of Funds, officers and employees shall not obligate or expend any funds without the Board’s authorization, as set forth in the Adopted Budget, as amended.

Sec. 28. GENERAL REQUIREMENT.

Sec. 28.1. Recognizing that it is impractical to list every conceivable allowable use of funds and that a general framework is beneficial in guiding decisions regarding the use of funds, the School shall adhere to the general requirements set forth in this section prior to and when it obligates and expends funds.

Sec. 28.2. The Delegate and the School’s officers shall ensure that a proposed use of funds:

- (a) Is reasonable in its nature and amount;
- (b) Does not exceed that which a prudent person would incur under the circumstances prevailing at the time the decision was made to incur the cost(s);
- (c) Is ordinary and necessary to achieve the goals and implement the strategies and activities of the open-enrollment charter and instructional plan;
- (d) Conforms to School’s documented and established practices;
- (e) Is generally or specifically allowed by applicable state or federal law, rule or other legal authority;
- (f) Is not prohibited by applicable state or federal law, rule or other legal requirement; and
- (g) Complies with Board policy and the administrative procedures adopted by the Delegate.

Sec. 29. GENERALLY AUTHORIZED EXPENSES.⁵⁰

Sec. 29.1. In general, consistent with Sec. 8 of this policy and the Board’s Policy relating to the Authorization for the Obligation and Expenditure of Funds, the School is authorized to obligate and expend funds for the following purposes.

- (a) To compensate the Superintendent, teachers, janitors and other employees for employment services rendered.
- (b) To pay the interest for short-term loans acquired to compensate employees.
- (c) To purchase equipment, furniture, materials, software, supplies and vehicles.
- (d) To pay for insurance premiums.

⁴⁹ FASRG Module 1 and 2; Tex. Ed. Code §44.052

⁵⁰ Tex. Ed. Code §48.105(c)

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- (e) To purchase real property for use as a school site pursuant to Board authorization.
- (f) To purchase, build, repair and rent school buildings pursuant to Board authorization.
- (g) As authorized by the Board, to acquire school buildings and real property by leasing through annual payments with an ultimate option to purchase.
- (h) For other purposes necessary in the conduct of the School as determined by the Board including for the following purposes.
 - (1) To develop and monitor a system of controls to ensure compliance with state and federal laws and rules.
 - (2) To administer state and federal grants.
 - (3) To conduct Board meetings and provide Board members with training.
 - (4) To procure legal, audit and other professional services necessary for the proper administration and oversight of School.
 - (5) To record, compile, maintain and report data on student attendance, student enrollment, staff, finances, grants and other functions, programs, services and activities as required by the state and federal governments.
 - (6) To develop, maintain and update a charter instructional plan including conducting a comprehensive needs assessment.
 - (7) To conduct periodic assessments of students to identify potential learning deficiencies and to measure the students' progress towards desired academic goals.
 - (8) For the upkeep and repair of facilities and instructional and instructionally related materials and equipment in the classroom and library, of food service equipment, and of vehicles.
 - (9) To provide breakfast and lunch meals and snacks to students pursuant to the guidelines and requirements of the Texas Department of Agriculture.
 - (10) To conduct field trips as authorized by the Board.
 - (11) For athletic and band equipment, instruments and uniforms.
 - (12) To conduct graduation and award ceremonies recognizing the achievements of students and staff.
 - (13) To conduct pre/post-employment physicals or drug testing and background checks.
 - (14) For the research, development and maintenance of curriculum and innovative, new or modified instruction.
 - (15) For in-service training or staff development for instructional and instructionally related staff conducted by a regional education service center, an outside consultant(s) or School employee(s).
 - (16) To travel to conduct official School business.
 - (17) For utilities and the maintenance of telecommunication and computer networks and systems.
 - (18) To provide a safe and drug free school environment.
 - (19) For memberships in civic and professional organizations that further the School's mission.

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- (20) For any other specifically identified purpose, function, activity, program or service authorized by the Board through the adoption of the School's annual operating budget and charter instructional plan including any amendments thereto.
- (21) For other purposes determined by the Board to be in the best interest of School's students.

Sec. 29.2. For any proposed obligation or expenditure of public funds under Sec. 11.1(h)(20)-(21) of this policy that may appear to be a violation of the Texas Constitution,⁵¹ the Board and Delegate may seek legal counsel to ascertain if a board resolution is necessary to meet the following requirements:

- (a) Identify the public purpose, amount, fund source, return benefit to the School and control(s) for the proposed expense;⁵² and
- (b) Certify that:
 - (1) The statutes and regulations applicable to the fund source to be used allow and do not otherwise prohibit the proposed expense;⁵³
 - (2) The predominant purpose of the proposed expense is to accomplish a public purpose⁵⁴ and not to benefit private parties;⁵⁵
 - (3) The proposed expense shall provide a clear, public benefit in return;⁵⁶ and
 - (4) Sufficient control shall be retained over the expense to ensure that the public purpose is accomplished, and a return benefit is received.⁵⁷

⁵¹ See Texas Constitution Art. III, §§ 44, 50, 51, 52(a), and 53 and Art. XI, §3.

⁵² Attorney General of Texas Opinion No. GA-0076, GA-0743, KP-0099 and KP-0204.

⁵³ See Tex. Att'y Gen. Op. No. GA-0743 (2009) at 2 ("The public purpose served by the expenditure must be an authorized public purpose of the political subdivision.").

⁵⁴ See Tex. Att'y Gen. Op. No. GA-0743 (2009) at 2 ("The public purpose served by the expenditure must be an authorized public purpose of the political subdivision."). Thus, to meet this requirement, the Board must reasonably find that the activity to be supported by the proposed expense will yield the return benefit claimed and that said benefit serves the purposes of the open-enrollment charter.

⁵⁵ See Tex. Att'y Gen. Op. No. GA-0076 (2003) at 6 ("An expenditure to accomplish a public purpose is constitutional even though it incidentally benefits a private interest.").

⁵⁶ See Tex. Att'y Gen. Op. No. KP-0099 (2016) at 5 ("In utilizing this test to evaluate public expenditures, Texas courts have suggested that ... (3) what constitutes an adequate return benefit depends on a variety of specific circumstances but is called into doubt if there is such a gross disparity in the relative values exchanged as to show unconscionability, bad faith, or fraud.").

⁵⁷ See Tex. Att'y Gen. Op. No. GA-0076 (2003) at 7 ("The school district must place sufficient controls on the expenditure to ensure that its public purpose is accomplished. Contractual terms may provide sufficient control of some expenditures. [...] Controls such as application requirements and limits on travel expenditures may be established by the board's exercise of rule-making power.").

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Sec. 30. GENERALLY PROHIBITED EXPENSES.

In general, the School is prohibited from obligating and expending funds for the following purposes.

- (a) Alcoholic beverages.
- (b) Any good or service for personal benefit or use.
- (c) Entertainment, including amusement, diversion, and social activities.⁵⁸
- (d) Field trips that are not part of a teacher’s lesson plan or that do not meet the instructional objectives of the charter instructional plan.
- (e) Fines and penalties levied against individuals.
- (f) Gifts, including donations.

Sec. 31. AUTHORIZED USES OF FUNDS FOR SPECIAL PROGRAMS.⁵⁹

In addition to the general requirement and generally authorized expenses enumerated above, the School may use and may allow the use of state funds pertaining to the educational programs established under Tex. Ed. Code Chapter 29 and other state law for the authorized purposes.

Sec. 32. INDIRECT COST LIMITATION.⁶⁰

The Delegate or designee may use and may only allow the use of state funds provided for the educational programs under Sec. 13 of this policy for indirect costs up to the maximum allowed by state law.

Sec. 33. AUTHORIZED USES OF FUNDS FOR FEDERAL PROGRAMS.

The Delegate or designee may use and may allow the use of federal funds for those purposes authorized by federal law and rule and the approved grant application, as amended.

Sec. 34. DOCUMENTATION REQUIRED.⁶¹

The Delegate or designee shall prepare or cause to have prepared records for all uses of funds. All recorded uses of funds shall adequately demonstrate compliance with this policy and applicable legal requirements.

⁵⁸ FASRG, Update 17 (2020) Module 2, §2.2.2.1 (Social Activities).

⁵⁹ Tex. Ed. Code Chapters 29 and 48.

⁶⁰ Tex. Ed. Code §§ 48.102(h), 48.104(k), 48.105(b), 48.106(c) and 48.110(i).

⁶¹ Tex. Ed. Code §§ 12.1052 and 12.115(a)(2); 19 TAC §§ 100.1022(c)(1)(vi), 100.1032(2)(P) and 100.1203(a)(2)

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Sec. 35. MONITORING AND OVERSIGHT OF BUDGETARY AUTHORIZATION.⁶²

The Delegate or designee shall regularly monitor and oversee the use of funds through the review and approval of purchase requisitions, purchase orders, payment authorizations, travel authorization requests, travel reimbursement forms, receiving reports, itemized vendor invoices and receipts, and any and all other such original record deemed appropriate and necessary to ascertain if a proposed or actual use of funds constitutes an allowable cost. The Delegate or designee shall document monitoring and oversight activities.

Sec. 36. USE OF RESTRICTED PHILANTHROPIC FUNDS.

If a donor restricts a contribution or School implies or states a specific purpose for its fundraising effort(s), the Delegate or designee may only use or allow the use of the contribution(s) received for the restricted purpose. See Board Policy relating to Fundraising and Gift Acceptance.

Sec. 37. REPORT TO THE FINANCE COMMITTEE.⁶³

Within ten (10) business days after each calendar month, the Delegate or designee shall provide to the Board's Finance Committee a comparison of actual expenses to budgeted expenses, as amended, and provide a statement accounting for any variances exceeding ten percent (10%). In the statement, the Delegate or designee shall disclose any corrective measures undertaken to address any and all variances exceeding ten percent (10%). The Finance Committee Chair shall report to the Board any findings under this section.

Sec. 38. TRAINING AND UPDATES.⁶⁴

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 39. ADMINISTRATIVE PROCEDURES.⁶⁵

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not

⁶² Tex. Ed. Code §12.115(a)(2); 2 CFR §200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

⁶³ FASRG (Update 16) Module 2, §2.3.2.8.

⁶⁴ 2 CFR §200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

⁶⁵ Tex. Ed. Code §12.115(a)(2); FASRG Module 2; 2 CFR §200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org.

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adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board’s approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 40. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022 and became effective on March 21, 2022.

Sec. 41. RETENTION.⁶⁶

This policy shall be retained until superseded, expired or discontinued and for five (5) years thereafter.

Sec. 42. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Allowable and Prohibited Uses of Funds, as originally adopted by the Board on March 21, 2022, which Policy is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to accounts payable. The policy included in this template

Code §§ 3.101 and 22.201, the Board is the School’s governing authority and, as such, manages and directs School’s business and affairs through Board actions, resolutions and policy.

⁶⁶ Tex. Ed. Code §12.1052; 19 TAC §100.1203; *See* Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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PG-5.110: ACCOUNTS PAYABLE

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code (“Tex. Ed. Code”), notably Sections 12.107, 12.115(a)(2), 12.121 and 12.128;
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”), notably Sections 3.101, 22.201, 22.221 and 22.235;
- (c) Texas Administrative Code, Title 19 (“19 TAC”), Chapter 100, notably §§ 100.1047(b) and 100.1101;
- (d) Code of Federal Regulations, Title 2, Part 200 (“2 CFR 200”);
- (e) Financial Accountability System Resource Guide;
- (f) *Standards for Internal Control in the Federal Government* promulgated by the Comptroller General of the United States;
- (g) *Internal Control - Integrated Framework* issued by Committee of Sponsoring Organizations of the Treadway Commission; and
- (h) *Government Auditing Standards* (2018 Revision) promulgated by the U.S. Government Accountability Office.

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 2. APPLICABILITY OF POLICY.

This policy pertains to the payment of invoiced amounts or accounts payable, pertaining to the purchase of goods and services, through the use of local, state, or federal funds.

Sec. 3. AUTHORITY OVER FISCAL MATTERS.

Sec. 3.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 3.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5

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of the Controlling Policy, and any conflicted,⁶⁷ interested⁶⁸ or related⁶⁹ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 3.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 4. GOOD STANDING.

To ensure that the School remains in good standing with its vendors and that its credit or financial ratings are not adversely affected, the Delegate or designee shall issue payments to vendors for invoiced amounts pursuant to this policy and to the agreed-upon terms and conditions noted on the purchase order, executed contract, or invoice.

Sec. 5. AUTHORIZED PAYMENTS FOR AMOUNTS DUE.⁷⁰

Sec. 5.1. The Delegate or designee shall only disburse School funds to a vendor if the following conditions have been met.

(a) The invoice:

- (1) Fully identifies the vendor, including the vendor’s authorized representative, and said identifying information conforms to that on the purchase order issued by the School to the vendor and/or the executed contract;
- (2) Includes an invoice number and date;
- (3) Is addressed to the School, including the proper mailing address for accounts payable and the address to which goods and/or services were delivered;
- (4) References the purchase order number issued and/or contract number; and
- (5) Delineates in sufficient detail the goods and/or services provided to the School, including the quantity and the date that the goods were delivered or the services were rendered;

(b) As applicable, the vendor has filed:

- (1) Form W-9,
- (2) Affidavit of Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying,

⁶⁷ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

⁶⁸ 19 TAC §100.1047(f)

⁶⁹ Tex. Ed. Code §12.1166

⁷⁰ Tex. Ed. Code §12.115(a)(2)

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- (3) Felony Conviction Disclosure Statement,
 - (4) Criminal History Record Review Certification,
 - (5) Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions,
 - (6) Conflict of Interest Questionnaire (Form CIQ) and any related Conflict of Interest Statements (Form CIS) from officers, directors, employees or agents of the School,
 - (7) Child Support Certification (Form 1903), and
 - (8) Other affidavits, certifications and forms as required by applicable law;
- (c) School personnel have confirmed, in writing, that the goods and/or services delineated on the vendor’s invoice have in fact been received and there is no cause for dispute;
- (d) School personnel have confirmed, in writing, that the terms and conditions of a properly issued purchase order and/or the executed contract have been satisfied, including, but not limited to:
- (1) The conformance of the goods and/or services to the agreed-upon specifications;
 - (2) The quantity of goods and/or services ordered; and
 - (3) The agreed-upon price per unit;
- (e) The vendor did not levy a sales or other tax from which the School is exempt and did not charge a finance fee or other amount to which the School did not previously agree; and
- (f) The vendor has satisfactorily addressed any concerns or issues identified by School personnel regarding the goods and/or services received and/or the invoiced amount(s).

Sec. 5.2. If the requirements in Sec. 5.1 of this policy are met, the Delegate or designee may issue payment to the vendor pursuant to the terms set forth in the invoice or as previously agreed-upon in the purchase order or executed contract.

Sec. 6. DEFECTIVE INVOICE.

The Delegate or designee shall return any invoice that fails to conform to the requirements of Sec. 5.1 of this policy. In doing so, the Delegate or designee shall issue written notice to the vendor along with the defective invoice describing the defect(s) and requesting the issuance of a new invoice and requiring that a revised due date for the invoiced amount(s) be provided.

Sec. 7. INVOICE REVIEW AND APPROVAL.⁷¹

Sec. 7.1. The Delegate or designee may only issue payment to a vendor for an invoice meeting the requirements of Sec. 5.1 of this policy after it has been reviewed and approved by the Delegate or designee. If the requirements of Sec. 5.1 have been satisfactorily addressed, the Delegate or

⁷¹ Tex. Ed. Code §12.115(a)(2)

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designee may issue payment to the vendor in the most administratively expeditious manner if the invoice amount is less than \$1,000.

Sec. 7.2. The Delegate or designee shall have any invoices for construction services relating to a public works contract reviewed by the School's third-party architect, engineer, construction management consultant or other qualified advisor. The advisor shall provide a recommendation to the Delegate.

Sec. 8. PREPAID ITEMS.⁷²

The Delegate or designee may prepay an amount to a vendor but must account for such prepaid items in accordance with generally accepted accounting principles, state and federal fiscal requirements, and Board policy. Generally, the Delegate or designee may only prepay an amount from funds appropriated by the Board for the current fiscal year.

Sec. 9. COMMUNICATION WITH VENDORS.

School personnel shall document all communications with vendors regarding their invoice(s) for any goods and/or services, including concerns relating to price, quality, quantity, type, and other agreed-upon terms or conditions.

Sec. 10. DISBURSEMENT FROM PROPER FUND SOURCE.⁷³

The Delegate or designee shall disburse funds from a fund source to the vendor for an invoiced amount(s) if the goods and/or services received were:

- (a) For an activity authorized by applicable law and rule;
- (b) For an allowable use of funds, as established under applicable law and rule; and
- (c) In compliance with other applicable law, rule and policy.

Sec. 11. DISBURSEMENT TO VENDORS.

The Delegate or designee shall only issue payment to a vendor's mailing address or directly into the vendor's bank account.

Sec. 12. RECORDS.⁷⁴

The Delegate or designee shall create, obtain, and maintain adequate and sufficient records to support the disbursement of School funds to a vendor for invoice amounts, as required by applicable law, rule and policy.

⁷² Tex. Ed. Code §§ 12.107(a) and 12.115(a)(2); 19 TAC §§ 100.1043(a) and 100.1047(b)

⁷³ *Ibid.*

⁷⁴ Tex. Ed. Code §§ 12.1052 and 12.115(a)(2); 19 TAC §§ 100.1022(c)(1)(vi), 100.1032(2)(P) and 100.1203(a)(2)

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Sec. 13. TRAINING AND UPDATES.⁷⁵

The Delegate or designee shall properly train School officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep School officers and employees informed of any changes to this policy and related requirements.

Sec. 14. ADMINISTRATIVE PROCEDURES.⁷⁶

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board's approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 15. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022, and it became effective on March 21, 2022.

Sec. 16. RETENTION.⁷⁷

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter in accordance with state law.

Sec. 17. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Accounts Payable, as originally adopted by

⁷⁵ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

⁷⁶ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the governing authority and, as such, manages and directs the School's business and affairs through Board actions, resolutions and policy.

⁷⁷ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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the Board on March 21, 2022, which Policy is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to grant accounting. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

NOT LEGAL ADVICE. As legal advice must be tailored to the specific circumstances of each case, nothing provided herein should be used as a substitute for advice of competent counsel. The statements in this template do not constitute legal advice, do not necessarily reflect the opinions of Schulman, Lopez, Hoffer & Adelstein, LLP or any of its lawyers or clients, and are not guaranteed to be correct, complete or up-to-date. Further, if your corporation and its charter school(s) are not clients of the Firm, this template is not intended to create, and does not create, an attorney-client relationship between your corporation and its charter school(s) and Schulman, Lopez, Hoffer & Adelstein, LLP; commensurately, you should not act or rely on any information in this template without consulting your own legal and other qualified advisors. Accordingly, please do not send the Firm any information about any legal matter, which may involve your corporation or your charter school unless or until you have received a written statement from the Firm in the form of an engagement letter confirming that we represent you.

