Sec. 1. PHYSICAL FITNESS ASSESSMENT

Midland Academy Charter shall annually assess the physical fitness of students in grades 3 or higher using an assessment instrument adopted by the Commissioner of State Health Services ("CSHS") (currently FitnessGram®). *Education Code 38.101(a), .102(a).*

Midland Academy Charter is not required to assess a student for whom, as a result of disability or other condition identified by CSHS rule, the assessment instrument is inappropriate. *Education Code 38.101(b).*

a) *Report to Texas Education Agency ("TEA")*

Midland Academy Charter shall compile the results of the physical fitness assessment and provide summary results, aggregated by grade level and any other appropriate category identified by CSHS rule, to the TEA. The summary results may not contain the names of individual students or teachers, or a student's date of birth or social security number.

b) *Assessment Confidentiality*

The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law. *Education Code 38.103.*

Sec. 2. SCREENINGS: VISION AND HEARING

As soon as possible after admission and within a period set by CSHS rule, a student required to be screened shall undergo approved screening for vision and hearing disorders and any other special senses and communication disorders specified by the Texas Department of State Health Services (the "TDSHS). *Health and Safety Code 36.005(a).*

a) *Superintendent's Responsibility*

The Superintendent shall ensure that each student admitted to Midland Academy Charter complies with the screening requirements set by the TDSHS or submits an affidavit of exemption. *Health and Safety Code 36.005(c).*

b) *Screening Schedule: Routine Screening*

Children enrolled in prekindergarten and kindergarten must be screened each year within 120 days of enrollment. Children enrolled in the first, third, fifth, and seventh grades must receive vision and hearing screening in each of those grade years (can be done at any time during each of those years). Upon written request approved by the TDSHS, the screening of vision and hearing may

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.
SLHA Schulman, Lopez, Hoffer & Adelstein, LLP

instead occur in prekindergarten; kindergarten; and first, second, fourth, and sixth grades. *25 TAC 37.25(a)(2), (3), (6).*

c) *Screening Schedule: Screening on Enrollment*

Students four years of age and older, who are enrolled in Midland Academy Charter for the first time, must be screened for possible vision and hearing problems within 120 calendar days of enrollment. If the student is enrolled within 60 days of the date school closes for the summer, the student must be tested within 120 days of the beginning of the following school year. Students enrolled who turn four years of age after September 1 of that year are exempt from screening until the following September. *25 TAC 37.25(a)(1), (5).*

d) *Outside Screening*

Except for students enrolled in prekindergarten, kindergarten, or first grade, Midland Academy Charter shall exempt a student from screening if the student's parent, managing conservator, or legal guardian, or the student under scenarios described at Family Code 32.003 submits a record showing that a professional examination was properly conducted during the grade year in question or during the previous year. The record must be submitted during the grade year for which the screening would otherwise be required. *25 TAC 37.25(a)(4).*

e) *Provisional Admission*

A parent, managing conservator, or legal guardian, or the student under scenarios described at Family Code 32.003 may execute an affidavit stating that a person, other than the screener used by Midland Academy Charter, shall conduct the screening (or that a licensed professional shall conduct an examination) as soon as is feasible. Midland Academy Charter may admit the student on a provisional basis for up to 60 days, or may deny admission until the screening record(s) are provided to Midland Academy Charter. *25 TAC 37.25(b).*

f) *Exemption – Religions Beliefs*

A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit on or before the day of admission an affidavit stating the objections to screening. *Health and Safety Code 36.005(b)*; *25 TAC 37.25(c).*

g) *Records*

The Superintendent shall maintain on a form prescribed by the TDSHS in accordance with TDSHS rules, screening records for each student in attendance, and the records are open for inspection by the TDSHS or the local health department. *Health and Safety Code 36.006*; *25 TAC 37.26.*

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

A student's screening records may be transferred among districts without the consent of the student or minor student's parent, managing conservator, or guardian. *Health and Safety Code 36.006(c)*; *25 TAC 37.26(b)(4)*.

h) *Annual Report*

On or before June 30 of each year, Midland Academy Charter shall submit to the TDSHS a report on the vision and hearing screening status of its aggregate population screened during the reporting year. Midland Academy Charter shall report in the manner specified by the TDSHS. *Health and Safety Code 36.006(d)*; *25 TAC 37.26(b)(6)*.

Sec. 3. SCREENINGS: RISK ASSESSMENT FOR TYPE 2 DIABETES

As soon as possible after admission and as required by rule, each student required to be assessed shall undergo approved risk assessment for type 2 diabetes. The risk assessment should:

1. Identify students with acanthosis nigricans; and
2. Further assess students identified under paragraph 1 to determine the students':
   a. Body mass index; and
   b. Blood pressure.

The risk assessment shall be performed at the same time hearing and vision screening or spinal screening is performed.

Health and Safety Code 95.002(d), .003(a).

a) *Superintendent's Responsibility*

The Superintendent shall ensure that each student admitted to Midland Academy Charter complies with the risk assessment requirements or submits an affidavit of exemption. *Health and Safety Code 95.003(c)*.

b) *Applicability*

Students who attend public schools located in the TEA Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, and 20 shall be subject to risk assessment. *Health and Safety Code 95.002(b)*.

c) *Outside Screening*

The student or minor student's parent, managing conservator, or guardian may substitute a professional examination for the risk assessment.

