

Advise TX Memorandum of Understanding

among

Texas Higher Education Coordinating Board, Texas Christian University, and Ector County Independent School District

Parties

This is a Memorandum of Understanding (“MOU”) among the Texas Higher Education Coordinating Board (“THECB”), Texas Christian University (“University”), and Ector County Independent School District (hereafter referred to as “ECISD” and/or the “high school”) relating to the Advise TX College Advising Corps program (hereafter sometimes referred to as “The Advise TX program”, “Advise TX”, or as “the project”).

THECB is understood, for the purposes of this MOU, to include the Texas Higher Education Coordinating Board and its officers, employees, designated Advise TX contractors, designated Advise TX grantees, and other designated Advise TX agents (which include Texas Christian University, the National College Advising Corps (“NCAC”), and NCAC’s contracted evaluation team).

ECISD and/or the high school is understood, for the purposes of this MOU, to include:

New Tech Odessa
Odessa High School
Permian High School

Collectively hereinafter the parties to this MOU will be referred to as “Parties” or, individually, as “Party.”

Statement of Purpose and Services to be Performed

The Advise TX program is housed at chapter public and private colleges and universities across the state, including at Texas Christian University. Advise TX is a program administered by the THECB which implements the NCAC program model of placing recent college graduates as full-time “near-peer” advisors in targeted Texas high schools. Through grant funded provided by THECB, the University employs advisors and project staff to carry out the project. Advise TX is an education program as defined in 34 CFR § 99.3. THECB has awarded funds from, in part, the federal College Access Challenge Grant (“CACG”) to Texas Christian University for the 2013-2014 academic year to implement the Advise TX program at high schools throughout the state, including at high schools in Ector County Independent School District.

Advisers work in collaboration with high school counselors, teachers, and administrators to increase college-going rates in the high schools they serve. Advisers provide admissions and financial aid advising to students and their families through one-on-one and group sessions that help students identify colleges that will serve them well; complete their admissions and financial aid applications; and enroll successfully at the college or university they eventually choose. The Parties agree that the advisers are school officials pursuant to 34 CFR § 99.31(a)(1)(i)(B). The Advise TX program has three main aims: to increase the college-going rate at partner high schools; to expand the range of colleges and universities to which students apply and in which they enroll; and to assist principals, counselors, and teachers foster a college-going culture.

One of the purposes of this MOU is to provide and appoint one adviser (subject to funding availability) from the Advise TX College Advising Corps to each of the ECISD high schools identified herein.

The TCU College of Education serves as the manager for this program.

THECB, the University, the ECISD, and each participating high school in the ECISD agree to the following three main goals/aims during the project:

1. Work collaboratively to develop and implement programs and services that (a) foster access to postsecondary education and (b) include all students who wish to participate and who work in good faith to do so.

2. Work collaboratively to (a) outline current school-based efforts to foster access to postsecondary education; (b) review Advise TX programs and services to ensure that they complement and extend these existing efforts; and (c) establish clear and mutually agreeable timelines for the implementation of Advise TX programs and services.
3. See the adviser as an enthusiastic, sympathetic, and well-trained resource for students, but not as an expert on college access or success.

An additional purpose of this MOU is to set forth the terms and conditions under which ECISD will permit THECB, the University, and the advisers to access and/or otherwise use student record data collected by ECISD which contains Personally Identifiable Information (“PII”), as defined in 34 CFR § 99.3 and is therefore subject to the Family Educational Rights and Privacy Act (“FERPA”), 20 USC § 1232g (such PII is herein referred to as “FERPA Data”). ECISD’s disclosure of FERPA Data to THECB, the University, and the adviser will be for the purposes of (1) THECB and the University conducting an ongoing program evaluation pursuant to 20 USC § 1232g(b)(1)(C), (b)(3), and (b)(5); 34 CFR § 99.35 (“the Audit and Evaluation exception”) and (2) the advisers performing an institutional service or function for which the ECISD high schools would otherwise use employees pursuant to 20 USC § 1232g(b)(1)(A); 34 CFR 99.31(a)(1) (“the School Officials Exception”).