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PG-5.120: GRANT ACCOUNTING

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code (“Tex. Ed. Code”) Sections 12.107(a), 12.115(a)(2) and 12.1053(b)(2);
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”);
- (c) Texas Administrative Code, Title 19 (“19 TAC”), §100.1006;
- (d) United States Code, Title 20 (“20 USC”);
- (e) Code of Federal Regulations, Title 2 (“2 CFR”), Part 200;
- (f) Financial Accountability System Resource Guide (“FASRG”);
- (g) *Standards for Internal Control in the Federal Government*; and
- (h) *Government Auditing Standards*.

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,⁷⁸ interested⁷⁹ or related⁸⁰ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

⁷⁸ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

⁷⁹ 19 TAC § 100.1047(f)

⁸⁰ Tex. Ed. Code § 12.1166

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Sec. 3. APPLICABILITY OF POLICY.

This policy applies to state, federal, and philanthropic grants.

Sec. 4. GRANT ACCOUNTING RECORDS.

For each grant, the Delegate or designee shall maintain the following records:

- (a) Notice of Grant Award (NOGA), Grant Award Notice (GAN), or private grant award letter.
- (b) The approved grant application, including guidelines in effect during the grant period, the budgeted, and amendments.
- (c) Communications with grantor, including call logs, emails, and negotiation notes.
- (d) Grant expenditure, evaluation, and programmatic reports.
- (e) All accounting, administrative, business, charge or credit, contract, finance, disbursement, payroll, personnel, procurement, time accounting, and other records that support the use of grant funds.

Sec. 5. RESPONSIBILITY FOR GRANT ADMINISTRATION.

Sec. 5.1. Financial Management. The Delegate or designee shall bear responsibility for the following financial management activities:

- (a) Maintaining fiduciary and financial responsibility over each grant.
- (b) Maintaining accurate and complete contemporaneous financial accounting records for each grant, including the use of grant funds and property and the maintenance of employee time accounting records.
- (c) Reviewing and approving the budget for each grant, including budget amendments.
- (d) Ensuring compliance with applicable law, rule, and grant requirement governing grant financial management, including the appropriate expenditure of grant funds.
- (e) Ensuring the lawful procurement of goods and services with grant funds.
- (f) Timely preparing and submitting accurate and complete expense reports for the reimbursement or advanced payment of grant expenses from the grantor.
- (g) Perform other duties and responsibilities necessary to ensure fiscal compliance with applicable law, rule and grant requirement.

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Sec. 5.2. Program Management. Each grant shall have a manager assigned who shall be responsible for:

- (a) Initiating, planning, and preparing grant applications, including conducting a needs assessment, developing goals, strategies, and performance measures, and preparing the grant budget.
- (b) Monitoring grant program implementation to ensure that grant terms and conditions are met and that grant goals are attained.
- (c) Ensuring compliance with applicable law, rule, and grant requirement governing grant program activities.
- (d) Identify, prepare and propose amendments to the approved grant program to address changed circumstances.
- (e) Monitoring, assessing, and ensuring that individuals and entities awarded a contract supported with grant funds comply with the contract terms and conditions.
- (f) Initiating, planning, and conducting evaluations, surveys and studies to recommend adjustments to the grant program and to submit required evaluations and reports to the grantor.
- (g) Preparing and submitting grant reports.
- (h) Perform other duties and responsibilities necessary to yield a successful outcome for the grant program.

Sec. 5.3. Audits. The Internal Audits Director shall be responsible for:

- (a) Liaising with external auditors to coordinate the conduct of the annual audit and other audits.
- (b) Reporting to the Board, the Audit Committee and the Finance Committee the results of the annual and other audits.

Sec. 6. ALLOWABLE AND PROHIBITED USES OF FUNDS.

Sec. 6.1. In General.

See Board Policy relating to the Allowable and Prohibited Uses of Funds.

Sec. 6.2. Prudent Person Rule.

See Sec. 7 of the Controlling Policy.

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Sec. 6.3. Abuse and Waste Prohibited.

See Sec. 8 of the Controlling Policy.

Sec. 6.4. Requirements Specific to Federal Funds.

Sec. 6.4.1. Factors Affecting Allowability of Costs.⁸¹

School officers and employees shall ensure that:

- (a) The expenditure of funds is reasonable and necessary for the performance of the grant program.
- (b) Costs are allocable to the grant program, in accordance with applicable legal requirements.
- (c) Federal funds are used to support legally authorized activities.
- (d) Federal funds are used in a manner consistent with School policies and procedures that apply uniformly to both federally-financed and other activities of School.
- (e) Costs are incurred during the approved budget period.
- (f) The use of funds is adequately documented.
- (g) Costs and expenses incurred conform with the Federal Cost Principles.

Sec. 6.4.2. Reasonable Costs.⁸²

Sec. 6.4.2.1. In determining if an expenditure or cost is reasonable, School officers and employees shall adhere to the prudent person rule.

Sec. 6.4.2.2. In determining if a cost is reasonable, School officers and employees shall consider the following factors.

- (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the School or the proper and efficient performance of the grant program. Importantly, School officers and staff shall adhere to the accepted practices of Texas public schools relating to the use of grant funds.

⁸¹ 2 CFR §200.403

⁸² 2 CFR §200.404

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- (b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local and other laws and regulations; and terms and conditions of the grant.
- (c) Market prices for comparable goods or services for the geographic area.
- (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the School, its employees, where applicable its students, the public at large, and the Federal Government.
- (e) Whether the School significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the cost to the grant program.

Sec. 6.4.3. Standards for Documentation of Personnel Expenses.⁸³

Sec. 6.4.3.1. To support payroll costs charged to a grant, the Delegate or designee shall prepare or cause to be prepared records that accurately reflect the work performed by employees and that conform to the following requirements:

- (a) Are supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated.
- (b) Are incorporated into the School's official records.
- (c) Reasonably reflect the total activity for which an employee is compensated by the School, not exceeding 100% of compensated activities.
- (d) Encompass both federally-assisted and all other activities compensated by the School on an integrated basis.
- (e) Comply with the School's established accounting policies and practices.
- (f) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on:
 - (1) More than one Federal award;
 - (2) A Federal award and non-Federal award;
 - (3) An indirect cost activity and a direct cost activity;

⁸³ 2 CFR § 200.430(i)

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- (4) Two or more indirect activities which are allocated using different allocation bases; or
- (5) An unallowable activity and a direct or indirect cost activity.

Sec. 6.4.3.2. For record keeping purposes, the Delegate or designee shall not use budget estimates (i.e., estimates determined before the services are performed) alone as these do not qualify as support for charges to a Federal grant.

Sec. 6.4.3.3. Sec. 6.4.3.2 of this policy notwithstanding., the Delegate or designee may use budget estimates for interim accounting purposes, provided that the following requirements are met:

- (a) The system for establishing the estimates produces reasonable approximations of the activity actually performed.
- (b) Significant changes in the corresponding work activity are identified and entered into the records in a timely manner.⁸⁴
- (c) The School’s system of internal controls includes processes to review after-the-fact interim charges made to a Federal grant based on budget estimates.
- (d) All necessary adjustments are made such that the final amount charged to the Federal grant is accurate, allowable, and properly allocated.

Sec. 6.4.4. General Costs.⁸⁵

Federal funds may not be used for general costs of the School normally incurred to provide instruction to students at one or more elementary or secondary grade levels as provided by the charter, unless provided for as a direct cost under a Federal program statute or regulation.

Sec. 7. SUPPLEMENT NOT SUPPLANT.⁸⁶

In accordance with applicable Federal law for the pertinent Federal grant program, the Delegate or designee shall ensure that the School uses federal grant funds to supplement and, not supplant, federal, state, and local funds, as applicable to the federal grant program.

⁸⁴ Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable during the fiscal year.

⁸⁵ 2 CFR § 200.444(a)

⁸⁶ 20 USC §§ 1413(a)(2)(A)(ii) and 6321(b)

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Sec. 8. CASH MANAGEMENT.⁸⁷

The Delegate or designee shall implement a system of internal controls that provides for the periodic and timely draw down of grant funds to reasonably coincide with the disbursement of School funds to pay for grant expenses. Importantly, with respect to Federal grants, the Delegate or designee must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the School. The Delegate or designee shall maintain a record of all draw down requests and the corresponding costs charged to the grant program.

Sec. 9. FINANCIAL OBLIGATIONS.

Sec. 9.1. With respect to the use of grant funds, financial obligations are orders issued for property and services, contracts made, and similar transactions that require payment.⁸⁸ The Delegate or designee shall ensure that all financial obligations are made in accordance with applicable law and rule, are recognized when made, and are recorded in the School's financial accounting records as encumbrances.⁸⁹

Sec. 10. TRAINING AND UPDATES.⁹⁰

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 11. ADMINISTRATIVE PROCEDURES.⁹¹

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or

⁸⁷ 2 CFR §200.305(b)

⁸⁸ 2 CFR §200.1

⁸⁹ 2 CFR §200.302(b)(2)-(3)

⁹⁰ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

⁹¹ Tex. Ed. Code § 12.115(a)(2); FASRG Module 2; 2 CFR § 200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

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the Board’s approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 12. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022 and became effective on March 21, 2022.

Sec. 13. RETENTION.⁹²

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

Sec. 14. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Grants Accounting, as originally adopted by the Board on March 21, 2022, which Policy, as amended, is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to travel. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

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⁹² Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, § 7.125(a)(1).

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PG-5.130 TRAVEL

Sec. 18. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code (“Tex. Ed. Code”) §§ 12.107, 12.115(a)(2) and 45.105(c);
- (b) Financial Accountability System Resource Guide; and
- (c) Internal Revenue Code and Treasury Regulations.

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 19. AUTHORITY OVER FISCAL MATTERS.

Sec. 19.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 19.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,⁹³ interested⁹⁴ or related⁹⁵ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 19.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 20. DEFINITIONS.

For purposes of this policy, the following terms have the meanings provided in this Sec. 3.

Sec. 20.1. *Commercial lodging establishment* means a motel, hotel, inn, apartment, house or similar establishment that provides lodging to the public for pay.⁹⁶

⁹³ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

⁹⁴ 19 TAC § 100.1047(f)

⁹⁵ Tex. Ed. Code § 12.1166

⁹⁶ Texttravel (General ; Definitions) (December 28, 2021)

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Sec. 20.2. *Duty point* means the destination, other than a place of employment, to which a School employee travels to conduct official School business.⁹⁷

Sec. 20.3. *Incidental expense* means an expense incurred while traveling on official state business⁹⁸ except for a meal, lodging or transportation expense, a personal expense, an expense that an individual would incur regardless of whether the individual were traveling on official state business, a tip or a gratuity.⁹⁹ *Incidental expense* also excludes expenses for laundry, cleaning and pressing of clothing, lodging taxes, costs of telegrams or telephone calls, transportation between places of lodging or business and places where meals are taken, or the mailing cost of filing travel vouchers and paying employer-sponsored charge card billings.¹⁰⁰

Sec. 20.4. *Place of employment* means the office or other physical location at which a School employee most frequently conducts official School business.¹⁰¹ Additionally, the employee's place of employment includes the entire city or general area in which the employee's office or other physical location is located.¹⁰² If a School employee has more than one place of work, the following factors are determinative of which one is the employee's main place of work:

- (a) The total time the employee ordinarily spends at each place;
- (b) The level of the employee's business activity in each place; and
- (c) Whether the employee's income from each place is significant or insignificant.¹⁰³

Sec. 20.5. *Sponsor* means a School employee who is primarily responsible for student travel and includes teachers and coaches.

Sec. 21. ALLOWABLE AND PROHIBITED USES OF FUNDS.

See the Board's Policy relating to Allowable and Prohibited Uses of Funds.

Sec. 22. PRUDENT PERSON RULE.

See Sec. 7 of the Controlling Policy.

Sec. 23. ABUSE AND WASTE PROHIBITED.

See Sec. 8 of the Controlling Policy. Importantly, School employees must use discretion when making travel arrangements to conserve the School's limited financial and other resources.

⁹⁷ *Ibid.*

⁹⁸ Examples include gasoline for a rental car, airport or other parking, toll road fees, and fees for business-related long distance calls.

⁹⁹ Texttravel (General; Definitions) (December 28, 2021)

¹⁰⁰ IRS Publication 463, Chapter 1, Travel (Standard Meal Allowance).

¹⁰¹ *Ibid.*

¹⁰² IRS Publication 463, Chapter 1, Travel (Tax Home).

¹⁰³ IRS Publication 463, Chapter 1, Travel (Tax Home; Main place of business or work).

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Sec. 24. SOCIAL ACTIVITIES.

See Sec. 12(c) of the Board’s Policy relating to Allowable and Prohibited Uses of Funds.

Sec. 25. GENERAL.

Sec. 25.1. The School shall reimburse employees for reasonable and necessary travel expenses that do not exceed the maximum amounts allowed under this policy. Moreover, the School shall only reimburse employees for travel expenses incurred only if the purpose of the travel clearly involves official School business as authorized under applicable legal authority.¹⁰⁴

Sec. 25.2. The School shall minimize the amount of travel expenses reimbursed by ensuring that each travel arrangement is the most cost-effective considering all relevant circumstances.¹⁰⁵

Sec. 25.3. School employees shall plan their travel in advance to minimize the total cost of travel. Generally, employees should make their travel arrangements once the business purpose for their travel has been confirmed and is not subject to change and in a manner that provides with flexibility and avoids costs that may arise as a result of a sudden and unanticipated circumstance or event.

Sec. 25.4. Sec. 8.3 of this policy notwithstanding, the School shall reimburse employees for costs incurred for which flexibility could not be arranged and resulting from a sudden and unanticipated circumstance or event. *See* Sec. 22 of this policy.

Sec. 25.5. School employees should select the most cost effective, and not the most convenient, method of transportation available.¹⁰⁶

Sec. 25.6. School employees shall not conduct personal travel to coincide with business travel and vice versa.

Sec. 25.7. School employees are responsible for adequately and clearly documenting the business purpose of their travel to support the expenses incurred.

Sec. 25.8. School employees must submit their travel reimbursement requests within ten (10) business days after the date they return from conducting official School business.

Sec. 25.9. The School shall not reimburse an employee for any expenses incurred that do not pertain to official school business, do not conform to Board policy, or violate applicable law.

Sec. 25.10. The School shall not reimburse an employee for travel expenses that are not accurately and completely itemized and documented as required by this policy and applicable legal requirements.

¹⁰⁴ Textravel (General; Official state business) (December 28, 2021)

¹⁰⁵ Textravel (General; Conservation of state funds) (December 28, 2021)

¹⁰⁶ Textravel (Transportation) (December 28, 2021).

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Sec. 25.11. The School shall not reimburse an employee for the travel expenses of spouses and other persons who have no responsibilities or duties to perform for the School.

Sec. 25.12. The School shall not reimburse any person¹⁰⁷ who is not an employee and who incurs travel expenses except as agreed-upon in a written, fully executed agreement between the person and the School.

Sec. 26. STUDENT TRAVEL.

Sec. 26.1. Purpose of Off-Campus. Campus principals and sponsors shall plan any off-campus activity to align with classroom instruction or a goal and strategy adopted in the campus instructional plan.

Sec. 26.2. Instructional Trips. Sponsors shall obtain the Board’s approval for any activity conducted off campus during an instructional day.¹⁰⁸ Campus principals and sponsors shall describe the purpose of instructional trips and how said trips enhance student learning in the pertinent instructional plan. For purposes of this policy, instructional trips conforming with this Sec. 9.2 and taken during the scheduled class day or course period shall be deemed cocurricular activities.¹⁰⁹

Sec. 26.3. Extracurricular Trips. Sponsors shall obtain the Board’s approval for any activity conducted off campus outside of the instructional day. Upon approval, students and sponsors may travel to actively participate in an extracurricular activity,¹¹⁰ including club activities, contests, demonstrations, and public performances.

Sec. 26.4. Duration of Trips. Generally, campus principals and sponsors shall commence and conclude travel for any activity conducted off campus on the same day. The Delegate shall approve any trips requiring an overnight stay.

Sec. 26.5. Out-of-State and Out-of-Country Trips. School employees shall obtain the Board’s approval for any out-of-state and out-of-country travel before making any arrangements.

Sec. 26.6. Written Consent Required. Students shall not be allowed to participate in any activities that require travel of any kind without the written consent of the student’s parent or legal guardian.

Sec. 26.7. Consent Form. The School shall use a consent form that includes all of the following information:

- (a) Student’s name.

¹⁰⁷ For purposes of this policy, *person* means a natural person or a corporation, partnership, limited liability company, business trust, trust, association, or other organization, estate, government or governmental subdivision or agency, or other legal entity, or a series of a domestic limited liability company or foreign entity.

¹⁰⁸ Texas Administrative Code, Title 19, §129.21(j)(1)

¹⁰⁹ See Sec. 4.1 of the Board’s Policy relating to Activity Funds.

¹¹⁰ See Sec. 4.2 of the Board’s Policy relating to Activity Funds.

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- (b) Student’s campus, classroom, and teacher’s name.
- (c) Name of student’s parent or legal guardian authorizing the student’s participation and emergency contact information.
- (d) Description of activity, including destination, itinerary, and mode of transportation.
- (e) Costs and expenses (if any).
- (f) Authorization for medical emergency.
- (g) Hold harmless, indemnification, or release clause.

Sec. 26.8. Lodging. Campus principals and sponsors shall arrange for sponsors, students and chaperones to stay overnight at a hotel closest to the off-campus activity. If a student(s) is eliminated from continued participation in the off-campus activity, the sponsor shall ensure that the student(s) returns home and cancel any lodging arrangements.

Sec. 26.9. Required Documentation. Sponsors shall submit an internal accounting record disclosing the travel expenses paid and the original, third-party itemized receipts for any travel expenses paid.

Sec. 26.10. Meal Receipts. The Delegate may require original, third-party itemized receipts for any meal expenses.

Sec. 27. TRAVEL BY COMMERCIAL AIR TRANSPORTATION.¹¹¹

Sec. 27.1. School employees shall only travel by commercial air transportation at the lowest available airfare between the employee’s place of employment and the employee’s duty point.

Sec. 27.2. The Delegate or designee shall only reimburse an employee for the actual cost of commercial air transportation at the lowest available airfare between the employee’s place of employment and the employee’s duty point.

Sec. 28. TRAVEL BY GROUND TRANSPORTATION.

The School shall reimburse employees only for the following modes of ground transportation.

Sec. 28.1. Employer Provided Vehicle. The School may provide an employee with one of its vehicles to be used exclusively for official business travel. The School shall only provide such a vehicle for the period that the employee is required to travel for official business.

Sec. 28.2. Personal Vehicle.¹¹²

Sec. 28.2.1. School employees may use their personal vehicles to travel on official business.

¹¹¹ Texttravel (Transportation; Commercial air transportation) (December 28, 2021)

¹¹² Texttravel (Transportation; Mileage in personal vehicle) (December 28, 2021).

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Sec. 28.2.2. The School may reimburse an employee for the use of their personal vehicle in an amount not to exceed the maximum mileage reimbursement rate approved by the Texas Comptroller of Public Accounts applied to the total number of miles traveled for official business.

Sec. 28.2.3. The total number of miles traveled for official business shall be based upon the most cost-effective, reasonably safe route between an employee’s origin of travel and the final duty point.

