

THE UNIVERSITY OF TEXAS AT TYLER.
DBA
UT TYLER UNIVERSITY ACADEMY.
BOARD POLICY MANUAL
POLICY GROUP 5 – FISCAL MANAGEMENT

PG-5.330: THIRD-PARTY USE OF PUBLIC PROPERTY

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of The University of Texas at Tyler doing business as UT Tyler University Academy hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Constitution, Article III, Sec. 52;
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”) §§ 3.101, 22.201, 22.221 and 22.235;
- (c) Texas Education Code (“Tex. Ed. Code”) §§ 12.102, 12.107, 12.115(a)(2), 12.121 and 12.128;
- (d) Texas Administrative Code, Title 19 (“19 TAC”), §§ 100.1043(a), 100.1047(e)-(g), 100.1063(a)-(c), 100.1131-.1135 and 100.1101; and
- (e) Code of Federal Regulations, Title 2 (“2 CFR”), §§ 200.303(a), 200.310, 200.313(c) and 200.314-.316.

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,¹ interested² or related³ 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.

¹ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC § 100.1047(f)

³ Tex. Ed. Code § 12.1166

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Sec. 3. APPLICABILITY OF POLICY.

Sec. 3.1. This policy applies to property acquired with Foundation School Program funds received by the School pursuant to Tex. Ed. Code § 12.106.

Sec. 3.2. This policy applies to the use of public property by a third party for an activity not directly related to the School.

Sec. 3.3. This policy is limited to an authorized use, as established under Sec. 6 of this policy, of a school facility, as defined under Sec. 4.2 of this policy.

Sec. 3.4. Except as set forth under Sec. 3.3 of this policy, the School is not authorized to permit any use of any public property by a third party.

Sec. 3.5. The UT Tyler University Academy does not purchase property with Foundation School Program funds. The UT Tyler University Academy pays yearly fees for the use of facilities owned by The University of Texas Tyler.

Sec. 4. PUBLIC PROPERTY DEFINED.

Sec. 4.1. Public property is property purchased with public funds received by the School⁴ and includes:

- (a) real property, including a lease interest and improvements to buildings, fixtures, utilities, landscaping, construction in progress, or other improvements; and
- (b) personal property, including:
 - (1) furniture, equipment, supplies, and other goods;
 - (2) computer hardware and software;
 - (3) contract rights, intellectual property such as patents, and other intangible property;
 - (4) cash, currency, funds, bank accounts, securities, and other investment instruments;
 - (5) the right to repayment of a loan, advance, or prepayment or to the payment of other receivables; and
 - (6) any other form of personal property recognized by Texas law.⁵

Sec. 4.2. For purposes of this policy, school facility shall mean auditoriums, cafeterias, cafetorium, classrooms, conference, meeting or training rooms, gymnasiums, practice fields, and stadiums. The University Academy does not purchase property.

⁴ Tex. Ed. Code § 12.128(a)

⁵ 19 TAC § 100.1001(4)-(6)

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Sec. 5. THIRD PARTY DEFINED.

Sec. 5.1. In this policy, third party means any group formed independently of the School as an unincorporated nonprofit association under Tex. Bus. Org. Code Chapter 252 or a nonprofit corporation under Tex. Bus. Org. Code Chapter 22 including:

- (a) Parent-teacher association or organization.
- (b) Booster clubs.
- (c) American Legion.
- (d) Boy Scouts.
- (e) Camp Fire.
- (f) Girl Scouts.
- (g) Lions Club International.
- (h) Rotary Club.
- (i) Any other group formed independently of the School as an unincorporated nonprofit association or a nonprofit corporation approved by the Board in a resolution.

Sec. 5.2. Third party does not include any internal employee or student group.

Sec. 5.3. Third party does not include any for-profit entity or individual.

Sec. 6. USE OF PUBLIC PROPERTY.

Sec. 6.1. Public property may be used only for a purpose for which a school district may use school district property and only to implement a program that is described in the open-enrollment charter and is consistent with Tex. Ed. Code §12.107.⁶

Sec. 6.2. The limitation under Sec. 6.1 of this policy notwithstanding, the Board finds that:

- (a) The predominant purpose of allowing a use consistent with the School's purposes set forth in its Certificate of Formation, as amended, is to accomplish a public purpose⁷ and not to benefit private parties;⁸
- (b) The use shall provide a clear, public benefit in return;⁹ and
- (c) Sufficient control shall be retained over the use to ensure that the public purpose is accomplished, and a return benefit is received.¹⁰

⁶ Tex. Ed. Code § 12.128(a)(3); 19 TAC § 100.1063(c)

⁷ Tex. Att'y Gen. Op. No. GA-0743 (2009)

⁸ Tex. Att'y Gen. Op. No. GA-0076 (2003)

⁹ Tex. Att'y Gen. Op. No. KP-0099 (2016)

¹⁰ Tex. Att'y Gen. Op. No. GA-0076 (2003)

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Sec. 6.3. With the guidance of The University of Texas at Tyler Police Department the University Academy has restricted third party use of the facilities.

Sec. 6.4. The School shall not allow the use of a school facility for a purpose that is inconsistent with the purpose established in its Certificate of Formation, as amended, and its vision and mission.

Sec. 6.5. The School shall not allow a use of a school facility by any organization or person that is not authorized by the Board under this policy.

Sec. 6.6. The School may allow the use of a school facility by a local, state or federal governmental agency during an officially declared disaster or other emergency.

Sec. 7. FEES.

Sec. 7.1. The School shall charge a fee to a third party for the use of a school facility. The Delegate or designee shall establish and publish a fee(s) that adequately covers the cost of ensuring that the school facility is appropriately maintained and safeguarded during third party use and for cleaning the school facility after third party use.

Sec. 7.2. The Delegate or designee within the Delegate's office shall collect the fee(s) in advance and deposit the fee(s) collected into the School's general operating account and fund.

Sec. 7.3. A third party shall forfeit its prepaid fee(s) pursuant to Sec. 9.1(j)(3)(B) of this policy.

Sec. 7.4. The School shall not collect a fee(s) from parent-teacher associations or organizations, booster clubs, or internal employee or student groups.

Sec. 7.5. In an administrative procedure adopted under Sec. 12 of this policy, the Delegate or designee may uniformly waive the collection of a fee(s) from any third party under Sec. 5.1(c)-(h) of this policy.

Sec. 8. TRAINING AND UPDATES.¹¹

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.

¹¹ 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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Sec. 9. ADMINISTRATIVE PROCEDURES.¹²

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. 10. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on 11/07/2024 and became effective on 11/07/2024.

Sec. 11. RETENTION.¹³

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

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 the Third-Party Use of Public Property, as

¹² Tex. Ed. Code § 12.115(a)(2); FASRG Module 2; 2 CFR § 200.303(a). 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 the School's Certificate of Formation 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.

¹³ 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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originally adopted by the Board on 1/23/2025, which Policy is in full force and effect and has not been revoked or amended.

DocuSigned by:
Michael Odell

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Dr. Michael Odell, Secretary

2/13/2025

Date Certified

DATE ISSUED: 1/23/2025

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