The University agrees, subject to funding availability from THECB, to the following terms during the project:

1. Identify, recruit, and appoint one adviser to serve each of the ECISD high schools identified herein for an average of 40 hours per week during the regularly scheduled high school term period.
2. Provide necessary and ongoing training, support, and professional development that will allow the adviser to fulfill his or her responsibilities to the high school and its students, including to ensure the adviser complies with the FERPA provisions in this MOU.
3. Provide assurance that all employees, subcontractors and volunteers of Advise TX who have contact with students have passed a criminal history background check current within the last year.
4. Employ an Advise TX Program Coordinator who will (a) supervise the appointed adviser, meeting with him or her regularly to discuss job performance and develop strategies for improvement; (b) work closely with the high school on-site liaison assigned by the ECISD and/or the high school to ensure that the relationship between the appointed adviser and the high school remains strong and that the adviser is effectively serving the high school students and advancing the three main aims of Advise TX; (c) engage in frequent dialogue with partner high school around strategic collaboration and to assess progress towards the goals; (d) re-evaluate the work plan and make adjustments as needed but at least on an annual basis; (e) serve as the main liaison between the high school principal and Advise TX, meeting at least twice per year to review the partnership and ensure that its goals are being met; (f) work with the on-site high school liaison to establish a mutually agreeable work schedule for the adviser; and (g) visit the school at least twice per academic year.
5. Remain open to address any issues or concerns that may arise.
6. Share relevant data and research with the ECISD and the high school, as the ECISD and the high school may request as consistent with FERPA and the FERPA provisions in this MOU. Share relevant data and research with THECB, as THECB may request as consistent with FERPA and the FERPA provisions in this MOU.
7. Manage the administration and pay the full salary and benefits of the adviser.
8. Provide funding support, derived from THECB award, to the appointed adviser for reasonable expenses associated with Advise TX programs and services. Reasonable expenses include office supplies, photocopies, incentives for students (such as food), or college field trip costs (as consistent with federal cost circulars).
9. Work in good faith to develop funding that will sustain the partnership between the University, the ECISD and the high school beyond the current term period.
10. Keep any and all student-level data provided by the ECISD and the high school to the University and to the adviser strictly confidential, in accordance with applicable local, state, and federal law, including as consistent with FERPA and the FERPA provisions in this MOU
11. Require the participation of the assigned adviser in Advise TX activities (for example, Advise TX training and professional development) for no more than 7 days while the high school is in session during the regularly scheduled term period of service specified below.

The ECISD and/or high school agrees to the following terms during the project:

1. Welcome the assigned adviser and work actively to facilitate their entry into the school community by treating them as a professional member of the school.
2. Establish and maintain clear lines of communication with the adviser and Advise TX Program Coordinator in regards to staff policies, procedures, and expectations with which the adviser is expected to comply (including any relevant FERPA policies).
3. Designate a point person within each high school to serve as Site Liaison to (a) serve as the adviser's primary resource and advocate within the high school, facilitating the adviser's integration into the life of the high school and providing appropriate advice and counsel; (b) work closely with the Advise TX Program Coordinator to ensure that the relationship between the adviser, ECISD and the high school remains strong and that the adviser is effectively serving the high school students and advancing the three main aims of the Advising Corps; (c) participate in adviser's annual evaluation; (d) work with the Advise TX Program Coordinator to establish a mutually agreeable work schedule for the adviser in accordance with the high school's regularly scheduled term period beginning on or about one week before classes begin and ending on or about one week after classes conclude; (e) engage in frequent dialogue with Advise TX Program Coordinator around strategic collaboration and to assess progress towards the goals; (f) re-evaluate the work plan and make adjustments as needed but at least on an annual basis; and (g) serve as the main liaison between the principal of the high school and the Advise TX Program Coordinator, meeting at least twice a year to review the partnership and ensure that its goals are being met.
4. Maintain the existing staffing level of the guidance/counseling department and not make any staffing modifications suggesting the replacement of a counselor or counseling position with an Advise TX adviser.
5. Allow the adviser to use NCAC data collection and service tools in the high school as consistent with FERPA and the FERPA provisions in this MOU.
6. Supply THECB and the University (including its advisers and project staff) reasonable access to student-level data (name, date of birth, and year of graduation) for the purposes of advising, grant reporting, and program evaluation as consistent with FERPA and the FERPA provisions in this MOU.
7. Provide the University (including its advisers) access to the ApplyTexas Counselor Suite for the purposes of effectively advising students.
8. Provide the University (including its advisers and project staff) access to student transcripts and schedules, either electronically or in hard copy, for the purposes of effectively advising students as consistent with FERPA and the FERPA provisions in this MOU.
9. Work to integrate the Advise TX program with existing college access and guidance efforts at the high school.
10. Ensure adviser is not arbitrarily assigned duties unrelated to his/her work plan such as clerical or manual labor or expected to fill temporary personnel shortages or assume *ad hoc* assignments (such as hall or cafeteria monitoring, supervising classrooms, monitoring testing, etc).
11. Provide dedicated and appropriate working/meeting space for the adviser, including a computer with internet access and ready access to phone and voicemail, fax, photocopier, and printer.
12. Provide the adviser with a comprehensive high school orientation, with introductions to key staff, teachers, and administrators.
13. Provide assistance to the University (including its adviser and project staff) with administering Advise TX surveys of high school students.