Sec. 28.2.4. The School shall reimburse an employee for the use of their personal vehicle to travel from their residence or place of employment to the airport if they commence their travel outside of their scheduled work hours. The School shall reimburse the employee for the cost of one (1) trip to and from the airport.

Sec. 28.2.5. Travel between an employee’s private residence and place of employment (commuting) is not a reimbursable travel expense.

Sec. 28.2.6. In accordance with applicable state law, School employees shall maintain adequate automotive insurance for any personal vehicles used for business travel.

Sec. 28.3. Rental Vehicles.

Sec. 28.3.1. School employees may rent vehicles to conduct official School business provided that the travel expense does not exceed the cost for any other mode of transportation.

Sec. 28.3.2. School employees traveling together may rent a standard-sized or full-size car. School employees traveling by themselves may only rent an economy or intermediate-sized car. School employees shall not rent sport utility, premium, elite, luxury or other similarly classed vehicles.

Sec. 28.3.3. School employees shall present Form 14-305, “Motor Vehicle Rental Tax Exemption Certificate”, in order to avoid being charged the Texas motor vehicle gross rental receipts tax.

Sec. 28.3.4. School employees must report any vandalism, thefts or accidents of a rental car to the rental car agency and local law enforcement and must obtain copy of the police report filed.

Sec. 28.4. Other. The School may reimburse an employee for the actual cost of transportation by bus, limousine, network transportation driver (e.g., Uber), taxi, or other similar mode of transportation if incurred to conduct official business and if it was the most cost-effective mode of transportation available considering all relevant circumstances.¹¹³

¹¹³ Textravel (Transportation; Mass transit, taxi or limousine) (December 28, 2021)

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Sec. 29. LODGING.

Sec. 29.1.1. The School shall reimburse an employee for the actual cost incurred at a commercial lodging establishment not to exceed the maximum lodging reimbursement rate authorized by the Texas Comptroller of Public Accounts,¹¹⁴ except as provided under Sec. 15.2 of this policy.

Sec. 29.1.2. The School may reimburse an employee for actual lodging expenses incurred for no more than the night before official business begins and the night after official business ends.¹¹⁵

Sec. 29.1.3. School employees attending conferences and training may stay at the conference hotel or conference partner hotels. However, the School shall only reimburse the employee as set forth in Sec. 12.1.1 of this policy.

Sec. 29.1.4. Employees are responsible for canceling hotel and other arrangements if a trip is cancelled and for presenting a Form 12-302, “Texas Hotel Occupancy Tax Exemption Certificate” to the commercial lodging establishment during the check in process.

Sec. 30. MEALS.¹¹⁶

Sec. 30.1.1. The School shall reimburse an employee for actual meal expenses incurred, not to exceed the maximum meal reimbursement rate for the duty point authorized by the Texas Comptroller of Public Accounts, on a day that the employee conducts official School business outside of the employee’s place of employment, as defined at Sec. 3.2 of this policy, for at least six (6) consecutive hours.

Sec. 30.1.2. The School’s maximum meal reimbursement rate is not a per diem. Accordingly, an employee may only claim the maximum meal reimbursement rate if the employee’s actual meal expenses equal or exceed the maximum meal reimbursement rate.

Sec. 30.1.3. An employee whose duties require the employee to travel outside the employee's place of employment without an overnight stay away from the employee's place of employment may be reimbursed for the actual cost of the employee's meals not to exceed thirty-six dollars (\$36.00).¹¹⁷

Sec. 31. MAXIMUM ALLOWABLE TRAVEL RATES.

Sec. 31.1. School officers, as defined in Sec. 5 of the Controlling Policy, and employees shall adhere to and shall not exceed the maximum allowable travel rates authorized by the Texas Comptroller of Public Accounts.¹¹⁸

¹¹⁴ Textravel (Meals and Lodging; Lodging; Lodging reimbursements) (December 28, 2021)

¹¹⁵ Textravel (Meals and Lodging; Lodging) (December 28, 2021)

¹¹⁶ Textravel (Meals) (December 28, 2021)

¹¹⁷ General Appropriations Act, Article IX, Part 5, Sec. 5.06(b).

¹¹⁸ General Appropriations Act, Article IX, Part 5, Sec. 5.06(a)(1).

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Sec. 31.2. Upon receipt of a written request, the Delegate may approve a higher lodging rate if it is determined that local conditions necessitate an increase in the lodging rate for a particular location.¹¹⁹

Sec. 32. ADVANCE.

Sec. 32.1. Upon receipt of a written request, the Delegate may authorize that an employee receive the estimated travel expenses in advance.

Sec. 32.2. The employee shall submit a travel expense report itemizing the use of the advanced payment.

Sec. 32.3. The School may reimburse the employee any additional travel expenses incurred provided that the amounts paid do not exceed the maximum allowable travel rates and are supported in accordance with Sec. 17 of this policy.

Sec. 32.4. The employee shall refund to the School any advanced payment received in excess of the total travel expenses incurred, paid and documented by the employee.

Sec. 32.5. The School shall report to the IRS any amount advanced to the employee as taxable income if the employee fails to comply with this Sec. 16.

Sec. 33. REQUEST FOR REIMBURSEMENT OF TRAVEL EXPENSES.

Sec. 33.1. Required Filing. Upon their return to their place of employment, employees shall file a request for reimbursement of travel expenses form and the required supporting documentation, as established under Sec. 17 of this policy, except as otherwise provided below, within ten (10) business days.

Sec. 33.2. Required Content. Employees shall prepare a Request for Reimbursement of Travel Expenses form that includes the following information:

- (a) The employee's full, legal name, identification number, and place of employment.
- (b) The travel destination and dates of travel.
- (c) The actual amounts expended by the employee for lodging, meals, mileage for personal vehicle driven, parking, transportation, and other travel-related expenses.
- (d) The amount of the travel advance received by the employee, if any, and a reconciliation of the travel advance amount with the actual travel expenses incurred.
- (e) A statement certifying that the employee's request is accurate, complete and true.
- (f) A statement certifying that the supporting documents attached to the form are accurate, complete, true and unaltered records.

¹¹⁹ Texttravel (Meals and Lodging; Lodging; Requesting a higher maximum lodging reimbursement rate) (December 28, 2021)

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(g) The employee’s signature and date of signature.

Sec. 34. REQUIRED SUPPORTING DOCUMENTATION.¹²⁰

Sec. 34.1. Original, Unaltered Records. For each expense, an employee shall attach original, legible, and unaltered records issued by the vendor that provides sufficient detail to substantiate the expenses reported on the Request for Reimbursement of Travel Expenses form and to demonstrate that the cost incurred is allowable pursuant to this policy and applicable law.

Sec. 34.2. Duplicate Record. Occasionally, an employee may submit a copy of an original record provided that a signed and dated statement is attached to the replica representing that the duplicated record is an accurate, complete, and true facsimile of the original record and that the copy is not a fraudulent version of the original record.

Sec. 34.3. Electronic Versions. An employee may submit an electronic version of a required record provided that all required information is disclosed thereon as provided in this policy.

Sec. 34.4. Failure to Attach. The Delegate or designee shall not reimburse an employee for an expense if the employee does not attach a record conforming to the requirements of this Sec. 17.

Sec. 34.5. Commercial Air Transportation: An employee shall provide a passenger receipt issued by a commercial airline company or an itinerary that includes:

- (a) the name of the employee and airline,
- (b) the ticket number,
- (c) the class of transportation,
- (d) the travel dates,
- (e) the amount of the airfare, and
- (f) the origin and destination of each flight.¹²¹

Sec. 34.6. Employer Provided Vehicle. An employee shall maintain and provide a log that includes the following information:

- (a) Employee’s full, legal name.
- (b) Employee’s place of employment.
- (c) Vehicle identification number and license plate number.
- (d) For each date that the vehicle is driven:
 - (1) Date that vehicle was used;
 - (2) Full description of the duty point or other destination;
 - (3) Business purpose of vehicle use;
 - (4) Starting odometer reading;

¹²⁰ Tex. Ed. Code § 12.115(a)(2); IRS Publication 463 (Chapter 5: Recordkeeping); Texttravel (Documentation Requirements) (December 28, 2021)

¹²¹ Texttravel (Documentation Requirements – Transportation; Commercial air transportation) (December 28, 2021)

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- (5) Ending odometer reading; and
- (6) Miles driven.
- (e) Statement attesting to the accuracy and completeness of the information recorded.
- (f) Employee's signature.
- (g) Date employee signed the log.¹²²

Sec. 34.7. Personal Vehicle. An employee shall provide the total number of miles traveled as determined by a sufficiently detailed point-to-point itemization, which may be documented by an employee's vehicle odometer readings or by a readily available online mapping service. If an online mapping service is used, the employee shall provide a copy of the online map, including route directions and mileage.

Sec. 34.8. Rental Vehicles. An employee shall provide a receipt and/or rental contract that includes the following information:

- (a) the name of the motor vehicle rental company,
- (b) the name of the renter,
- (c) the starting and ending dates of the rental, and
- (d) an itemization of expenses incurred.

Sec. 34.9. Other Ground Transportation. For transportation by bus, limousine, network transportation driver (e.g., Uber), taxi, or other similar mode of transportation, an employee shall provide an itemized receipt for that includes the following information:

- (a) the name of the company,
- (b) the date that the service was received, and
- (c) the fare charged.

Sec. 34.10. Lodging. An employee shall provide an itemized receipt or statement issued by the commercial lodging establishment that includes the following information:

- (a) The name and address of the commercial lodging establishment,
- (b) The name of the employee,
- (c) The single room rate,
- (d) The date(s) that the employee stayed overnight at the establishment,
- (e) A daily itemization of the lodging charges, and
- (f) Proof of payment.

¹²² IRS Publication 463, Chapter 5, Recordkeeping.

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Sec. 34.11. Incidental Expenses. For an incidental expense exceeding five dollars (\$5.00), an employee shall provide an original, itemized third-party receipt.¹²³ Otherwise, an employee may provide an itemization of the expense incurred.¹²⁴

Sec. 34.12. Training Events. If the travel expenses relate to a training event, an employee shall provide a certificate of attendance, certificate of completion, or other equivalent document demonstrating that the employee attended the conference, seminar, workshop, or other training event.

Sec. 35. REVIEW BY DELEGATE.

Upon receiving an employee's Request for Reimbursement of Travel Expenses form and required supporting documentation, the Delegate or designee shall review and approve or disapprove an employee's request for reimbursement and issue a final determination of the total reimbursement amount due to the employee. If disapproved, the Delegate or designee shall inform the employee in writing of the amount(s) that were disallowed and the basis for the disallowance.

Sec. 36. REVIEW BY BOARD.

Without exception, the Board shall review and approve or disapprove an officer's¹²⁵ Request for Reimbursement of Travel Expenses form and required supporting documentation. If disapproved, the Board's designee shall inform the officer in writing of the amount(s) that were disallowed and the basis for the disallowance.

Sec. 37. APPLICABILITY OF STATE TRAVEL RULES.

Except as otherwise established in this policy, the travel requirements promulgated by the Texas Comptroller of Public Accounts shall not apply.

Sec. 38. ELIGIBLE EXPENSES.¹²⁶

Sec. 38.1. An employee may be reimbursed for the following eligible expenses:

- (a) Common carrier fares for coach or regular passenger seating, including the cost of transportation via airplane, bus, limousine, network transportation driver (e.g., Uber), taxi, and train.
- (b) Charges for excessive baggage as long as the travel is related to state business and the charges are reasonable and the number of bags was necessary.
- (c) Commercial lodging rates up to the maximum allowable rate.
- (d) Hotel occupancy taxes.

¹²³ IRS Publication 463, Chapter 1, Travel (Standard Meal Allowance).

¹²⁴ Textravel (Documentation Requirements; Incidental Expenses) (December 28, 2021)

¹²⁵ See Sec. 5 of the Controlling Policy.

¹²⁶ Textravel (December 28, 2021)

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- (e) Rental car rate, applicable taxes, and mandatory charges.
- (f) Collision damage waiver or loss damage waiver if not included in the School's insurance policies.
- (g) Maximum mileage reimbursement rate applied to the actual mileage driven to conduct official School business.
- (h) Actual cost of meals not to exceed the maximum allowable rate.
- (i) Actual cost of incidentals for which a record conforming to Sec. 17.11 of this policy is provided.

Sec. 38.2. Also, *see* Sec. 4, 5 and 6 of this policy.

Sec. 39. CANCELLATION CHARGES.¹²⁷

An employee may be reimbursed for a cancellation charge, related to a travel expense, if the charge was incurred:

- (a) For a reason related to School business, or
- (b) For a reason related to School business that could not be conducted because of a natural disaster, or
- (c) Because the employee was unable to use transportation that was paid in advance to obtain a cost savings because that employee was ill or had a personal emergency.

Sec. 40. INELIGIBLE EXPENSES.

Sec. 40.1. An employee shall not be reimbursed for a cost if it is not authorized or is prohibited by applicable law, rule, or other legal requirement and does not conform to the requirements set forth in this policy.

Sec. 40.2. An employee shall not be reimbursed for the following ineligible expenses:

- (a) Alcoholic beverages.
- (b) Business or first-class seating.
- (c) Entertainment of any kind including, but not limited to, sporting or music venues. *See* Sec. 7 of this policy.
- (d) Fines, including, but not limited to, fines assessed for parking or moving violations.
- (e) Gratuities or tips.
- (f) Membership fees.
- (g) Mileage for commuting between an employee's private residence and place of employment.
- (h) Personal travel costs, including personal travel that is coordinated with travel relating to official School business.
- (i) Reading materials.

¹²⁷ Texttravel (Miscellaneous Provisions; Cancellation charges) (December 28, 2021)

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- (j) Room service, laundry, personal phone calls, internet service for personal use, in-room movies, etc.
- (k) Toiletries.
- (l) Travel insurance.
- (m) Travel for spouses, family members, the employee’s companion(s), the employee’s children, non-charter school employees, or other acquaintances, associates or guests.
- (n) Valet services.

Sec. 40.3. Also, *see* Sec. 4, 5 and 6 of this policy.

Sec. 41. TRAINING AND UPDATES.¹²⁸

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 42. ADMINISTRATIVE PROCEDURES.¹²⁹

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board’s approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 43. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022 and became effective on March 21, 2022.

¹²⁸ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

¹²⁹ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School’s Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is School’s governing authority and, as such, manages and directs School’s business and affairs through Board actions, resolutions and policy.

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Sec. 44. RETENTION.¹³⁰

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

Sec. 45. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Travel, as originally adopted by the Board on March 21, 2022, which Policy, as amended, is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

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¹³⁰ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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PG-5.180: ACTIVITY FUNDS

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (i) Texas Education Code (“Tex. Ed. Code”) Sections 12.115(a)(2);
- (j) Texas Business Organizations Code (“Tex. Bus. Org. Code”);
- (k) Texas Administrative Code, Title 19 (“19 TAC”), § 100.1047(b);
- (l) Financial Accountability System Resource Guide (“FASRG”); and
- (m) *Government Auditing Standards*.

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 2. APPLICABILITY OF POLICY.

This policy pertains to the receipt, safeguarding, and use of activity funds, as defined herein.

Sec. 3. AUTHORITY OVER FISCAL MATTERS.

Sec. 3.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 3.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹³¹ interested¹³² or related¹³³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 3.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

¹³¹ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

¹³² 19 TAC § 100.1047(f)

¹³³ Tex. Ed. Code § 12.1166

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Sec. 4. DEFINITIONS.

Sec. 4.1. Cocurricular Activities.¹³⁴

“Cocurricular Activities” are School sponsored activities that directly add value to classroom instruction and curriculum.

Sec. 4.2. Extracurricular Activities.¹³⁵

“Extracurricular Activities” are School sponsored activities outside the school day that are generally ones designed to motivate students and provide them with enjoyment and skill improvement in either a competitive or noncompetitive setting.

Sec. 4.3. Student Activity Funds.¹³⁶

“Student Activity Funds” are comprised of monies raised and collected by students through School approved fundraising activities, club dues, donations, or other School approved activities. As the monies raised are the property of the students, the student organization must approve student activity funds for the benefit of the student organization’s membership.

Sec. 4.4. Campus or School Activity Funds.¹³⁷

“Campus or School Activity Funds” are funds that belong to and are under the control of the School and campus and that are used to support campus and or School programs and activities.

Sec. 4.5. Staff Activity Funds.

“Staff Activity Funds” are comprised of monies contributed by employees to be used for the benefit of campus or district staff.

Sec. 5. ACTIVITY FUND ACCOUNTING.

Sec. 5.1. The Delegate or designee shall account for the receipt and use of fundraising proceeds as a campus, School, staff, or student activity fund, as applicable.

Sec. 5.2. The Delegate or designee shall maintain control of and disburse activity funds through the School’s central accounting office.¹³⁸

¹³⁴ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H.

¹³⁵ FASRG, Module 3, Special Supplement—Nonprofit Charter School Chart of Accounts, Update 17 (2020), page 53.

¹³⁶ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1.2).

¹³⁷ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1.1).

¹³⁸ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.2.4).

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Sec. 5.3. To enable campuses and student organizations to acquire goods and services with their available campus and student activity funds, the Delegate or designee shall facilitate a process whereby campuses and student organizations may acquire goods and services as and when needed.¹³⁹

Sec. 5.4. The School shall account for all funds collected by staff from students as student activity funds.¹⁴⁰

Sec. 5.5. The School shall not account for funds collected, disbursed, and controlled by parents, patrons, or alumni organizations because these funds are not activity funds.¹⁴¹

Sec. 5.6. Organizations controlled by parents, patrons, or alumni are separate legal entities from the School and shall maintain separate and distinct accounting, auditing, budgeting, reporting, and recordkeeping systems from those recording the business activities of the charter school.¹⁴²

Sec. 6. RESPONSIBILITY FOR ACTIVITY FUNDS.¹⁴³

Sec. 6.1. Delegate.

Sec. 6.1.1. The Delegate or designee shall be responsible for the overall administration and accounting of all activity funds.

Sec. 6.1.2. The Delegate or designee shall approve any staff or student organizations that raise funds. Designees shall inform the Delegate of any staff or student organizations that they approve.

Sec. 6.2. Designees.

Designated School and campus staff are responsible for:

- (a) Proper collection, disbursement, and control of activity funds.
- (b) Safekeeping of the activity funds, which includes depositing and securing the funds.
- (c) Accounting, which includes, but is not limited to, creating and maintain cash receipt records and reconciling bank statements.
- (d) Record keeping, which requires charter schools to keep activity fund records for the same length of time as other accounting records.

¹³⁹ *Ibid.*

¹⁴⁰ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H.

¹⁴¹ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1).

¹⁴² 19 TAC §100.1047(e)

¹⁴³ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.2.3).

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- (e) Conducting annual audits of activity funds by using an internal or external auditor.
- (f) Ensuring activity fund purchases comply with the School’s purchasing procedures and applicable legal requirements.

Sec. 6.3. Sponsors.

The sponsor of each student organization, including student groups and clubs, is responsible for supervising all activities of the organization. This responsibility includes the students’ adoption and maintenance of a charter, developing fundraising plans, monitoring the financial position of the activity fund, reviewing the activity fund financial statements, and safekeeping activity fund money until it is deposited by the School and other fiduciary responsibilities.

Sec. 7. BANK ACCOUNT.