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.
SLHA Schulman, Lopez, Hoffer & Adelstein, LLP

d) ***Exemption – Religious Beliefs***

A student is exempt from risk assessment if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit to the Superintendent on or before the day of the risk assessment process, an affidavit stating the objections to the risk assessment. *Health and Safety Code 95.003(b)*.

e) ***Records***

The Superintendent shall maintain the risk assessment records for each student in attendance and enter the risk assessment information for each student on the surveillance software selected by the University of Texas—Pan American Border Health Office (the Office). The risk assessment records are open for inspection by the Office or the local health department. *Health and Safety Code 95.004(a)*.

A student's risk assessment records may be transferred among schools without the consent of the student or, if the student is a minor, the student's parent, managing conservator, or guardian. *Health and Safety Code 95.004(c)*.

f) ***Annual Report***

Midland Academy Charter shall submit to the Office an annual report on the risk assessment status of the students in attendance during the reporting year and shall include in the report any other required information. *Health and Safety Code 95.004(e)*.

Sec. 4. <u>SCREENINGS: SPINAL SCREENING</u>

Each student required by the TDSHS rule to be screened shall undergo approved screening for abnormal spinal curvature. *Health and Safety Code 37.002(a)*.

a) ***Superintendent's Responsibility***

The Superintendent shall ensure that each student admitted to Midland Academy Charter complies with the screening requirements or submits an affidavit of exemption. *Health and Safety Code 37.002(c), 25 TAC 37.144(b)*.

The Superintendent is also responsible for notifying a parent, guardian, or managing conservator of the requirement to conduct spinal screenings, the purpose and reasons for spinal screenings, the potential risk to the child if declined, the method used to perform a spinal screening, and the method to decline a spinal screening based on a religious belief exemption. *25 TAC 37.144(a)*.

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

b) ***Screening Schedule: Routine Screening***

Students who meet the criteria outlined in TDSHS policy shall be screened for abnormal spinal curvature before the end of the school year. *25 TAC 37.144(c)(1).*

c) ***Screening Schedule: Screening at Enrollment***

If a student is enrolled within 60 days of the date Midland Academy Charter closes for the summer, the student's screening must be conducted within 120 days of the beginning of the following school year. Midland Academy Charter may offer a student the opportunity for a spinal screening if the student has no record of having been screened previously. *25 TAC 37.144(c)(2), (3).*

d) ***Outside Screening***

The screening requirements may also be met by a professional examination as defined in 25 TAC 37.142(7). *25 TAC 37.144(c)(1).*

e) ***Provisional Admission***

A parent, managing conservator, or legal guardian, or the student under Family Code 32.003 may execute an affidavit stating that a person, other than the screener used by Midland Academy Charter, shall conduct the screening as soon as is feasible. Midland Academy Charter may admit the student on a provisional basis for up to 60 days, or may deny admission until the screening records are provided to Midland Academy Charter. The 60-day time period is from November 30 to January 30 of each school year. *25 TAC 37.144(d).*

f) ***Exemption – Religious Beliefs***

A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or member. To qualify for the exemption, the student's parent, managing conservator, or guardian must submit to the Superintendent on or before the day of the screening procedure an affidavit stating the objections to screening. *Health and Safety Code 37.002(b); 25 TAC 37.144(e).*

g) ***Records***

Midland Academy Charter must comply with recordkeeping and reporting requirements set out in 25 TAC 37.145(b).

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

h) ***Transfer of Records***

Spinal screening records are transferrable between schools without the consent of the individual or, if the individual is a minor, the minor's parent, managing conservator, or legal guardian. *25 TAC 37.145(b)(3)*.

i) ***Annual Report***

On or before June 30 of each year, Midland Academy Charter shall submit to the TDSHS a complete and accurate annual report on the spinal screening status of its aggregate population screened during the reporting year. Midland Academy Charter shall report in the manner specified by the TDSHS (currently found at http://chrstx.dshs.state.tx.us. *25 TAC 37.145(b)(5)*.

Sec. 5. UNIVERSITY INTERSCHOLASTIC LEAGUE ("UIL") PARTICIPATION

A student desiring to participate in the UIL athletic program shall submit to Midland Academy Charter a statement from a health care provider authorized under UIL rules indicating that the student has been examined and is physically able to participate in the athletic program. This examination is required for the first year of middle school competition and grades 9 and 11 of high school competition. In other years, the student shall complete a medical appraisal form. A student may be required to have a physical examination based on answers to the appraisal form.

Sec. 6. REFERRALS

Parents of students identified through screening programs as needing treatment or further examination shall be referred to health agencies as appropriate.

Sec. 7. ADDITIONAL POLICIES

As a condition of receiving funds under a program funded in whole or in part by the U.S. Department of Education (DOE), Midland Academy Charter shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the administration of physical examinations or screenings that Midland Academy Charter may administer to the student. Midland Academy Charter shall provide notice of the policies at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies.

At least annually at the beginning of the school year, Midland Academy Charter shall directly notify the parent of a student of the specific or approximate dates during the school year when any nonemergency, invasive physical examination or screening, described below, is scheduled or expected to be scheduled. The required notification applies to nonemergency, invasive physical examinations or screenings that are:

1. Required as a condition of attendance;

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

2. Administered and scheduled by Midland Academy Charter in advance; and
3. Not necessary to protect the immediate health and safety of the student or of other students.

At a minimum, Midland Academy Charter shall offer an opportunity for the parent to opt the student out of participation in the examination or screening.

These provisions do not apply to any physical examination or screening that is permitted or required by an applicable state law, including physical examinations or screenings that are permitted without parental notification.

20 U.S.C. 1232h.

© 2020 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.