Purpose and Description of Program Evaluation to be Conducted

1. To determine the efficiency and success of the Advise TX program, the program shall be evaluated on an ongoing basis by THECB (including through its designated agent, NCAC's contracted evaluation team). The results of the evaluation may be used to, among other things, improve and modify the Advise TX program. Such evaluations will enable all project participants to spur higher levels of college enrollment. The evaluation will include the following:
 - comprehensive compilation and analysis of direct outcomes for the Advise TX program
 - comparative analysis of college-going rates between control schools and program-participating schools
 - assessment of increased scholarship dollars for universities and students
 - analysis and assessment of college preparation activities undertaken by high school students

- identification of success factors that contribute to increased college-going rates and improved school morale
 - examination of the relationship between student grades, class schedules, and college enrollment
 - a qualitative and quantitative study of student awareness regarding higher education
2. For the purpose of carrying out the Advise TX evaluation, FERPA Data may need to be collected by the ECISD and/or high school and disclosed to THECB as further described in the “FERPA Compliance” provision within this MOU.

FERPA Authorized Representatives and Adviser Serving as School Official

1. This MOU serves as a written agreement to designate authorized representatives, as defined in 34 CFR § 99.3, of a local educational authority, 20 USC § 7801(26)(A), to access FERPA Data in connection with an audit or evaluation of a Federal or State supported education program, as permitted by FERPA federal regulations 34 CFR § 99.35.
2. The ECISD and/or high school, a local educational authority, hereby designates THECB, including its officers, employees, designated Advise TX contractors, designated Advise TX grantees (e.g., the University), and other designated Advise TX agents (e.g., NCAC and NCAC’s contracted evaluation team), as its authorized representatives under FERPA.
3. THECB, as an authorized representative of ECISD, shall have access to the student education records of ECISD pursuant to the policies and restrictions identified in the “FERPA Compliance” provision within this MOU.
4. This MOU also serves as a written agreement articulating the adviser’s role as a school official for the ECISD and/or high school, as permitted by FERPA federal regulations 34 CFR 99.31(a)(1).

FERPA Compliance

1. The Parties agree and understand that this MOU is to be strictly construed to comply with FERPA, particularly the Audit and Evaluation and the School Officials exceptions, at all times. At a minimum, the following terms and conditions will apply to all FERPA Data disclosed by ECISD to THECB or the adviser pursuant to this MOU:
 - For data disclosed to THECB, data will be collected and managed through an evaluation team contracted by the NCAC, Texas Christian University College Advising Corps’ umbrella organization.
 - Data to be collected will include, but not necessarily be limited to: baseline information on the school, including college matriculation rates and student attainment of intermediary college enrollment goals (such as percent taking college entrance exams and FAFSA applications); information on enrolled students during program implementation, including identifying information (such as student name, date of birth, grade level/graduation year, grades, test scores on college entrance exams, and student schedules), intermediary goals, and college enrollment; and information on services provided to students. At the school level, the adviser will collect data to help target and track services and evaluate the program’s success.
 - By disclosing PII from education records to THECB or the adviser, ECISD in no way assigns ownership of this data to an authorized representative or the adviser.
 - For data disclosed to THECB, THECB shall ensure that FERPA Data is accessed by or disclosed to THECB only for the purposes of THECB conducting the program evaluation, the advisers conducting their project work, and/or for effectuating necessary services related to the performance of the MOU. THECB shall ensure that the evaluation is conducted in a manner that does not permit FERPA Data to be accessed, disclosed, or otherwise used by anyone other than ECISD and/or high school or THECB officers, employees, designated Advise TX contractors, designated Advise TX grantees, and other designated Advise TX agents with legitimate interests in the evaluation of Advise TX or with legitimate educational interests.
 - For data disclosed to THECB, THECB shall ensure that THECB officers, employees, designated Advise TX contractors, designated Advise TX grantees and other designated Advise TX agents obtain access to only those FERPA records in which they have legitimate interests and only after executing an agreement to maintain FERPA-compliant confidentiality of all data provided. Confidentiality of the data shall be maintained by THECB at all times to preclude personal identification of students