The School shall establish and maintain a single bank account for all activity funds. The activity funds’ bank account must be reconciled monthly.

Sec. 8. ACTIVITY FUND RECEIPTS.

The Delegate or designee shall ensure that School retains adequate custody and control over activity funds and shall ensure that a receipt is issued to any student or parent submitting fundraising or other proceeds. The Delegate or designee shall ensure that all activity fund proceeds are deposited to the activity fund bank account and that the cash collected is not used to make purchases or payments of any kind.

Sec. 9. DISBURSEMENTS FROM STUDENT ACTIVITY FUNDS.

Student activity funds may be expended pursuant to direction from the student group provided that the expenditure is legal and that the vendor and purchase has been authorized. All expenditures drawn from student activity funds must be approved by the designated student officer, sponsor, and campus principal.

Sec. 10. FUNDRAISING.

Sec. 10.1. When fundraising activities are in the name of the School, all funds raised become School funds, belonging to the campus, School or staff or student organization responsible for raising the money.¹⁴⁴

Sec. 10.2. Prior to undertaking any fundraising activities, the campus principal must approve all fundraising and sales activities and said approval must occur within thirty (30)

¹⁴⁴ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1.3).

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days after a request is submitted. Once the purpose has been declared, funds cannot be repurposed at a later date.

Sec. 10.3. Campus principals and sponsors shall submit an annual plan for fundraising to the Delegate or designee which lists the organizations which will engage in fundraising activities and the intended use of the funds. At the end of the school year, campus principals and sponsors shall report the outcome of each fundraising activity and how the funds were used.

Sec. 10.4. Sponsors must keep control of the merchandise, petty cash funds, and fundraising proceeds and maintain records.

Sec. 10.5. Raffles and gambling are prohibited.

Sec. 10.6. The Delegate or designee must collect any sales taxes due on all sales which are not specifically exempted.

Sec. 11. CONTRIBUTIONS.

Campuses may receive contributions from donors in the form of cash or check. The School shall issue a tax-exempt letter to a donor upon request. Refer to the Board's Policy for Gift Acceptance for additional requirements.

Sec. 12. ACTIVITY FUND ROLL FORWARD.

At the end of each fiscal year, any account balance remaining in a student activity fund shall roll forward to the following fiscal year.

Sec. 13. AUDITS.¹⁴⁵

Sec. 13.1. Campus principals and sponsors must be prepared to have their activity funds audited at least annually.

Sec. 13.2. The Delegate or designee shall require an audit when a change in campus principal, campus finance staff, or sponsor occurs.

Sec. 14. TRAINING AND UPDATES.¹⁴⁶

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the

¹⁴⁵ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.2.3).

¹⁴⁶ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

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Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 15. ADMINISTRATIVE PROCEDURES.¹⁴⁷

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board's approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 16. DATED ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022 and became effective on March 21, 2022.

Sec. 17. RETENTION.¹⁴⁸

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

Sec. 14. SEC. 18. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Activity Funds, as originally adopted by the

¹⁴⁷ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

¹⁴⁸ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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Board on March 21, 2022, which Policy, as amended, is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to financial reporting. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

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PG-5.190: FINANCIAL REPORTING

Sec. 15. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (n) Texas Education Code (“Tex. Ed. Code”) Sections 12.115(a)(2) and 12.1162(a)(2);
- (o) Texas Business Organizations Code (“Tex. Bus. Org. Code”);
- (p) Texas Administrative Code, Title 19 (“19 TAC”);
- (q) Code of Federal Regulations, Title 2 (“2 CFR”), Part 200;
- (r) Financial Accountability System Resource Guide (“FASRG”);
- (s) *Standards for Internal Control in the Federal Government*; and
- (t) *Government Auditing Standards*.

Sec. 16. AUTHORITY OVER FISCAL MATTERS.

Sec. 16.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 16.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹⁴⁹ interested¹⁵⁰ or related¹⁵¹ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 16.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 17. DEVELOPMENT OF MONTHLY FINANCIAL STATEMENTS AND BUDGET AMENDMENTS.

Sec. 17.1. Except for the first and last month of the fiscal year, the Delegate or designee shall prepare and provide unaudited financial statements to the Board within ten (10) business

¹⁴⁹ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

¹⁵⁰ 19 TAC § 100.1047(f)

¹⁵¹ Tex. Ed. Code § 12.1166

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days after the end of each calendar month. The Board Chair may grant extensions as appropriate and necessary.

Sec. 17.2. As appropriate and necessary and consistent with Board policy governing the annual operating budget, the Delegate or designee shall prepare amendments to the budget adopted by the Board. In accordance with applicable law, no obligation of funds or expenditure may be made prior to the Board’s budget approval or approval of a budget amendment.

Sec. 17.3. Within ten (10) business days after the end of each calendar month, the Delegate or designee shall prepare and provide to the Board a sufficiently detailed report disclosing, without exception, any and all:

- (a) In accordance with Sec. 2.2 of this policy, business arrangements and transactions with an officer and any conflicted, interested, or related party;
- (b) Instances of a corporate charge or credit account cardholder who failed to comply with applicable Board policy and administrative procedure relating to the School’s corporate charge or credit accounts and who incurred prohibited expenses, including the amount(s) that the cardholder refunded to School or that the cardholder was required to pay from personal funds and any penalty and/or interest incurred by School;
- (c) Purchases of property and/or services that did not conform to the Board’s policy on purchasing; and
- (d) Observed noncompliance and weaknesses in internal controls, regardless of materiality.

Sec. 18. PRESENTING FINANCIAL STATEMENTS AND BUDGET AMENDMENTS TO BOARD.

During each meeting, the Board shall review approve unaudited financial statements and budget amendments. The Delegate or designee shall address any inquiries from the Board regarding budget amendments and financial disclosures during these meetings.

Sec. 19. FINANCIAL REPORTING DATA SUBMISSION.

The School shall submit, in the form and manner specified by the Texas Education Agency (“TEA”) or other grantor or regulatory entity and by the date required under applicable law or rule:

- (a) A financial and compliance report, management letter (if issued by the independent auditor) and any required supplementary data submission;
- (b) Budgeted financial data and actual, audited financial data to the Public Education Information Management System (“PEIMS”);

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- (c) Expenditure reports for draw down requests from grants awarded by the TEA or other grantor; and
- (d) Other forms and reports required by state or federal law or rule.

Sec. 20. IRS FILINGS.

In accordance with the Internal Revenue Code and Treasury Regulations, the School shall file a Form 990 annually on or before the date due. Additionally, School shall file Form 941s quarterly on or before the dates due. The 990 and 941s shall be presented to the Board for review and approval before filing.

Sec. 21. ANNUAL AUDIT; ANNUAL FINANCIAL AND COMPLIANCE REPORT.

Sec. 21.1. Annual and Interim Audits.

Sec. 21.1.1. In accordance with the Professional Services Procurement Act, the School shall procure the services of a certified public accountant that meets the requirements established in rule by the TEA to conduct an annual, independent audit of its financial statements, the financial and programmatic operations of the School, and the accuracy of the fiscal information submitted through the PEIMS and to provide an opinion on the financial statements and issue a report on internal control over financial reporting and on compliance and a report on compliance for major federal programs and on internal control over compliance.¹⁵²

Sec. 21.1.2. The Delegate or designee shall ensure that the independent auditor conducts both an interim and end of year audit for each fiscal year.

Sec. 21.2. Independent Auditor's Qualifications.

Sec. 21.2.1. The independent auditor shall:

- (a) Be associated with a CPA firm that has a current valid license issued by the Texas State Board of Public Accountancy;
- (b) Be a CPA with a current valid license issued by the Texas State Board of Public Accountancy; and
- (c) Adhere to the generally accepted auditing standards (GAAS), adopted by the American Institute of CPAs (AICPA), as amended, and the generally accepted government auditing standards (GAGAS), adopted by the U.S. Government Accountability Office, as amended.¹⁵³

¹⁵² 19 TAC §100.1047(c); 19 TAC §109.23(d)

¹⁵³ 19 TAC §109.23(d)(1)

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Sec. 21.2.2. The CPA firm required under Sec. 7.2.1(a) of this policy must:

- (a) Be a member of the AICPA Governmental Audit Quality Center (GAQC);
- (b) Adhere to GAQC's membership requirements; and
- (c) Collectively have the knowledge, skills, and experience to be competent for the audit being conducted, including thorough knowledge of GAGAS and:
 - (1) Texas public school district environment; or
 - (2) public sector; or
 - (3) nonprofit sector.¹⁵⁴

Sec. 21.3. Report Requirements.

Sec. 21.3.1. Report Content.

The Delegate or designee shall ensure that the annual financial and compliance report includes the content, reports, schedules and note disclosures required under generally accepted accounting principles (“GAAP”), as promulgated by the Financial Accounting Standards Board, and pursuant to the financial reporting requirements adopted by the TEA in the FASRG. The Delegate or designee shall ensure that the annual financial and compliance report includes financial and other information for the corporation as a whole and for its open-enrollment charter school.¹⁵⁵

Sec. 21.3.2. Accounting Policy.

Consistent with GAAP, the School shall observe the following accounting policies:

- (a) *Cash equivalents.* For financial statement purposes, the School considers all highly liquid investments with an original maturity of three months or less to be cash equivalents.
- (b) *Restricted support.* The School shall report restricted support as temporarily restricted regardless of whether or not the restrictions are met within the same fiscal year.
- (c) *Amortization and depreciation expense.* The School shall record amortization and depreciation expense using the straight-line method and the useful life of the asset or the estimated useful lives for each asset class established in the Board’s Capital Assets Policy.

Except as specified in Sec. 7.3.2 of this policy, the Delegate or designee may recommend for adoption such other accounting policies as the Delegate or designee deems appropriate and necessary. These shall be reviewed and approved by the Board. In this adoption process, the

¹⁵⁴ 19 TAC §109.23(d)(2)

¹⁵⁵ 19 TAC §100.1047(b); Tex. Bus. Org. Code §22.352

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Delegate or designee may consult with the School’s independent auditor or another CPA. At the Board’s discretion, the Board may review any accounting policy recommended for adoption by the Delegate or designee under this subsection and may approve or disapprove said policy.

Sec. 21.3.3. Board Approval.

The Board shall review and approve, or disapprove, the content of the annual financial and compliance report before it is submitted to the TEA. If the Board disapproves the content of the report, the Board shall state its disapproval, including the reason(s) for disapproving the report’s content, in writing to the TEA.

Sec. 22. TRAINING AND UPDATES.¹⁵⁶

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 23. ADMINISTRATIVE PROCEDURES.¹⁵⁷

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board’s approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 24. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022 and became effective on March 21, 2022.

¹⁵⁶ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

¹⁵⁷ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegates or designee to adopt an administrative procedure to implement this policy. Moreover, in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the governing authority and, as such, manages and directs the School’s business and affairs through Board actions, resolutions and policy.

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Sec. 25. RETENTION.¹⁵⁸

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

Sec. 15. SEC. 12. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Financial Reporting, as originally adopted by the Board on March 21, 2022, which Policy, as amended, is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to capital assets. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

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¹⁵⁸ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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PG-5.220: CORPORATE CREDIT ACCOUNTS

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (d) Texas Constitution, Article 3, Sec. 50, 51, 52 and 53;
- (e) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;
- (f) Texas Education Code (“Tex. Ed. Code”), Sections 12.107, 12.1052, 12.115(a)(2), 12.121, 12.128 and 45.105(c);
- (g) Texas Administrative Code, Title 19 (“19 TAC”), Sections 100.1022, 100.1032, 100.1033, 100.1043, 100.1047, 100.1063, 100.1101, and 100.1203;
- (h) Code of Federal Regulations, Title 2, Part 200 (“2 CFR 200”); and
- (i) Financial Accountability System Resource Guide.

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹⁵⁹ interested¹⁶⁰ or related¹⁶¹ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

¹⁵⁹ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

¹⁶⁰ 19 TAC §100.1047(f)

¹⁶¹ Tex. Ed. Code §12.1166

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Sec. 3. BOARD AUTHORIZATION.

Sec. 3.1. Subject to Sec. 2 of this policy, the Board authorizes the Delegate to establish a corporate credit account(s) for the purpose of procuring goods and/or services for School activities, functions, programs and services and to facilitate business travel. In furtherance of this purpose, the Delegate may authorize certain School employees to use the corporate credit account(s).

Sec. 3.2. In authorizing the establishment of a corporate credit account(s), the Board is not authorizing the Delegate to pay the corporate credit account issuer(s) directly. Instead, the Delegate shall require each employee authorized to use the corporate credit account(s) to assume personal liability for all charges, request reimbursement of charges conforming to this policy, and paying the issuer directly for the expenses charged to the corporate credit account(s) assigned to the employee.

Sec. 4. COMPLIANCE WITH POLICY.

In establishing a corporate credit account(s), the Delegate shall ensure compliance with the requirements set forth in this policy and other Board policy. In accepting the Delegate's authorization to use the corporate credit account(s), School employees shall adhere to the requirements set forth in this policy and other Board policy.

Sec. 5. EMPLOYEE ELIGIBILITY.

Sec. 5.1. Employment Status. School personnel shall be employed on a full-time status to be eligible to use the corporate credit account(s). School personnel employed on a less than full-time status, independent contractors, and volunteers are not eligible to use the corporate credit account(s).

Sec. 5.2. Eligible Employees. School personnel listed in Sec. 5 of the Controlling Policy are eligible to use the corporate credit account(s). Additionally, the Delegate may authorize a School employee not listed in said policy to use the corporate credit account(s) if, on a monthly basis, the employee purchases goods and/or services or travels in furtherance of the School's business activities and incurs \$500 or more related expenses on a monthly basis.

Sec. 5.3. Credit Worthiness. The Delegate may not approve any School employee that is not credit worthy as determined by the credit account issuer after conducting an authorized credit history check.

Sec. 5.4. Participation Optional. School employees are not required to use the School's corporate card account(s) to purchase goods and/or services or to conduct business travel. Instead, employees may submit an expense reimbursement request.

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Sec. 6. REQUIREMENTS FOR APPROVAL AND USE.

Sec. 6.1. Application Required. To be granted authorization to use the School's corporate credit account(s), a School employee must submit a written application in the form specified by the Delegate.

Sec. 6.2. Credit Review Required. School employees that submit a corporate credit account application shall authorize the corporate credit account issuer to conduct a review of the employee's credit history.

Sec. 6.3. Agreement Required. Prior to using the School's corporate credit account(s), the employee shall sign a standard written agreement in the form specified by the Delegate. In the standard written agreement, the Delegate shall include terms and conditions that effectively implement this policy and best practices that safeguard the use of the corporate credit account(s).

Sec. 6.4. Form. An employee authorized to use the School's corporate credit account(s) shall do so through a corporate credit account card(s).

Sec. 6.5. Financial Responsibility. Prior to using the School's corporate credit account(s), the employee shall accept financial responsibility for any expenses charged to their assigned corporate credit account and card that fails to conform to the requirements of this policy and applicable law.

Sec. 7. DELEGATE'S RESPONSIBILITIES.

The Delegate or designee shall:

- (j) Oversee the administration of the School's corporate credit account(s).
- (k) Process all requests to use the corporate credit account(s), including any modifications to said use.
- (l) Restrict the use of corporate credit account(s) to specific Merchant Category Codes to mitigate the use of the account(s) at unapproved merchant types.
- (m) Review each cardholder's expenses, approve or disapprove each cardholder's charges, and authorize the payment of all eligible expenses charged to the corporate credit account(s).
- (n) If an expense is disapproved, inform the cardholder in writing of the amount(s) that were disallowed and the basis for the disallowance.
- (o) Provide monthly statements to each employee authorized to use the corporate credit account(s).

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- (p) Require each employee to affirm, in writing, that the expenses disclosed on each monthly statement were incurred for official School business and conform to applicable legal requirements and Board policy.
- (q) Monitor and enforce compliance with this policy, any other related Board policies, and any administrative procedures.
- (r) Investigate any irregularities or alleged misconduct and report findings to the Board.
- (s) Take control and possession of an employee's access to the corporate credit account(s) upon the employee's separation from employment with the School or other relevant change in employment status.
- (t) Disclose, in writing, any violation of this policy by any employee to the Board.

Sec. 8. AUTHORIZED EMPLOYEE DUTIES.

Sec. 8.1. Abuse and Waste Prohibited. Consistent with Sec. 8 of the Controlling Policy, cardholders shall not use the corporate credit account(s) to abuse or waste the School's financial resources and established lines of credits.

Sec. 8.2. Appropriate Use. Cardholders shall agree to the appropriate use of the corporate credit account(s) and card(s) assigned to them thereby restricting the use of said account(s) and card(s) to the purchase of goods and/or services for official School business.

Sec. 8.3. Billing Errors and Unrecognized Transactions. Cardholders shall identify and satisfactorily resolve any billing errors and unrecognized expenses.

Sec. 8.4. Credits and Returns. Cardholders shall return items for credit and not for cash refunds. Cardholders shall ensure that any returned items are credited to the corporate credit account(s).

Sec. 8.5. Disclosure of Conflicted, Interested, or Related-Party Transactions. Cardholders shall disclose to the Delegate or designee any business arrangement or transaction with any conflicted, interested, or related party, as defined in other Board policy or applicable law. Cardholders may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 8.6. Fraudulent Charges. Cardholders shall report fraudulent charges to the corporate credit account issuer and the Delegate or designee immediately after they become aware of the fraudulent charges.

Sec. 8.7. Fraudulent Use Prohibited. Cardholders shall not use their corporate credit account(s) and card(s) to commit fraud or other criminal act. Cardholders shall be liable for any fraudulent or other charges of a criminal nature.

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Sec. 8.8. Liability for Charges. Cardholders shall agree to be liable for the expenses charged to the corporate credit account(s) and card(s) assigned to them and to pay the credit account and card issuer for the expenses incurred. Notwithstanding, personal use of the corporate credit account(s) and card(s) is strictly prohibited and any abuse may lead to loss of card privileged, as well as adverse employment action up to and including termination.

Sec. 8.9. Lost or Stolen Card(s). Cardholders shall report lost or stolen corporate credit cards to the issuer and the Delegate or designee immediately after they become aware of the loss.

Sec. 8.10. Method of Procurement. Cardholders are required to and shall be responsible for procuring goods and services pursuant to the procurement methods identified in the Board's Policy relating to Purchasing and Contracting.

Sec. 8.11. Personal Use Prohibited. Cardholders shall only use their corporate credit account(s) and card(s) for official School business only and shall not use the account(s) and card(s) for their personal benefit. Cardholders shall agree to be liable for any charges of a personal nature and may face personnel action, up to and including termination.

Sec. 8.12. Prudent Person Rule. An authorized employee, or cardholder, shall limit the use of the corporate credit account(s) to costs that adhere to the Prudent Person Rule set forth in Sec. 7 of the Controlling Policy.

Sec. 8.13. Reconciliation Required. Cardholders shall reconcile any and all charges disclosed on the monthly statement pertaining to their assigned corporate credit account(s) to original, itemized receipts. Cardholders shall subsequently submit the receipts to the Delegate or designee and identify any expenses for which a receipt is missing, or which was not authorized by the cardholder.

Sec. 8.14. Reimbursement Request. Cardholders shall agree to submit requests for reimbursement for legitimate business expenses.

Sec. 8.15. Safeguarding Account. Cardholders shall appropriately safeguard their assigned corporate credit account(s) and card(s), including the account number, the security code, expiration date and associated mailing zip code to protect against any unauthorized access of the corporate credit account.

Sec. 8.16. Sales Taxes. Since the School is tax-exempt, cardholders shall ensure that sales taxes are not charged on any purchase.

Sec. 9. AUTHORIZED USER.

Only the cardholder shall use their assigned corporate account(s) and card(s) to purchase goods and/or services, including business travel. A cardholder may not authorize anyone, including a School employee, to use their assigned corporate account(s) and card(s) for any purpose.

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Sec. 10. PROHIBITED USE.

Sec. 10.1. Cardholders shall not use their assigned corporate credit account(s) and card(s) in excess of the specified credit limit.

Sec. 10.2. Although not all inclusive, cardholders shall not use their assigned corporate credit account(s) and card(s) for the following types of activities and expenses.

- (u) Alcoholic beverages.
- (v) Cash advances.
- (w) Donations.
- (x) Food and beverages not associated with travel for official School business.
- (y) Gift cards.
- (z) Gratuities or tips.
- (aa) Information technology hardware or software.
- (bb) Loans.
- (cc) Medical services, prescription and nonprescription drugs, or supplements.
- (dd) Non-business related charges, including any expense resulting in a personal benefit.
- (ee) Political contributions or lobbying activities.
- (ff) Purchases subject to Sec. 2.2 of this policy.

Sec. 10.3. Cardholders may not use their assigned corporate credit account(s) and card(s) for component, separate, or sequential purchases to avoid or bypass the School's purchasing and payment policies and procedures.

Sec. 11. TERMINATION OF CARDHOLDER PARTICIPATION.

A cardholder's corporate credit account(s) and card(s) may be cancelled for the following reasons:

- (gg) Cardholder is no longer employed by School.
- (hh) Cardholder changes position and their new position does not meet the requirement for eligibility set forth in Sec. 5 of this policy.
- (ii) In using their assigned corporate card(s), cardholder materially violated this policy or other related Board policy and any pertinent administrative procedures.
- (jj) Cardholder is suspended, placed on administrative leave, or is subject to other adverse employment action.

Sec. 12. REQUIRED SUBSTANTIATION.

Sec. 12.1. For each transaction, cardholders shall provide:

- (kk) a sufficiently detailed description of:

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- (1) the business purpose for the transaction;
 - (2) how said purpose directly benefited the School; and
 - (3) the names of the individuals who were part of the transaction, including the organization they represented and the official capacity in which they represented said organization; and
- (II) the original, itemized third-party receipts and other such records that fully discloses:
- (1) the vendor’s name, place of business and contact information;
 - (2) the transaction date and total amount of the purchase; and
 - (3) individual line items for the goods and/or services purchased and the cost of each item.

Sec. 12.2. Cardholders shall ensure that vendors provide an original, itemized receipt conforming to the requirements set forth in Sec. 13.1(a) of this policy.

Sec. 12.3. If the cardholder fails to provide the required substantiation under Sec. 13.1 of this policy, the cardholder shall be liable for the amount(s) of the unsubstantiated transaction(s).

Sec. 13. REVIEW BY BOARD.

Without exception, the Board shall review and approve or disapprove the expenses charged by an officer¹⁶² to their assigned corporate credit account(s) and required substantiation. If disapproved, the Board’s designee shall inform the officer in writing of the amount(s) that were disallowed and the basis for the disallowance.

Sec. 14. PARTICIPATION IN REWARDS PROGRAM.

The School shall participate in any rewards program offered by the corporate credit account issuer(s) and shall retain ownership of any rewards earned under said program and shall use any rewards received for the benefit of the School’s students.

Sec. 15. TRAINING AND UPDATES.¹⁶³

The Delegate or designee shall properly train School officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally,

¹⁶² See Sec. 5 of the Controlling Policy.

¹⁶³ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

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the Delegate or designee shall keep School officers and employees informed of any changes to this policy and related requirements.

Sec. 16. ADMINISTRATIVE PROCEDURES.¹⁶⁴

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board's approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 17. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022, and it became effective on March 21, 2022.

Sec. 18. RETENTION.¹⁶⁵

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter in accordance with state law.

Sec. 19. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Corporate Credit Accounts, as originally

¹⁶⁴ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegates or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in the School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School's governing authority and, as such, manages and directs the School's business and affairs through Board actions, resolutions and policy.

¹⁶⁵ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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adopted by the Board on March 21, 2022, which Policy is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to fundraising. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

NOT LEGAL ADVICE. As legal advice must be tailored to the specific circumstances of each case, nothing provided herein should be used as a substitute for advice of competent counsel. The statements in this template do not constitute legal advice, do not necessarily reflect the opinions of Schulman, Lopez, Hoffer & Adelstein, LLP or any of its lawyers or clients, and are not guaranteed to be correct, complete or up-to-date. Further, if your corporation and its charter school(s) are not clients of the Firm, this template is not intended to create, and does not create, an attorney-client relationship between your corporation and its charter school(s) and Schulman, Lopez, Hoffer & Adelstein, LLP; commensurately, you should not act or rely on any information in this template without consulting your own legal and other qualified advisors. Accordingly, please do not send the Firm any information about any legal matter, which may involve your corporation or your charter school unless or until you have received a written statement from the Firm in the form of an engagement letter confirming that we represent you.

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PG-5.290: FUNDRAISING

Sec. 43. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code (“Tex. Ed. Code”) Sections 12.115(a)(2) and 12.128;
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”);
- (c) Texas Administrative Code, Title 19 (“19 TAC”), § 100.1047(b); and
- (d) *Government Auditing Standards*.

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 44. APPLICABILITY OF POLICY.

This policy pertains to the receipt, safeguarding and use of funds received by School personnel. This policy supplements the Board’s Policy for Gift Acceptance.

Sec. 45. AUTHORITY OVER FISCAL MATTERS.

Sec. 45.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 45.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹⁶⁶ interested¹⁶⁷ or related¹⁶⁸ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 45.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

¹⁶⁶ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

¹⁶⁷ 19 TAC § 100.1047(f)

¹⁶⁸ Tex. Ed. Code § 12.1166

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Sec. 46. CONTRIBUTIONS RECEIVED.

Sec. 46.1. Cash Defined. For purposes of this policy, cash means coin, currency, money orders, cashier's checks, personal checks, and business checks, including any funds maintained in a bank, investment, savings, or other similar account.

Sec. 46.2. In-Kind Contributions. In-kind contributions are recognized and recorded at fair market value on the date received. The donor shall provide the fair market value of the donated item or service.

Sec. 46.3. Contributions to the School Child Nutrition Program. The School's Child Nutrition Program (CNP) staff shall collect and deposit all monies received from students, or their parents or guardians, for meals and snacks. CNP staff shall also create and maintain records of all such payments to provide parents (or guardians) and students timely, accurate account balances.

Sec. 46.4. Contributions Received by Campus. Campuses are only authorized to receive cash and credit card contributions from donors. Moreover, campus principals may not accept a contribution governed by the Board's Policy for Gift Acceptance.

Sec. 46.5. Contributions Received from Vendors. School officers, as defined in Sec. 5 of the Controlling Policy, and employees may not receive contributions directly from any vendor. If a vendor makes a cash or in-kind contribution to an officer or employee, the officer or employee shall route the contribution to the Delegate or designee. The Delegate or designee shall maintain proper control of the contribution. See Board Policy relating to Gift Acceptance for additional requirements.

Sec. 46.6. Special Events. The School may organize special events for the purpose of raising funds from donors. School officers, as defined in Sec. 5 of the Controlling Policy, must ensure that special events yield fundraising results that exceed the cost of the event by at least fifty percent (50%).

Sec. 46.7. Use of Unrestricted Contributions. An unrestricted contribution is a contribution from a donor who did not require that any condition(s) be met so that the contribution may be used. In this instance, the School may use an unrestricted contribution for any lawful purpose. However, unrestricted and lawful purposes do not mean "any purpose" but rather means and is limited to an authorized charitable purpose of the School that is in furtherance of the School's mission and in the best interest of students. The applicable grant or donation agreement must also be considered and reviewed to confirm. Any doubts on use or if it unclear, the Delegate or designee should confirm intent and/or approval in writing with the donor.

Sec. 46.8. Use of Restricted Contributions. A restricted contribution is a contribution from a donor who stipulated, in writing, that a specific condition(s) must be met so that the contribution may be used. In this instance, the School may only use a restricted contribution as stipulated by the donor. To ensure compliance with the donor's stipulation(s), the Delegate or designee shall obtain a

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written agreement from the donor setting forth the specific condition(s) that must be met to enable School to use the contribution received.

Sec. 46.9. Reports to Donors. The Delegate or designee shall provide a report to donors disclosing the uses of their contributions.

Sec. 46.10. Compliance with Donor Agreements. The Delegate or designee shall ensure compliance with any donor/grant agreement and periodically review the same.

Sec. 47. TAX-EXEMPT LETTER.

Sec. 47.1. See Board Policy relating to Gift Acceptance, Sec. 10.

Sec. 47.2. Upon Request from Donor. The School shall issue a tax-exempt letter to a donor upon request or as otherwise where required by law.

Sec. 47.3. Written Acknowledgement of Certain Donations.¹⁶⁹ In accordance with the Internal Revenue Code and Treasury Regulations, a donor is prohibited from claiming a tax deduction for any single contribution of \$250 or more unless the donor receives a contemporaneous, written acknowledgement of the contribution from the School. To facilitate the donor's compliance with applicable law, the School may provide a donor contributing \$250 or more with a timely, written annual statement that includes, on the School's letterhead:

- (a) The School's name;
- (b) The amount of the cash contribution(s) received from the donor during the calendar year;
- (c) A description (but not the value) of the non-cash contribution(s), if any; and
- (d) A statement that no goods or services were provided by School in return for the contribution, if applicable; or
- (e) A description and good faith estimate of the value of goods or services that School provided in return for the contribution, if applicable.

Sec. 47.4. Form of Written Acknowledgement. The School may provide the written acknowledgement via U.S. Postal Service or electronic mail.

Sec. 47.5. Contemporaneous Defined.¹⁷⁰ For purposes of Sec. 5.2 of this policy, the School must provide the donor with a written acknowledgement by January 31 of the calendar year following the receipt of the donor's contribution.

Sec. 47.6. Records. The Delegate or designee shall create, obtain, and maintain adequate and sufficient records to support the receipt of contributions and fundraising proceeds, as required by applicable law, rule and policy.

¹⁶⁹ IRS Publication 1771 (Rev. 3-2016) Catalog Number 20054Q, page 2.

¹⁷⁰ *Ibid*, page 3.

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Sec. 48. TRAINING AND UPDATES.¹⁷¹

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 49. ADMINISTRATIVE PROCEDURES.¹⁷²

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board's approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 50. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022 and became effective on March 21, 2022.

Sec. 51. RETENTION.¹⁷³

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

Sec. 52. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Fundraising, as originally adopted by the

¹⁷¹ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

¹⁷² Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

¹⁷³ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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Board on March 21, 2022, which Policy, as amended, is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to capital assets. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

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PG-5.310: CAPITAL ASSETS

Sec. 20. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (mm) Texas Education Code (“Tex. Ed. Code”) Sections 12.107, 12.128 and 45.105(c);
- (nn) Texas Administrative Code, Title 19 (“19 TAC”), Sections 100.1001, 100.1043, and 100.1063;
- (oo) Code of Federal Regulations, Title 2, Part 200 (“2 CFR 200”); and
- (pp) Financial Accountability System Resource Guide.

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 21. AUTHORITY OVER FISCAL MATTERS.

Sec. 21.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 21.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹⁷⁴ interested¹⁷⁵ or related¹⁷⁶ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 21.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 22. CAPITAL ASSETS.

Sec. 22.1. Capital Assets Defined.

Capital assets means any tangible or intangible item of property acquired by the School, regardless of funding source used or if donated, with a cost of \$5,000 or more and a useful life of greater than

¹⁷⁴ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

¹⁷⁵ 19 TAC §100.1047(f)

¹⁷⁶ Tex. Ed. Code §12.1166

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one (1) year at the time of acquisition.¹⁷⁷ The broad range of capital assets that are used in operations, include:

- (qq) Real property, including land, buildings and improvements to land and buildings;
- (rr) Leasehold improvements; and
- (ss) Personal property, including:
 - (1) Furniture and equipment, including computer hardware;
 - (2) Computer software;
 - (3) Contract rights, intellectual property (such as copyrights, patents, and trademarks) and other intangible property;
 - (4) Vehicles; and
 - (5) Any other form of personal property recognized by Texas law.¹⁷⁸

Sec. 22.2. Capitalized Costs.

Sec. 22.2.1. The School shall capitalize costs incurred for the acquisition of an asset in a manner consistent with generally accepted accounting principles. At a minimum, the School shall capitalize an asset's purchase price and any expenses incurred for ancillary activities (e.g., site preparation, transportation and installation) to bring the asset to the condition and location necessary for its intended use.

Sec. 22.2.2. The School shall capitalize the fair market value of donated assets as of the date that the asset was donated.

Sec. 22.2.3. The School shall capitalize the acquisition cost of an asset or the fair market value of a donated asset if the asset at the time of acquisition or donation has a useful life of more than one (1) year.

Sec. 22.2.4. The School shall capitalize the cost of improvements to property if the improvements:

- (tt) Extend the useful life of the asset;
- (uu) Enhance the overall value of the asset; or
- (vv) Adapt the asset so that it may be repurposed.

Sec. 22.3. Capitalization Thresholds.

The School shall capitalize the cost of acquiring an asset if the cost per unit equals or exceeds the following amounts.

Property Description	Capitalization Threshold
Land	\$0
Improvements to land	\$50,000

¹⁷⁷ 2 CFR §200.1

¹⁷⁸ 19 TAC §100.1001(6)

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Property Description	Capitalization Threshold
Buildings	\$50,000
Improvements to buildings	\$50,000
Leasehold improvements	\$50,000
Construction in progress	\$50,000
Furniture and equipment	\$5,000
Vehicles	\$5,000
Other personal property	\$5,000

Sec. 22.4. Approval Required.¹⁷⁹

The Board shall approve all purchases of real property, the purchase of construction services for a new building or the renovation of an existing building, and the acquisition of personal property requiring the execution of a contract. Refer to the Board’s Policy relating to Purchasing.

The Board may delegate its authority for construction, renovations or repairs pursuant to Education Code § 44.0312 by written resolution, with such delegation to a person, representatives or committee, but shall provide notice of this delegation and the limits of the delegation as required by law and include the same in all request for bids, proposals or qualifications or as an addendum to a request. Failure to comply with the legal requirements will render and decision not made by the Board an advisory/recommendation only and shall not be binding on the Board or charter school.

Sec. 23. DEPRECIATION.

Sec. 23.1. Authorized Method of Depreciation.

Other than the capitalized cost for land, the School shall utilize the straight-line method of depreciation to amortize the capitalized costs of all asserts over their useful life. Consistent with generally accepted accounting principles, the School shall calculate the annual depreciation of capitalized costs as:

$$(\textit{Capitalized Cost of Asset} - \textit{Salvage Value}) \div \textit{Estimated Useful Life}$$

¹⁷⁹ *El Paso Education Initiative, Inc. v. Amex Properties, LLC*, 385 S.W.3d 701, 706, 708 (Tex. App.–El Paso 2012, pet. denied.); 19 TAC §§ 100.1033(b)(14)(C)(ii) and 100.1101(b)-(c)

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Sec. 23.2. Useful Life.

Consistent with generally accepted accounting principles, the useful life of an asset means the period during which the asset is projected to generate revenue or provide other valuable service to the School and not how long the asset will last. Generally, the School shall observe the following useful life for each type of capital asset.

Type	Useful Life
Land	Perpetual
Improvements to land	15
Buildings	30
Modular Buildings	10
Improvements to buildings	Remaining useful life of the building
Leasehold improvements	Lease term
HVAC systems	15
Electrical/Plumbing	15
Roofing	15
Carpet replacement	7
Cabling	5
Computer hardware	3
Computer software	3
Duplicating equipment	5
Custodial equipment	7
Office and classroom furniture, fixtures and equipment	7
Grounds equipment	7
Kitchen equipment	7
Audio-Visual equipment	5
Vehicles	5

Sec. 24. INVENTORY OF ASSETS.

Sec. 24.1. The Delegate or designee shall maintain an inventory of all capital assets and of the following non-capital assets (“Sec. 511 Assets”):

- (ww) Desktop computers,
- (xx) Laptops,
- (yy) Notebooks,
- (zz) Smartphones
- (aaa) Tablets, and
- (bbb) Other computing devices.

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Sec. 24.2. The Delegate or designee shall affix upon Sec. 511 Assets a permanent, machine-readable label that clearly identifies the asset as School property and uniquely accounts for the asset in the School's inventory records.

Sec. 24.3. The Delegate or designee(s) shall annually conduct a physical inventory of Sec. 511 Assets and shall ensure appropriate corrective or other measures, including reports to law enforcement, are undertaken for any Sec. 511 Assets that are not located.

Sec. 24.4. When a change in campus principal or central office administrator occurs, the Delegate or designee and the outgoing principal or administrator shall conduct a joint inventory of Sec. 511 Assets.

Sec. 24.5. The School shall maintain accurate, complete, and up-to-date records of all capital assets through physical counts, the review of purchase records, and other methods, as deemed appropriate and necessary.

Sec. 25. SAFEGUARDING OF ASSETS.

Sec. 25.1. The Delegate or designee shall ensure that Sec. 511 Assets are safeguarded.

Sec. 25.2. The Delegate or designee shall adopt a system for transferring assets assigned to a campus or department to another campus or department.

Sec. 26. DISPOSITION OF CAPITAL ASSETS.

Sec. 26.1. Except for real property, the Delegate is authorized, by any means commonly used, to dispose of assets that have concluded their useful life, are obsolete or deemed unnecessary, are damaged beyond repair or deemed too costly to repair or are lost or stolen. If an asset is still serviceable, the Delegate or designee shall first determine if a need for the asset exists elsewhere within the School before disposing of the asset.

Sec. 26.2. The Board shall authorize any disposal of assets through a donation to another charitable, tax-exempt organization. For donations to charitable organizations, the Board shall obtain a written assurance from the organization to which the asset is being donated that it will use the donated asset for a public purpose and shall stipulate that, as a condition of the donation, ownership of the asset shall revert to School if the recipient organization discontinues using the asset for a public purpose.

Sec. 26.3. If the asset is disposed of through a sale, the Delegate or designee shall sell the asset for fair market value and shall attribute any proceeds to the originating fund source. As a condition of selling the asset, the School shall make no warranties or guarantees concerning the continued functionality of the asset.

Sec. 26.4. In the following order of precedence, the Delegate or designee may sell assets to students, teachers and educational aides, parents, other School, personnel, and the public at large.

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In doing so, the Delegate or designee shall not act in a manner that is or appears to be preferential to any one individual, except as indicated in the order of precedence set forth in this section.