who are the subject of the evaluation. All results of data analysis will be reported in aggregate. THECB shall never publically disclose or publish data in such a way that would allow individual students to be identified.

- THECB shall promptly notify ECISD of any security breach that results in unauthorized access to any FERPA Data disclosed to THECB.
- THECB shall securely destroy all FERPA Data disclosed to it and all copies of FERPA Data in any format in THECB's possession once the FERPA Data is no longer needed for the evaluation for which the data was obtained or for the advisers' work, based on appropriate federal guidelines.

2. The Parties agree to amend this MOU as necessary to comply with applicable amendments to FERPA, including the Audit and Evaluation exception, as required to ensure that the Parties remain in compliance with FERPA.

Term of MOU

This MOU begins August 1, 2013 and shall terminate on July 31, 2014.

Legal Compliance and Right to Audit

The Parties shall comply with all applicable federal, state, and local laws and regulations. The Parties understand that acceptance of funds under this MOU acts as acceptance of the authority of the State Auditor's office, THECB or any successor agency, as well as any external auditors selected by the State Auditor's office, THECB or any auditors selected by the United States to conduct an audit or investigation in connection with those funds. The Parties further agree to cooperate fully in the conduct of the audit or investigation, including promptly providing all records requested.

Sovereign Immunity

The Parties stipulate and agree that no provision of, or any part of this MOU or any subsequent amendment shall be construed: (1) as a waiver of the doctrine of sovereign immunity or immunity from suit as provided for in the Texas Constitution and the Laws of the State of Texas; (2) to extend liability beyond such liability provided for in the Texas Constitution and the Laws of the State of Texas; or (3) as a waiver of any immunity provided by the 11th Amendment or any other provision of the United States Constitution or any immunity recognized by the courts and the laws of the United States.

Applicable Law

This MOU shall be governed by the laws of the State of Texas. The exclusive venue of any suit brought concerning the Contract and any incorporated documents is fixed in any Court of competent jurisdiction in Travis County, Texas, and all payments under the Contract shall be due and payable in Travis County, Texas.

Dispute Resolution

The Parties shall work together in good faith and in a timely manner to resolve disputes that might develop pursuant to the program under this MOU.

Trademark

The Parties certify and acknowledge that the Advise TX[®] and the Advise TX College Advising Corps[®] word marks and logos are the trademarks or registered trademarks of THECB. The University and ECISD are responsible for including the trademark registration notice (®) on the trademarks.

Amendments

This MOU may be modified only by written amendment executed by the Parties hereto.

Termination or option to individually opt out of program participation

THECB may, by written notice to the Parties, immediately terminate this MOU for cause if any of the Parties fails to comply fully with any term or condition of this MOU, through no material fault of THECB. THECB may also terminate this MOU if project funding should become reduced, depleted, or otherwise unavailable during the term of the MOU and to the extent that THECB is unable to obtain additional funds for such purpose. All provisions regarding FERPA, the right to audit, and dispute resolution shall survive the termination of this MOU for any reason whatsoever and shall remain in full force and effect.

By signing, I certify that I have read and agree with the terms of the Memorandum of Understanding and officially authorized to sign and execute on behalf of my institution.

Ector County Independent School District

Signature _____ Date _____

Print Name and Title _____

Signature _____ Date _____

Print Name and Title _____

Signature _____ Date _____

Print Name and Title _____

Texas Christian University

Signature _____ Date _____

Print Name and Title _____

Signature _____ Date _____

Print Name and Title _____

THECB

Signature _____ Date _____

Print Name and Title _____

Signature _____ Date _____

Print Name and Title _____