Sec. 26.5. If the asset has no value, the Delegate or designee may dispose of the asset as deemed administratively expedient.¹⁸⁰

Sec. 26.6. The Delegate or designee shall adopt a system for the documented disposal of assets, including the Delegate's approval for the disposal of any capital asset with a fair market or residual value exceeding \$5,000 per unit.

Sec. 26.7. Prior to the final disposal of an asset, the Delegate or designee shall remove or cause to have removed any School emblems and other identifying information, such as license plates and inventory tags, from the asset. Additionally, any computing device shall have its storage mediums permanently erased of any software owned or subscribed to by the School and of any data, especially personally identifiable data pertaining to students and staff.

Sec. 26.8. School personnel are prohibited from receiving, through sale or otherwise, any asset that is to be disposed except as established under this policy and pursuant to the administrative procedures adopted under this policy.

Sec. 26.9. The Delegate or designee shall dispose of assets acquired with federal funds in accordance with applicable federal regulations and grantor agency policy and grant requirements.

Sec. 27. TRAINING AND UPDATES.¹⁸¹

The Delegate or designee shall properly train School officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep School officers and employees informed of any changes to this policy and related requirements.

Sec. 28. ADMINISTRATIVE PROCEDURES.¹⁸²

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before

¹⁸⁰ An administratively expedient disposal does not result in any additional administrative process beyond documenting the disposal of the asset.

¹⁸¹ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

¹⁸² Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegates or designee to adopt an administrative procedure to implement this policy. Moreover, in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the governing authority and, as such, manages and directs the School's business and affairs through Board actions, resolutions and policy.

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deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board’s approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 29. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022, and it became effective on March 21, 2022.

Sec. 30. RETENTION.¹⁸³

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter in accordance with state law.

Sec. 31. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Accounts Payable, as originally adopted by the Board on March 21, 2022, which Policy is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to the adoption and amendment of the annual operating budget. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in

¹⁸³ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

NOT LEGAL ADVICE. As legal advice must be tailored to the specific circumstances of each case, nothing provided herein should be used as a substitute for advice of competent counsel. The statements in this template do not constitute legal advice, do not necessarily reflect the opinions of Schulman, Lopez, Hoffer & Adelstein, LLP or any of its lawyers or clients, and are not guaranteed to be correct, complete or up-to-date. Further, if your corporation and its charter school(s) are not clients of the Firm, this template is not intended to create, and does not create, an attorney-client relationship between your corporation and its charter school(s) and Schulman, Lopez, Hoffer & Adelstein, LLP; commensurately, you should not act or rely on any information in this template without consulting your own legal and other qualified advisors. Accordingly, please do not send the Firm any information about any legal matter, which may involve your corporation or your charter school unless or until you have received a written statement from the Firm in the form of an engagement letter confirming that we represent you.

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PG-5.320: INVESTMENT OF FUNDS

Sec. 53. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101 and 22.201;
- (b) Texas Education Code (“Tex. Ed. Code”) Section 12.1053(b)(3);
- (c) Texas Government Code (“Tex. Gov’t. Code”) Sections 2256.009 through 2256.016;
- (d) Texas Administrative Code, Title 19 (“19 TAC”), §100.1045; and
- (e) Financial Accountability System Resource Guide (“FASRG”).

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 54. AUTHORITY OVER FISCAL MATTERS.

Sec. 54.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 54.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹⁸⁴ interested¹⁸⁵ or related¹⁸⁶ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 54.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 55. INVESTMENT OBJECTIVES.¹⁸⁷

In general, the Board and Delegate shall observe, in the priority order listed in this Sec. 3, the following objectives when investing funds:

- (a) Preservation and safety of principal;

¹⁸⁴ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

¹⁸⁵ 19 TAC § 100.1047(f)

¹⁸⁶ Tex. Ed. Code § 12.1166

¹⁸⁷ 19 TAC §100.1045(c)(1)

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- (b) Liquidity; and
- (c) Yield.

Sec. 56. ACCOUNT MAINTENANCE.¹⁸⁸

The Delegate or designee shall ensure that investments are maintained in discrete and distinct accounts that separate funds pertaining to non-School activities, functions, programs and services from public funds.

Sec. 57. INVESTMENT RECORDS.¹⁸⁹

The Delegate or designee shall ensure that the School creates and maintains accurate and complete records of any and all investments of School funds.

Sec. 58. CONTRACTUAL CONSIDERATIONS.¹⁹⁰

The Delegate shall ensure that investments are made in accordance with any applicable provision or covenant contained in a debt instrument, bond indenture, or similar agreement.

Sec. 59. AUTHORIZATION THRESHOLDS.¹⁹¹

Subject to the Board’s final authority over the use of public funds, the Delegate or designee is authorized to invest an amount not exceeding \$50,000 for a period not exceeding one (1) year in the authorized investments identified in this policy. Otherwise, the Delegate or designee shall recommend to the Board any investment of surplus cash exceeding \$50,000 or for a period exceeding one year.

Sec. 60. AUTHORIZED INVESTMENTS.

The Board and Delegate or designee may purchase, sell and invest public funds in the following authorized investments.¹⁹²

Sec. 60.1. Obligations of or Guaranteed by a Governmental Entity.¹⁹³ Except as provided by Sec. 8.2 of this policy, the following are authorized investments under this subsection.

- (a) Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks.

¹⁸⁸ 19 TAC §100.1045(b)(2)

¹⁸⁹ Tex. Bus. Org. Code §22.352(a); Tex. Ed. Code §12.115(a)(2); 19 TAC §§ 100.1033(c)(1)(A)(vi)100.1047(b)(1)

¹⁹⁰ 19 TAC §100.1045(b)(3)

¹⁹¹ 19 TAC §100.1033(b)(14)(C)(ii); Consistent with Tex. Gov’t. Code §2256.003

¹⁹² Tex. Ed. Code §12.1053(b)(3)

¹⁹³ Tex. Gov’t. Code §2256.009(a)

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- (b) Direct obligations of the State of Texas or its agencies and instrumentalities.
- (c) Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States.
- (d) Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas, the United States, or their respective agencies or instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (“FDIC”) or by the explicit full faith and credit of the United States.
- (e) Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.
- (f) Bonds issued, assumed, or guaranteed by the State of Israel.
- (g) Interest-bearing banking deposits that are guaranteed or insured by:
 - (1) the FDIC or its successor; or
 - (2) the National Credit Union Share Insurance Fund (“NCUSIF”) or its successor.
- (h) Interest-bearing banking deposits other than those described by (g) above if:
 - (1) the funds invested in the banking deposits are invested through:
 - (A) a broker with a main office or branch office in the State of Texas that the School selects from a list the Board, or, if so designated, an investment committee, adopts as required by Tex. Gov’t. Code §2256.025; or
 - (B) a depository institution with a main office or branch office in the State of Texas that the School selects;
 - (2) the broker or depository institution selected as described by (h)(1) arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the School's account;
 - (3) the full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and
 - (4) the School appoints as its custodian of the banking deposits issued for the School's account:

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- (A) the depository institution selected as described by (h)(1);
- (B) an entity described by Tex. Gov't. Code §2257.041(d); or
- (C) a clearing broker dealer registered with the Securities and Exchange Commission (“SEC”) and operating under SEC Rule 15c3-3.

Sec. 60.2. Prohibited Investments.¹⁹⁴ The following investments are prohibited.

- (a) Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
- (b) Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.
- (c) Collateralized mortgage obligations that have a stated final maturity date of greater than ten (10) years.
- (d) Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Sec. 60.3. Certificates of Deposit and Share Certificates.¹⁹⁵ A certificate of deposit or share certificate is an authorized investment under this policy if the certificate is issued by a depository institution that has its main office or a branch office in the State of Texas and is:

- (a) guaranteed or insured by the FDIC or its successor or the NCUSIF or its successor;
- (b) secured by obligations authorized in Sec. 8.1 of this policy, including mortgage-backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, excluding those mortgage backed securities of the nature described by Sec. 8.2 of this policy; or
- (c) secured accordance with Tex. Gov't. Code Chapter 2257 or in any other manner and amount provided by law for deposits of the School.

Sec. 60.4. Other Authorized Form for Certificates of Deposit and Share Certificates.¹⁹⁶ An investment in a certificate of deposit is authorized under this subsection if it is made under the following conditions:

- (a) the funds are invested by the School entity through;

¹⁹⁴ Tex. Gov't. Code §2256.009(b)

¹⁹⁵ Tex. Gov't. Code §2256.010(a)

¹⁹⁶ Tex. Gov't. Code §2256.010(b)

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- (1) a broker that has its main office or a branch office in the State of Texas and is selected from a list adopted by the School in accordance with Tex. Gov't. Code §2256.025; or
 - (2) a depository institution that has its main office or a branch office in the State of Texas and that is selected by the School;
- (b) the broker or the depository institution selected by the School under (a)(1) above arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the School;
 - (c) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and
 - (d) the School appoints the depository institution selected by the School under (a)(1) above, an entity described by Tex. Gov't. Code §2257.041(d), or a clearing broker-dealer registered with the SEC and operating pursuant to SEC Rule 15c3-3 as custodian for the School with respect to the certificates of deposit issued for the account of the School.

Sec. 60.5. Repurchase Agreements.¹⁹⁷ A fully collateralized repurchase agreement is an authorized investment under this subsection if the repurchase agreement:

- (a) has a defined termination date;
- (b) is secured by a combination of cash and obligations authorized at Sec. 8.1(a) or 8.8 of this policy;
- (c) requires the securities being purchased by the School or cash held by the School to be pledged to the School, held in the School's name, and deposited at the time the investment is made with the School or with a third party selected and approved by the School; and
- (d) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in the State of Texas.

Sec. 60.5.1. *Repurchase Agreement Defined*. For purposes of this policy, “repurchase agreement” means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described under Sec. 8.1(a) or 8.8 of this policy, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

Sec. 60.5.2. *Term of Agreement*. The term of any reverse security repurchase agreement may not exceed ninety (90) days after the date the reverse security repurchase agreement is delivered.

¹⁹⁷ Tex. Gov't. Code §2256.011

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Sec. 60.5.3. *Use of Invested Funds.* Money received by the School under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

Sec. 60.6. Securities Lending Programs.¹⁹⁸ A securities lending program is an authorized investment if it meets the following conditions:

- (a) the value of the securities loaned is at least 100% collateralized, including accrued income;
- (b) a loan made under the program must allow for termination at any time;
- (c) a loan made under the program is secured by:
 - (1) pledged securities described in Sec. 8.1 of this policy;
 - (2) pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state and continuously rated by at least one nationally recognized investment rating firm at not less than “A” or its equivalent; or
 - (3) cash invested in accordance with Sec. 8.1, 8.8, 8.9, or 8.11 of this policy;
- (d) the terms of the loan require that the securities being held as collateral be:
 - (1) pledged to the School;
 - (2) held in the School’s name; and
 - (3) deposited at the time the investment is made with the School or with a third party selected or approved by the Board;
- (e) the loan is placed through a primary government securities dealer, as defined at 5 CFR §6801.102(f), as that regulation existed on September 1, 2003, or a financial institution doing business in the State of Texas; and
- (f) the agreement to lend securities has a term of one year or less.

Sec. 60.7. Banker’s Acceptances.¹⁹⁹ A banker’s acceptance is an authorized investment if it:

- (a) has a stated maturity of 270 days or fewer from the date of its issuance;

¹⁹⁸ Tex. Gov’t. Code §2256.0115

¹⁹⁹ Tex. Gov’t. Code §2256.012

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- (b) will be, in accordance with its terms, liquidated in full at maturity;
- (c) is eligible for collateral for borrowing from a Federal Reserve Bank; and
- (d) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than “A-1” or “P-1” or an equivalent rating by at least one nationally recognized credit rating agency.

Sec. 60.8. Commercial Paper.²⁰⁰ Commercial paper is an authorized investment if it:

- (a) has a stated maturity of 365 days or fewer from the date of issuance; and
- (b) is rated not less than “A-1” or “P-1” or an equivalent rating by at least two (2) nationally recognized credit rating agencies or one (1) nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Sec. 60.9. Mutual Funds.

Sec. 60.9.1. *No-load Money Market Mutual Funds*.²⁰¹ No-load money market mutual funds are an authorized investment if they:

- (a) are registered with and regulated by the SEC;
- (b) provide the School with a prospectus and other information required by the Securities and Exchange Act of 1934 (United States Code, Title 15 (“15 USC), Section 78a, et seq.) or the Investment Company Act of 1940 (15 USC §80a-1, et seq.); and
- (c) complies with federal SEC Rule 2a-7 (17 CFR §270.2a-7), promulgated under the Investment Company Act of 1940 (15 USC §80a-1 et seq.).

Sec. 60.9.2. *No-load Mutual Funds*.²⁰² No-load mutual funds are an authorized investment if they:

- (a) are registered with the SEC;
- (b) have an average weighted maturity of less than two (2) years; and
- (c) have a duration of one (1) year or more and either:

²⁰⁰ Tex. Gov’t. Code §2256.013

²⁰¹ Tex. Gov’t. Code §2256.014(a)

²⁰² Tex. Gov’t. Code §2256.014(b)

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- (1) is invested exclusively in obligations approved under Tex. Gov't. Code, Chapter 2256, Subchapter A; or
- (2) the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

Sec. 60.9.3. *Prohibited Investments*.²⁰³ The School may not invest:

- (a) in the aggregate more than 15% of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in no-load mutual funds;
- (b) any portion of bond proceeds, reserves, and funds held for debt service, in no-load market mutual funds; or
- (c) its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described under Sec. 8.9.1 and 8.9.2 of this policy in an amount that exceeds 10% of the total assets of the mutual fund.

Sec. 60.10. Guaranteed Investment Contracts.²⁰⁴ A guaranteed investment contract is an authorized investment for bond proceeds if the guaranteed investment contract:

- (a) has a defined termination date;
- (b) is secured by obligations authorized under Sec. 8.1(a) of this policy, excluding those obligations described by Sec. 8.2 of this policy, in an amount at least equal to the amount of bond proceeds invested under the contract; and
- (c) is pledged to the School and deposited with the School or with a third party selected and approved by the Board.

Sec. 60.10.1. *Qualifying Requirements*. To be eligible as an authorized investment, the following requirements must be met.

- (a) The Board specifically authorizes the guaranteed investment contract as an eligible investment in a resolution authorizing the issuance of bonds.
- (b) The School must receive bids from at least three (3) separate providers with no material financial interest in the bonds from which the proceeds were received.
- (c) The School must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received.

²⁰³ Tex. Gov't. Code §2256.014(c)

²⁰⁴ Tex. Gov't. Code §2256.015

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- (d) The price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested.
- (e) The provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Sec. 60.10.2. *Limitation to Contract Term.* Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested in a guaranteed investment contract with a term longer than five (5) years from the date of issuance of the bonds.

Sec. 60.11. Investment Pools.²⁰⁵ An investment pool is an authorized investment if:

- (a) the Board authorizes the investment in the particular pool through policy or resolution; and
- (b) the investment pool only invests the funds that it receives in the investments authorized under Tex. Gov't. Code Chapter 2256, Subchapter A.

Sec. 60.11.1. *Receipt of Required Disclosure.* In order to invest in an investment pool, the Delegate or his designee must receive an offering circular or other similar disclosure instrument containing, at a minimum, the following information:

- (a) the types of investments in which money is allowed to be invested;
- (b) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;
- (c) the maximum stated maturity date any investment security within the portfolio has;
- (d) the objectives of the pool;
- (e) the size of the pool;
- (f) the names of the members of the advisory board of the pool and the dates their terms expire;
- (g) the custodian bank that will safekeep the pool's assets;
- (h) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

²⁰⁵ Tex. Gov't. Code §2256.016

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- (i) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;
- (j) the name and address of the independent auditor of the pool;
- (k) the requirements to be satisfied for the School to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the School to invest funds in and withdraw funds from the pool;
- (l) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios; and
- (m) the pool's policy regarding holding deposits in cash.

Sec. 60.11.2. *Continued Receipt of Required Disclosures.* In order to continue investing in the investment pool, the Superintendent or his designee must receive the following information:

- (a) investment transaction confirmations; and
- (b) a monthly report that contains, at a minimum, the following information:
 - (1) the types and percentage breakdown of securities in which the pool is invested;
 - (2) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;
 - (3) the current percentage of the pool's portfolio in investments that have stated maturities of more than one (1) year;
 - (4) the book value versus the market value of the pool's portfolio, using amortized cost valuation;
 - (5) the size of the pool;
 - (6) the number of participants in the pool;
 - (7) the custodian bank that is safekeeping the assets of the pool;
 - (8) a listing of the School's daily transaction activity;
 - (9) the yield and expense ratio of the pool, including a statement regarding how the yield is calculated;
 - (10) the portfolio managers of the pool; and

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(11) any changes or addenda to the offering circular.

Sec. 60.11.3. *Yield Calculation.* In this section, for purposes of an investment pool for which a \$1.00 net asset value is maintained, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the SEC.

Sec. 60.11.4. *Monitoring of Investment Pool Compliance.* The Superintendent or his designee shall monitor the investment pool's compliance with Sec. 9.9.1, 9.9.2 and 9.9.3 above and Tex. Gov't. Code § 2256.016(f)-(k).

Sec. 61. REPORT TO THE FINANCE COMMITTEE.²⁰⁶

At each meeting, the Delegate shall provide to the Finance Committee a report disclosing the status of any and all amounts invested under this policy. The Finance Committee may report to the Board its findings and make recommendations for the continued, discontinuation or other change in the School's investments.

Sec. 62. TRAINING AND UPDATES.²⁰⁷

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 63. ADMINISTRATIVE PROCEDURES.²⁰⁸

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board's approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

²⁰⁶ FASRG Module 2

²⁰⁷ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

²⁰⁸ Tex. Ed. Code § 12.115(a)(2); FASRG Module 2; 2 CFR § 200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

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Sec. 64. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022 and became effective on March 21, 2022.

Sec. 65. RETENTION.²⁰⁹

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

Sec. 66. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to the Authorization for the Obligation and Expenditure of Funds, as originally adopted by the Board on March 21, 2022, which Policy is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to purchasing and contracting. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

²⁰⁹ Tex. Ed. Code § 12.1052; 19 TAC § 100.1203; *See* Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, § 7.125(a)(1).

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NOT LEGAL ADVICE. As legal advice must be tailored to the specific circumstances of each case, nothing provided herein should be used as a substitute for advice of competent counsel. The statements in this template do not constitute legal advice, do not necessarily reflect the opinions of Schulman, Lopez, Hoffer & Adelstein, LLP or any of its lawyers or clients, and are not guaranteed to be correct, complete or up-to-date. Further, if your corporation and its charter school(s) are not clients of the Firm, this template is not intended to create, and does not create, an attorney-client relationship between your corporation and its charter school(s) and Schulman, Lopez, Hoffer & Adelstein, LLP; commensurately, you should not act or rely on any information in this template without consulting your own legal and other qualified advisors. Accordingly, please do not send the Firm any information about any legal matter, which may involve your corporation or your charter school unless or until you have received a written statement from the Firm in the form of an engagement letter confirming that we represent you.

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PG-5.410: PUCHASING AND CONTRACTING

Sec. 67. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, and 22.221;
- (b) Texas Education Code (“Tex. Ed. Code”) Sections 12.104(b)(1), 12.1053(b)(2), 12.107(a), 12.115(a)(2) 12.121 and Chapter 44, Subchapter B (“Chapter 44”);
- (c) Texas Government Code (“Tex. Gov’t. Code”) Chapter 2254, Subchapter A and Chapter 2269 (“Chapter 2269”);
- (d) Texas Administrative Code, Title 19 (“19 TAC”), Chapter 100, notably §§ 100.006, 100.1033, 100.1047(b) and 100.1101;
- (e) Code of Federal Regulations, Title 2, Part 200 (“2 CFR 200”); and
- (f) Financial Accountability System Resource Guide (“FASRG”); and
- (g) *Standards for Internal Control in the Federal Government*.

Additionally, through this policy, the Board shall address best practices adopted by public schools.

Sec. 68. APPLICABILITY OF POLICY.

This policy pertains to the purchase of any and all goods and services from local, state and federal funds.

Sec. 69. AUTHORITY OVER FISCAL MATTERS.

Sec. 69.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 69.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,²¹⁰ interested²¹¹ or related²¹² party, as defined in other

²¹⁰ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

²¹¹ 19 TAC §100.1047(f)

²¹² Tex. Ed. Code §12.1166

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Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 69.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 70. DEFINITIONS.

Sec. 70.1. “Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.²¹³

Sec. 70.2. “Micro-purchase threshold” means the dollar amount set at 48 CFR part 2, subpart 2.1, unless a higher threshold is requested by the Delegate and approved by the Texas Education Agency under an administrative procedure adopted pursuant to Sec. 6.3.1.5 and Sec. 11 of this policy.²¹⁴

Sec. 70.3. “Officer” has the meaning set forth in Sec. 5 of the Controlling Policy.²¹⁵

Sec. 70.4. “Non-professional services” means any service not specifically identified as a professional service under Sec. 4.6 of this policy.

Sec. 70.5. “Personal property” means an interest in tangible and intangible property other than real property, including:

- (a) furniture, equipment, supplies, and other goods;
- (b) computer hardware and software;
- (c) contract rights, intellectual property such as patents, and other intangible property;
- (d) cash, currency, funds, bank accounts, securities, and other investment instruments;
- (e) the right to repayment of a loan, advance, or prepayment or to the payment of other receivables; and
- (f) any other form of personal property recognized by Texas law, such as vehicles.²¹⁶

Sec. 70.6. “Professional services” means services:

- (a) Within the scope of the practice, as defined by state law, of:
 - (1) Accounting;
 - (2) Architecture;
 - (3) Landscape architecture;
 - (4) Land surveying;

²¹³ Tex. Ed. Code §44.032(a)(1)

²¹⁴ 2 CFR §§ 200.1 and 200.320(a)(1)(iv)

²¹⁵ 19 TAC §100.1001(16)-(20)

²¹⁶ 19 TAC §100.1001(6), 2 CFR §200.1

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- (5) Medicine;
- (6) Optometry;
- (7) Professional engineering;
- (8) Real estate appraising; or
- (9) Professional nursing; or

(b) Provided in connection with the professional employment or practice of a person who is licensed or registered as:

- (1) A certified public accountant;
- (2) An architect;
- (3) A landscape architect;
- (4) A land surveyor;
- (5) A physician, including a surgeon;
- (6) An optometrist;
- (7) A professional engineer;
- (8) A state certified or state licensed real estate appraiser; or
- (9) A registered nurse or

(c) Provided by a person lawfully engaged in interior design.²¹⁷

Sec. 70.7. “Public works” means the construction, alteration, renovation, or repair of a public building, structure, road, highway, or other improvement or addition to real property.²¹⁸

Sec. 70.8. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.²¹⁹

Sec. 70.9. “Sequential purchases” means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.²²⁰

Sec. 70.10. “Services” means professional and non-professional services.

Sec. 70.11. “Simplified acquisition threshold” means \$50,000 for funds administered by the Texas Department of Agriculture and for public works contracts and \$250,000 for state or other federal funds.²²¹

²¹⁷ Tex. Gov’t. Code §2254.002(2)

²¹⁸ Tex. Gov’t. Code §2269.001(6); Tex. Local Gov’t. Code §271.024

²¹⁹ Tex. Ed. Code §44.032(a)(2)

²²⁰ Tex. Ed. Code §44.032(a)(3)

²²¹ Administrator’s Reference Manual Section 17; 2 CFR §200.1

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Sec. 71. GENERAL REQUIREMENTS APPLICABLE TO ALL PURCHASES.

The policy requirements established under this Sec. 5 shall apply to all purchases of goods and services regardless of fund source used.

Sec. 71.1. Authority to Procure Goods and Services.²²²

Sec. 71.1.1. The Delegate or designee may approve the procurement of goods and services conforming with this policy and applicable law up to the amounts authorized by the Board in the Adopted Budget,²²³ as amended.

Sec. 71.1.2. The Delegate or designee may not approve the procurement of goods and services that result in an expenditure of funds in excess of the item(s) appropriated in the Adopted Budget, as amended.

Sec. 71.1.3. The Delegate or designee may not approve a procurement of goods and services failing to conform with this policy and applicable law.

Sec. 71.2. Benefit of the Students.²²⁴

The School shall only acquire goods and services for the benefit of the School's students and that provide best value to the students.

Sec. 71.3. Board Approval Required.²²⁵

Prior to executing any contract for the procurement of goods and services, the Board shall approve the contract.

Sec. 71.4. Conflicted,²²⁶ Interested²²⁷ and Related²²⁸ Party Transactions.

Sec. 71.4.1. The Board shall approve or disapprove any business arrangement or transaction with an individual that is an officer and any conflicted, interested or related party, as defined in other Board policy or applicable law.

Sec. 71.4.2. The School may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

²²² Tex. Ed. Code §44.052

²²³ See Board Policy relating to Authorization for the Obligation and Expenditure of Funds, Sec. 3.8.

²²⁴ Tex. Ed. Code §12.107(a); 19 TAC §100.1043(a)

²²⁵ See Controlling Policy, Sec. 3.1(j) and 6.2.

²²⁶ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

²²⁷ 19 TAC §100.1047(f)

²²⁸ Tex. Ed. Code §12.1166

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Sec. 71.5. Contract Required.²²⁹

The Delegate or designee shall only approve the procurement of goods and services with a cost or value exceeding the Simplified Acquisition Threshold through a fully executed contract or other written legal agreement signed by all parties that protects the School’s interests in the underlying business arrangement and transaction.

Sec. 71.6. Corporate Credit Accounts.²³⁰

See Board Policy relating to Corporate Credit Accounts.

Sec. 71.6.1. Purchasing Thresholds. Employees authorized to use the corporate credit account(s) may do so pursuant to the following thresholds.

- (a) The Superintendent, Chief Financial Officer, Chief Academic Officer, Chief Information Officer, General Counsel and assistant superintendents may purchase goods and/or services through the corporate credit account(s) for individual transactions not exceeding the micro-purchase threshold.
- (b) Campus principals and other employees may purchase goods and/or services through the corporate credit account(s) for individual transactions not exceeding \$2,500.00.

Sec. 71.6.2. Method of Procurement. Employees authorized to use the corporate credit account(s) to purchase goods and services are required to and shall be responsible for procuring goods and services pursuant to the procurement methods identified in this policy. *See* Board Policy relating to Corporate Credit Accounts, Sec. 8.10.

Sec. 71.6.3. Required Records. Employees authorized to use the corporate credit account(s) shall document each purchase through the corporate credit account(s). *See* Board Policy relating to Corporate Credit Accounts, Sec. 12, and Travel, Sec. 16 and 17.

Sec. 71.6.4. Failure to Document. If an employee fails to provide the required records pursuant to Sec. 5.6.3 of this policy, the employee shall be financially liable for the costs charged to the corporate card.

Sec. 71.7. Employee Purchases Prohibited.²³¹

School employees are prohibited from conducting any transaction that results in the purchase of goods and services and that obligates School funds and otherwise results in the expenditure of School funds except as provided in this and other Board policy. If a School employee fails to

²²⁹ Tex. Ed. Code §12.115(a)(2); 2 CFR §200.303

²³⁰ Tex. Ed. Code §12.115(a)(2); 19 TAC §100.1043(a)(2); 2 CFR §§ 200.302(b)(4) and 200.303

²³¹ *Ibid.*

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follow this policy to purchase goods and services, the employee shall be financially responsible for any expenses incurred regardless of the benefit to the School and its students.

Sec. 71.8. Officer Responsible.

Each School officer shall be responsible for any and all expenses from the budget approved for their department or campus. Each officer (or designee) must work with the Delegate or designee to purchase goods and services pursuant to this policy. Alternatively, the officer may use the corporate credit account(s) to purchase goods and services up to the limits established in this policy.

Sec. 71.9. Purchase Order System.²³²

The Delegate or designee shall establish and maintain a purchase order system. The purchase order shall serve as the formal method for procuring goods and/or services from a vendor and shall have the effect of obligating the School to remit payment to the vendor upon receipt of the goods and/or services purchased and of the related invoice.

Sec. 71.9.1. Required Approvals. Only the Delegate or designee shall be authorized to approve purchase orders.

Sec. 71.9.2. Issuance Prohibited. School employees may not issue a purchase order to a vendor unless it has been approved by the Delegate or designee.

Sec. 71.9.3. Failure to Properly Issue. If a School employee issues a purchase order to a vendor without the required approvals established in Subsection 5.9.1 of this policy, the employee shall be financially responsible for the purchase.

Sec. 71.10. Qualified Vendors.²³³

Sec. 71.10.1. School officers and employees shall only procure goods and/or services from qualified vendors.

Sec. 71.10.2. For purposes of this policy, a qualified vendor is a responsible contractor possessing the ability to perform successfully under the terms and conditions of a proposed procurement.

Sec. 71.10.3. To provide fair and open competition for each procurement, School officers and employees shall consider the following matters in determining if a vendor is qualified:

- (a) Contractor integrity.
- (b) Extent to which the goods or services meet the School's needs.

²³² Texas Business and Commerce Code §2.206(a)(2)

²³³ Tex. Ed. Code §44.031(b); 2 CFR §200.318(h)

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- (c) Financial and technical resources.
- (d) Quality of the vendor’s goods or services.
- (e) Record of past performance, including:
 - (1) Reputation of the vendor and of the vendor’s goods or services.
 - (2) Vendor’s past relationship with the School and other public schools.

Sec. 71.10.4. The Delegate or designee may maintain a list of qualified vendors to facilitate the procurement process.

Sec. 71.11. Receipt of Goods and Services.²³⁴

The Delegate or designee shall establish and maintain a system for documenting the receipt of goods and services from a vendor including the condition and number of items received, the satisfactory performance of services rendered, and any dispute with the condition and number of items or performance of services.

Sec. 71.12. Segregation of Duties; Checks and Balances.²³⁵

The Delegate shall ensure an appropriate segregation of duties between the following functions:

- (a) Preparation of purchase requisitions and purchase orders;
- (b) Solicitation of quotes or preparation of requests for bids, proposals or qualifications;
- (c) Receipt of personal property and/or services and preparation of receiving report attesting to receipt of purchased property;
- (d) Receipt of invoices and reconciliation of invoices to receiving reports and purchase orders;
- (e) Preparation of payment requests;
- (f) Accounting for purchases; and
- (g) Approval for all of the above.

²³⁴ Tex. Ed. Code §12.115(a)(2); 2 CFR §§ 200.303 and 200.318(b)

²³⁵ Tex. Ed. Code §12.115(a)(2); 2 CFR §§ 200.303 and 200.328

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Sec. 71.13. Separate, Sequential or Component Purchases Prohibited.²³⁶

The Delegate or designee and School employees are prohibited from making or authorizing separate, sequential, or component purchases to avoid the requirements of this policy.

Sec. 71.14. Signature Authority.²³⁷

Sec. 71.14.1. Only the Delegate or designee may execute contracts or other written legal agreements that obligate the School to disburse funds for the receipt of goods and/or services with a cost or value of less than the simplified acquisition threshold.

Sec. 71.14.2. Only the Board's designee(s) may execute a contract for goods and/or services with a cost or value exceeding the simplified acquisition threshold.

Sec. 72. AUTHORIZED PROCUREMENT METHODS.

Except as provided in Sec. 7 of this policy for professional services and Sec. 8 of this policy for public works, School officers and employees shall procure goods and services as set forth in this Sec. 6.

Sec. 72.1. Purchases with Local Funds.²³⁸

Sec. 72.1.1. No Method Required. School officers and employees may procure goods and services valued at less than the simplified acquisition threshold through the most expedient manner available.

Sec. 72.1.2. Quotes. School officers and employees shall procure goods and services valued at the simplified acquisition threshold or more in the aggregate through the solicitation of two (2) or more written quotes from qualified vendors.

Sec. 72.2. Purchases with State Funds.²³⁹

Sec. 72.2.1. No Method Required. School officers and employees may procure goods and services valued at less than the micro-purchase threshold through the most expedient manner available.

Sec. 72.2.2. Quotes. School officers and employees shall procure goods and services valued at no less than the micro-purchase threshold and at no more than the simplified acquisition threshold in the aggregate through the solicitation of two (2) or more written quotes from qualified vendors.

²³⁶ Tex. Ed. Code §44.032

²³⁷ *Ibid.*

²³⁸ Tex. Ed. Code §12.115(a)(2)

²³⁹ Tex. Ed. Code §§ 12.1053 and 12.115(a)(2); FASRG

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Sec. 72.2.3. Bids or Proposals. School officers and employees shall procure goods and services valued at the simplified acquisition threshold or more in the aggregate through the solicitation of bids or proposals, as appropriate.

Sec. 72.3. Purchases with Federal Funds.²⁴⁰

Sec. 72.3.1. Procurement by Micro-Purchase Procedure.

Sec. 72.3.1.1. No Method Required. School officers and employees may procure supplies²⁴¹ or services valued at less than the micro-purchase threshold in the aggregate through the most expedient manner available.

Sec. 72.3.1.2. Reasonableness of Price. If a micro-purchase is made without soliciting competitive quotes, School officers and employees shall document that the price is reasonable, as determined on the basis of research, experience, purchase history or other information.

Sec. 72.3.1.3. Equitable Distribution. To the maximum extent practicable, the School must distribute micro-purchases equitably among qualified vendors.

Sec. 72.3.1.4. Use of Corporate Credit. School officers and employees may use their assigned corporate credit account(s) pursuant to the administrative procedures adopted by the Delegate.

Sec. 72.3.1.5. Adoption of Higher Micro-Purchase Threshold. The Delegate may adopt a higher micro-purchase threshold pursuant to the policy directives of the Texas Education Agency or other regulatory agency.

Sec. 72.3.2. Procurement by Small Purchase Procedure.

School officers and employees shall procure property²⁴² or services valued at no less than micro-purchase threshold and no more than the simplified acquisition threshold in the aggregate through the solicitation of three (3) or more written competitive quotes from qualified vendors.

Sec. 72.3.3. Procurement by Sealed Bids.

Sec. 72.3.3.1. School officers and employees shall procure property²⁴³ or services valued at the simplified acquisition threshold or more in the aggregate through the public solicitation of sealed bids if the necessary conditions²⁴⁴ are present and if the applicable requirements²⁴⁵ are met.

²⁴⁰ 2 CFR §200.320; Administrator’s Reference Manual, Section 17 (August 16, 2021); Tex. Ed. Code §12.115(a)(2)

²⁴¹ See 2 CFR §200.1.

²⁴² *Ibid.*

²⁴³ *Ibid.*

²⁴⁴ See 2 CFR §200.320(b)(1)(i).

²⁴⁵ See 2 CFR §200.320(b)(1)(ii).

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Sec. 72.3.3.2. The School may only award a firm fixed price contract to the responsible bidder whose bid conforms with all the material terms and conditions of the invitation for bids and is the lowest price.

Sec. 72.3.4. Procurement by Competitive Proposals.

Sec. 72.3.4.1. If the conditions are not appropriate for the use of sealed bids, School officers and employees shall procure property²⁴⁶ or services valued at the simplified acquisition threshold or more in the aggregate through competitive proposals if the applicable requirements²⁴⁷ are met.

Sec. 72.3.4.2. The School may award either a fixed price or cost-reimbursement type contract to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered.

Sec. 72.3.5. Procurement by Noncompetitive Proposals.

School officers and employees may only procure property²⁴⁸ or services through the solicitation of a quote, bid or proposal from only one source only when one or more of the following documented circumstances apply.

- (a) The acquisition is for property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.
- (b) The item is available only from a single source.
- (c) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation.
- (d) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the School.
- (e) After solicitation of a number of sources, competition is determined inadequate.

Sec. 72.3.6. Other Procurement Requirements.

The Delegate or designee shall ensure that School officers and employees procure property²⁴⁹ and services in accordance with the following federal procurement standards:

- (a) Analysis of contract cost and price.²⁵⁰

²⁴⁶ See 2 CFR §200.1.

²⁴⁷ See 2 CFR §200.320(b)(2).

²⁴⁸ See 2 CFR §200.1.

²⁴⁹ *Ibid.*

²⁵⁰ 2 CFR §200.324

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- (b) Avoidance of unnecessary or duplicative items.²⁵¹
- (c) Contract provisions.²⁵²
- (d) Domestic preferences.²⁵³
- (e) Exclusion of certain contractors.²⁵⁴
- (f) Maintenance of records sufficient to detail the history of a procurement.²⁵⁵
- (g) Prohibition of administratively imposed geographical preferences.²⁵⁶
- (h) Required solicitation content.²⁵⁷
- (i) Use of prequalified lists of vendors or products.²⁵⁸
- (j) Written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.²⁵⁹
- (k) Written standards of conduct covering organizational conflicts of interest.²⁶⁰
- (l) Other applicable legal requirements.

Sec. 72.4. Purchases Through Cooperative.²⁶¹

Sec. 72.4.1. General. School officers and employees may use local, state or federal funds to procure goods or services through a cooperative that provides written assurance of compliance with purchasing law.

Sec. 72.4.2. Due Diligence. School officers and employees shall ensure that the use of Federal funds for a procurement of goods or services through a cooperative complies with the applicable Federal procurement standards. School officers and employees shall maintain supporting documentation to this effect.

²⁵¹ 2 CFR §200.318(d)

²⁵² 2 CFR §200.327

²⁵³ 2 CFR §200.322

²⁵⁴ 2 CFR §200.319(b)

²⁵⁵ 2 CFR §200.318(i)

²⁵⁶ 2 CFR §200.319(c)

²⁵⁷ 2 CFR §200.319(d)

²⁵⁸ 2 CFR §200.319(e)

²⁵⁹ 2 CFR §200.318(c)(1)

²⁶⁰ 2 CFR §200.318(c)(2)

²⁶¹ Tex. Ed. Code §§ 12.1058(a)(1) and 12.115(a)(2); FASRG; 2 CFR §200.318(e)

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Sec. 72.4.3. Exception. In the event that a participating vendor in the purchasing cooperative program quotes a lower price for the same goods or services, School officers and employees may procure the goods and services using the vendor's direct quote.

Sec. 73. PURCHASE OF PROFESSIONAL SERVICES.²⁶²

Sec. 73.1. Selection of Provider.

Sec. 73.1.1. The Board and Delegate or designee shall not select a provider of professional services or a group or association of providers or award a contract for professional services on the basis of competitive bids submitted for the contract or for the professional services.

Sec. 73.1.2. The Board and Delegate or designee shall select the provider for the professional service to be procured based on the following criteria:

- (a) The provider's demonstrated competence and qualifications to perform the services; and
- (b) The fairness and reasonableness of the provider's price.

Sec. 73.2. Contract for Professional Services of Architect, Engineer or Surveyor.

Sec. 73.2.1. In procuring architectural, engineering, or land surveying services, the Board and Delegate or designee shall:

- (a) First select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- (b) Then attempt to negotiate with that provider a contract at a fair and reasonable price.

Sec. 73.2.2. If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the Board and Delegate or designee shall:

- (a) Formally end negotiations with that provider;
- (b) Select the next most highly qualified provider;
- (c) Attempt to negotiate a contract with that provider at a fair and reasonable price; and
- (d) Continue the process described in subsections (a) through (c) to select and negotiate with providers until a contract is entered into.

²⁶² Tex. Ed. Code §12.1053(b)(2); Tex. Gov't. Code Chapter 2254, Subchapter A

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Sec. 74. PROCUREMENT OF PUBLIC WORKS.

Sec. 74.1. Rules and Procedures.

Pursuant to Tex. Ed. Code §44.031(d) and Tex. Gov't. Code §2269.051, the Board may adopt rules and procedures for the acquisition of goods or services related to public works, including construction services.

Sec. 74.2. Delegation of Authority.

Sec. 74.2.1. Authority to Procure Construction Services. The Board may delegate its authority under Chapter 2269 regarding an action authorized or required by Chapter 2269 to a designated representative, committee, or other person. If the Board delegates its authority to a designated representative, committee, or other person, the School shall provide notice of the delegation, the limits of the delegation, and the name or title of each person designated by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

Sec. 74.2.2. Authority to Contract. Unless otherwise authorized by the Board, only a Board member, the Delegate, or the Delegate's designee shall be authorized to sign contracts obligating the School to disburse public funds for public works.

Sec. 74.3. Authorized Methods of Procurement.

Sec. 74.3.1. With the exception of the competitive bidding method, the Board shall determine which method set forth in this subsection provides the best value for the School before it advertises for requests for bids, proposals or qualifications.

Sec. 74.3.2. The School shall base its selection among offerors on applicable criteria listed for the particular method used. The School shall publish in the request for bids, proposals or qualifications the criteria that will be used to evaluate the offerors and the applicable weighted value for each criterion.

Sec. 74.3.3. Within seven (7) days after the date the contract is awarded, the School shall document the basis of its selection and shall make the evaluations, including any scores, public and provide them to all offerors.

Sec. 74.3.4. The Board or designee may award a contract for construction services using one of the following methods:

- (a) Competitive bidding,
- (b) Competitive sealed proposal,
- (c) Construction manager-agent,
- (d) Construction manager-at-risk,
- (e) Design-build, or
- (f) Job order contracts.

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Sec. 74.3.5. Unless determined otherwise by the Board, the School shall procure construction services using the competitive bidding method of procurement.

Sec. 74.3.6. The Delegate may recommend to the Board a method of procurement, other than the competitive bidding method, from those listed under Subsection 6.4.3.4. In this event, the Delegate shall provide the Board with a written proposal, including the justification for utilizing a different method of procurement.

Sec. 74.3.7. In the event that the Board determines that another procurement method is in the School's best interest, the Board's determination will be documented in the minutes to the pertinent Board meeting.

Sec. 74.3.8. The Board and School may seek legal and professional advice and counsel regarding the legal and other requirements applicable to the procurement method selected by the Board.

Sec. 74.4. Notice.

The School shall publish a notice of the time by when and the place where the bids or proposals, or the responses to a request for qualifications, will be received and opened. The School shall publish the notice in the county in which its central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the School shall publish its advertisement in a newspaper in the county nearest the county seat of the county in which its central administrative office is located. In a two-step procurement process, the School is not required to separately publish the time and place where the second-step bids, proposals, or responses will be received.

Sec. 74.5. Response to Requests for Bids, Proposals or Qualifications.

Sec. 74.5.1. Sealed Bids, Proposals or Qualifications Required. A person who submits a bid, proposal, or qualification is required to seal it before delivery. The Delegate or designee shall reject any bid, proposal or qualification that is not sealed and return it to the offeror with a statement:

- (a) Representing that the bid, proposal or qualification was not opened, viewed or otherwise examined;
- (b) Asserting that the content and form of the bid, proposal, or qualification was not duplicated or disseminated with any person or entity; and
- (c) Instructing the offeror to resubmit an appropriately sealed bid, proposal or qualification as required by state law.

Sec. 74.5.2. Receipt and Opening of Bids. The School shall receive, publicly open, and read aloud the names of the offerors and their bids. Only the Board, during a lawfully convened Board meeting, or the Board's designee, at or in School's central administrative office, may open the bids

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submitted by offerors. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. A bidder has the common law right to withdraw a bid due to a material mistake in the bid. The School is entitled to reject any and all bids.

Sec. 74.6. Awarding of Contract Under Competitive Bidding Method.

Sec. 74.6.1. In accordance with state law, "competitive bidding" is a procurement method by which the School may contract with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.

Sec. 74.6.2. The School may contract for the construction, alteration, rehabilitation, or repair of a facility only after it advertises for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.

Sec. 74.7. Responsible Bidder Defined.

Sec. 74.7.1. A responsible bidder is a person who has the capability in all respects to perform in full the contract requirements and the integrity and reliability assuring good faith performance. A responsible bidder may be required to meet any or all of the following requirements.

- (a) Be an experienced contractor who has served as a prime contractor on similar construction projects for Texas public schools, has satisfactorily completed the scope of work described in the construction documents, and is knowledgeable about the requirements for the construction of and the building elements for Texas public schools including, without limitation, applicable building code requirements.
- (b) Provide a warranty and support for any equipment installed as part of the construction services and in accordance with the scope of work described in the construction documents.
- (c) Be able to obtain payment and performance bonds of the types and in the amounts described in Tex. Govt. Code §2253.
- (d) When submitting the bid, provide a Letter of Statement from a bonding company that the bidder is able to obtain both a payment bond and a performance bond described as stipulated in Tex. Govt. Code §2253.
- (e) Prior to executing the contract, obtain and provide the payment and performance bonds of the types and in the amounts established at Tex. Govt. Code §2253.
- (f) Have adequate financial resources or ability to obtain such resources as required during the performance of any resulting contract.
- (g) Be able to comply with the required performance schedule, taking into consideration all existing business commitments.

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- (h) Have necessary management and technical capability to perform any resulting contract for construction services.
- (i) Be qualified as an established firm regularly engaged in the type of business to provide the items and work required by the request for bids.
- (j) Be registered to do business in the State of Texas.
- (k) Be in good standing with the State of Texas.
- (l) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

Sec. 74.7.2. The School must include the requirements to be used to establish an offeror as a responsible bidder in the request for bids, proposals or qualifications.

Sec. 74.8. Criteria to Consider.

Sec. 74.8.1. In determining the award of a contract pursuant to this section, the School may consider:

- (a) The price;
- (b) The offeror's experience and reputation;
- (c) The quality and reputation of the offeror's goods or services;
- (d) The extent to which the offeror's goods or services meet the School's needs;
- (e) The vendor's past relationship with the School;
- (f) The impact on the ability of the School to comply with rules relating to historically underutilized businesses;
- (g) The total long-term cost to the School to acquire the offeror's goods or services;
- (h) Whether the vendor or the vendor's ultimate parent company or majority owner:
 - (1) Has its principal place of business in this state; or
 - (2) Employs at least 500 persons in this state;
- (i) The offeror's safety record;
- (j) The offeror's proposed personnel;

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- (k) Whether the offeror's financial capability is appropriate to the size and scope of the project; and
- (l) Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Sec. 74.8.2. In determining the award of a contract under this chapter, the School shall:

- (a) Consider and apply any existing laws, including any criteria, related to historically underutilized businesses; and
- (b) Consider and apply any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

Sec. 74.9. Safety Record of Bidder Considered.

Sec. 74.9.1. In determining who is a responsible bidder, the Board may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution.

Sec. 74.9.2. In determining who is a responsible bidder, the Board may take into account the following definition and criteria for accurately determining the safety record of a bidder.

- (a) “Citations” include notices of violation, notices of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments. A Notice of Violation and Notice of Enforcement received from the Texas Commission on Environmental Quality (“TCEQ”) shall include those classified as major violations and moderate violations under the TCEQ’S regulations for documentation of Compliance History pursuant to Texas Administrative Code, Title 30, §60.2(d)(1) and (d)(2).
- (b) “Environmental Protection Agency” includes, but is not limited to the TCEQ, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the Texas Department of Health, the Texas Parks and Wildlife Department, the Structural Pest Control Service, agencies of local governments responsible for enforcing environmental protection laws or regulations, and similar regulatory agencies of other states of the United States.
- (c) Based upon the bidder’s response to certain questions, the Board will consider the following criteria and, at its discretion, determine whether to disqualify the bidder.
 - (1) The revelation of more than two (2) cases in which final orders have been entered by the Occupational Safety and Health Review Commission (“OSHRC”) against

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the bidder for serious violations of Occupational Safety & Health Administration (“OSHA”) regulations within the past five (5) years.

- (2) The revelation of more than one (1) case in which the bidder has received a citation or for which final orders have been entered from an environmental protection agency for violations within the past five (5) years.
- (3) The revelation that the bidder has been convicted of a criminal offense within the past ten (10) years or has been subject to a judgment for a negligent act or omission, which resulted in serious bodily harm or death.

Sec. 74.9.3. Before considering the safety record of the bidder, the School must give notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder.

Sec. 74.9.4. In making determinations concerning the safety records of the bidders, the Board, Delegate, and School employees are prohibited from making the determinations in an arbitrary and capricious manner.

Sec. 74.9.5. The Delegate or designee shall prepare and submit to the Board a summary report of the information and the responses provided by the bidder for its consideration and to facilitate its determination of whether to disqualify the bidder based upon its safety record.

Sec. 74.10. Notification of Contractor’s Criminal History.

Sec. 74.10.1. If the person or an owner or operator of the business entity has been convicted of a felony, the School should ensure that the bidder’s response includes an advance notice disclosing this fact. The notice must include a general description of the conduct resulting in the conviction of a felony.

Sec. 74.10.2. The School may terminate a contract with a person or business entity if the School determines that the person or business entity failed to give notice as required by Subsection 14.1 or misrepresented the conduct resulting in the conviction. The School must compensate the person or business entity for services performed before the termination of the contract.

Sec. 74.10.3. This subsection does not apply to a publicly held corporation.

Sec. 74.11. Contract with Person Indebted to School.

Sec. 74.11.1. The Board may refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the School.

Sec. 74.11.2. For purposes of implementing this subsection, "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability

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company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the School requiring approval by the Board.

Sec. 74.11.3. The Delegate or designee shall notify the Board of any debt due by an apparent low bidder or successful proposer. In the notice to the Board, the Delegate or designee must disclose:

- (a) The amount outstanding;
- (b) The date(s) of when the bidder or proposer became indebted to the School;
- (c) The cause(s) resulting in the bidder's or proposer's indebtedness;
- (d) Any adverse consequence to the School resulting from the bidder's or proposer's indebtedness;
- (e) The date of the last written correspondence to the bidder or proposer requesting the bidder's or proposer's satisfactory settlement of the indebtedness; and
- (f) The frequency of requests for settlement of the indebtedness.

Sec. 74.12. Right to Work.

When procuring goods or services, awarding a contract or overseeing procurement or construction for a public work to which this Policy applies, the School:

- (a) May not consider whether a person is a member of or has another relationship with any organization; and
- (b) Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Sec. 74.13. Contracts to Minority Companies.

As set forth in the charter application, the School will look for “opportunities to consummate contracts with a sizeable portion to minority companies.”

Sec. 74.14. Selection of Architect or Engineer.

Unless the School employs an architect or engineer on a full-time basis to oversee construction projects, the School shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Tex. Govt. Code §2254.004.

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Sec. 74.15. Other Professional Services.

The School shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of a facility. The School shall select the services for which it contracts under this subsection in accordance with Tex. Govt. Code §2254.004.

Sec. 74.16. Suspension of Policy.

If a school facility, or a portion of a school facility is destroyed, severely damaged, or experiences a major unforeseen operational or structural failure, and the Board determines that the delay posed by the contract methods required by this Policy would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the school facility, or portion of the school facility may be made by a method other than the methods required by this policy.

Sec. 74.17. Change Orders.

Sec. 74.17.1. If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the Delegate or designee has general authority to approve change orders making the changes.

Sec. 74.17.2. The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

Sec. 74.17.3. A contract with an original contract price of \$1 million or more may not be increased under this subsection by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Sec. 74.18. Monitoring and Oversight.

Sec. 74.18.1. The Delegate or designee shall monitor and oversee all construction projects and services. The Delegate or designee shall document their monitoring and oversight activities.

Sec. 74.18.2. The Delegate or designee shall report to the Board the progress and status of any and all public works procured under this policy.

Sec. 74.18.3. The Delegate or designee shall not make any final payments for public works procured under this Policy until the work has been completed. Upon completion of a public work, the Delegate or designee shall provide a final report to the Board. Upon accepting the work performed, the Board may authorize the Delegate or designee to issue final payment(s).

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Sec. 75. MONITORING OF SERVICE PROVIDER PERFORMANCE.

The Delegate or designee shall monitor the services and work of all service providers. In developing a system for monitoring the service provider’s performance, the Delegate or designee shall consider the inclusion of deliverables and other measurable outcomes that demonstrate the delivery of the services procured from the service provider and that enable the Delegate or designee to evaluate the quality of the services rendered and satisfactory performance of the provider.

Sec. 76. TRAINING AND UPDATES.²⁶³

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 77. ADMINISTRATIVE PROCEDURES.²⁶⁴

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board’s approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 78. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022 and became effective on March 21, 2022.

²⁶³ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

²⁶⁴ Tex. Ed. Code § 12.115(a)(2); FASRG Module 2; 2 CFR § 200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School’s Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School’s governing authority and, as such, manages and directs School’s business and affairs through Board actions, resolutions and policy.

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Sec. 79. RETENTION.²⁶⁵

This policy shall be retained until superseded, expired or discontinued and for five (5) years thereafter.

Sec. 80. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to the Purchasing and Contracting, as originally adopted by the Board on March 21, 2022, which Policy is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022

PG-5.910: INTERNAL AUDITS

Sec. 81. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of ki education foundation doing business as Ki Charter Academy (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;
- (b) Texas Education Code (“Tex. Ed. Code”) Sections 12.115(a)(2) and 12.121; and
- (c) Texas Administrative Code, Title 19 (“19 TAC”), Sections 100.1033 and 100.1101.

Additionally, through this policy, the Board shall address best practices adopted by public schools.

²⁶⁵ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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Sec. 82. AUTHORITY OVER FISCAL MATTERS.

Sec. 82.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 82.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,²⁶⁶ interested²⁶⁷ or related²⁶⁸ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 82.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 83. PURPOSE.

Under this policy, internal audits is established to provide independent and objective assurance and consulting services to improve the management of organizational risks and the effectiveness of internal controls.

Sec. 84. OVERSIGHT.

The Board’s Audit Committee shall oversee and direct the activities of internal audits. However, the Board shall have final authority over internal audits, including any authority delegated to the Audit Committee under this policy.

Sec. 85. CHARTER.

The Audit Committee shall adopt a charter for internal audits.

Sec. 86. STANDARDS.

The Audit Committee shall require that internal audits conduct its work pursuant to the *International Standards for the Professional Practice of Internal Auditing* and other applicable professional auditing standards.

²⁶⁶ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

²⁶⁷ 19 TAC § 100.1047(f)

²⁶⁸ Tex. Ed. Code § 12.1166

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Sec. 87. ACCESS TO PERSONNEL, PROPERTY, AND RECORDS.

School officers and employees shall provide internal audits with access to any and all personnel, property, and records. If a School officer or other employee fails to provide internal audits said access, internal audits shall report the employee's failure to provide access to the Audit Committee.

Sec. 88. RECOMMENDATIONS.

The Delegate or other officers may recommend or submit a request to the Audit Committee that internal audits conduct an inquiry to address perceived or known concerns or issues.

Sec. 89. PROHIBITED CONDUCT.

School officers and employees, without exception, are prohibited from demanding or otherwise directing the work undertaken by internal audits, including the content of any report or other deliverable prepared by internal audits.

Sec. 90. ANNUAL RISK ASSESSMENT.

Internal audits shall conduct an annual risk assessment and present the results to the Audit Committee. The Audit Committee shall prioritize the identified risks that internal audits shall then address in the annual audit plan.

Sec. 91. ANNUAL AUDIT PLAN.

Internal audits shall prepare an annual audit plan that addresses the risks prioritized by the Audit Committee, identifies the assurance and consulting work that it will perform, provides a timeline for the conduct of its work, allocates staff, financial, and other resources to the planned work, and discloses the deliverables that it will submit to the Audit Committee.

Sec. 92. BUDGET.

Internal audits shall prepare and submit a Proposed Budget²⁶⁹ to the Audit Committee separately from that prepared by the Delegate under the Board's Policy relating to the Authorization for the Obligation and Expenditure of Funds. Upon review and approval of the Proposed Budget, the Audit Committee shall submit the Proposed Budget to the Board for its consideration, revision, and approval. In like manner, internal audits shall submit any Proposed Amendment²⁷⁰ to the Adopted Budget²⁷¹ to the Audit Committee for review, revision, and approval.

²⁶⁹ See PG-5.020, Sec. 3.1.

²⁷⁰ See PG-5.020, Sec. 4.1.

²⁷¹ See PG-5.020, Sec. 3.7.

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Sec. 93. LIAISON TO INDEPENDENT AUDITOR.

Internal audits shall liaise with the certified public accountant engaged to conduct the annual financial and compliance audit. As liaison, internal audits shall coordinate and facilitate the efficient and effective conduct of the annual audit.

Sec. 94. ADMINISTRATIVE SUPPORT.

The Delegate or designee shall provide administrative support to internal audits including, but not limited to:

- (a) an adequate, equipped, furnished, and secure office comparable to all of the School's other offices; and
- (b) accounting, information technology, payroll, purchasing, travel, and other essential administrative services comparable to those provided to all of the School's other offices; and
- (c) human resource administration.

Sec. 95. TRAINING AND UPDATES.²⁷²

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 96. ADMINISTRATIVE PROCEDURES.²⁷³

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or

²⁷² 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

²⁷³ Tex. Ed. Code §12.115(a)(2); FASRG Module 2; 2 CFR §200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

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the Board’s approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 97. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on March 21, 2022 and became effective on March 21, 2022.

Sec. 98. RETENTION.²⁷⁴

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

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²⁷⁴ Tex. Ed. Code §12.1052; 19 TAC §100.1203; *See* Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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SEC. 11. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Internal Audits, as originally adopted by the Board on March 21, 2022, which Policy, as amended, is in full force and effect and has not been revoked or amended.

[DR. ROSINA RUIZ VALLE.],
Secretary

Date Certified March 21, 2022