

## Anthony Price

---

**From:** Cheryl T Mehl <CMehl@edlaw.com>  
**Sent:** Friday, April 17, 2015 12:09 PM  
**To:** Anthony Price; mzipperlen@umhb.edu  
**Subject:** Tuition Transfer Contract  
**Attachments:** 2015-4-17 Westphalia Tuition Transfer Agreement.pdf; 2015-4-16 Agmt for 9-12 students-Westphalia ISD.docx

I have attached a draft contract and also a letter for Dr. Zipperlen, after our conversation this morning.

**Cheryl T. Mehl**

Shareholder

**Eichelbaum Wardell**

**Hansen Powell & Mehl, P.C.**

4201 West Parmer Lane, Suite A-100 | Austin, TX 78727

P (512) 476-9944 | F (512) 472-2599

website | email | map



**Cheryl T. Mehl**  
Shareholder

April 17, 2015

**Confidential: Attorney-Client Communication**

**By Email:** [mzipperlen@umhb.edu](mailto:mzipperlen@umhb.edu)

Dr. Marlene Zipperlen  
Board President  
Rosebud-Lott ISD

Re: Tuition Transfer Contract with Westphalia ISD

Dear Dr. Zipperlen:

Thank for visiting with me this morning about the school board's directive to Mr. Price that he prepare for its consideration a tuition transfer contract with Westphalia ISD for the education of Westphalia's high school students. He also provided to me the current tuition transfer contract that Westphalia has with Rogers ISD.

Our conversation focused on the history and background of this request, and I am confident that you have an understanding that the driver on this bus is Westphalia ISD. I realize I did not, however, tell you explicitly that, absent a request from Westphalia ISD to enter such an agreement, Rosebud-Lott ISD has no basis to **approve** such an agreement. Certainly, the board can review and discuss a proposed agreement at this time, but until there is some indication from Westphalia ISD that it wishes to consider such a contract, it will be improper for the board to take any approval action.

You clarified for me that there have been multiple conversations between the Westphalia superintendent and Mr. Price and that you have also been present in some of those meetings. For whatever reason, the Westphalia superintendent has not, so far, been responsive to RLISD's overtures. If the RLISD board of trustees is interested in seeking such an agreement, the appropriate process now is for the board president or superintendent or both to appear during public comment at a Westphalia ISD board meeting and inform the board that RLISD is interested in having such an agreement.

Rosebud-Lott ISD cannot force Westphalia ISD to contract with it for the education of students in grades 9-12. As I understand it, RLISD already freely accepts students from Westphalia ISD as transfers at all grade levels, without any tuition other than the state funds that automatically transfer for any transfer student. Those high school students who transfer to RLISD are not subject to any wait time for UIL eligibility because their



home district does not have high school.<sup>1</sup> According to Mr. Price, RLISD already runs a bus route in Westphalia ISD for those transfer students.

When this item is before the board on Monday evening, all discussion must occur in open meeting. The board certainly may review and discuss the items included in the proposed contract; however, any action should be limited to authorization for you to request an opportunity to speak to the Westphalia ISD board through a specific agenda item and, if that is unsuccessful, then to appear and speak during public comment at a Westphalia board meeting on this topic, expressing the RLISD's interest in having the same arrangement with WISD as WISD has with Rogers ISD. Of course, it will be at the discretion of the Westphalia board, under the second approach, to ask for the subject to be placed on the agenda of a future meeting.

Finally, as I expressed to you, our firm currently represents both Westphalia ISD and Rosebud-Lott ISD. At this time, I do not see any conflict of interest for the firm, as we have not been contacted by anyone from Westphalia ISD about this issue. We did, however, draft the contract between Westphalia ISD and Rogers ISD. Should a legal controversy arise between WISD and RLISD on this matter, we would have to withdraw from assisting either district or obtain joint representation authority from both boards.

Thank you for your time this morning. Feel free to share this letter with the other members of the board.

Very truly yours,

**EICHELBAUM WARDELL**  
HANSEN POWELL & MEHL, P.C.

Cheryl T. Mehl  
cmehl@edlaw.com

---

<sup>1</sup> UIL Constitution and Rules, Section 440 (b)(3) ("[A student is eligible for athletics if he or she] is a transfer student from a public 8-grade ISD not containing a high school, who transferred at the first opportunity: (A) to select a high school with geographical boundaries contiguous to his or her K-8 school; or (B) to a high school for which the K-8 school attended receives state transportation funds; or (C) to the high school located nearest the student's residence.").

# **AGREEMENT FOR EDUCATION OF WESTPHALIA ISD HIGH SCHOOL STUDENTS**

This Agreement for Education of Westphalia ISD High School Students ("Agreement") is between Westphalia Independent School District ("WISD") and Rosebud-Lott Independent School District ("RLISD") and is entered under the authority of Texas Education Code section 25.039.

## **RECITATIONS**

WISD is an independent school district under Texas law providing a public school program for eligible students, including nonresident transfer students, in grades Pre-Kindergarten through Grade 8 ("PK-8").

RLISD is an independent school district under Texas law providing a public school program for eligible students, including nonresident transfer students, in grades Pre-Kindergarten through Grade 12 ("PK-12").

In accordance with Tex. Educ. Code § 25.039 (a), WISD is required to contract with one or more K-12 school districts to provide an education for WISD students in grades 9-12.

RLISD is willing to educate WISD students in grades 9-12.

WISD and RLISD, therefore, agree to the following terms and conditions in furtherance of providing for the education of WISD students in grades 9-12:

### **SECTION I: WISD Obligations**

1. WISD shall pay tuition to RLISD for each WISD student in grades 9-12 who attends RLISD in an amount not to exceed the greater of WISD's annual allotment per student ("WADA") under the Foundation School Program or an amount specified by rule of the Commissioner of Education.
2. WISD shall pay or transfer to RLISD a portion of its transportation allotment calculated in accordance with Tex. Educ. Code § 42.155 for the transportation of WISD students in grades 9-12 from WISD to RLISD.
3. All WISD payments and transfers shall be accomplished, insofar as possible, by appropriate transfers of state funds and allotments at the Texas Education Agency level from WISD accounts to RLISD accounts.
4. Any amounts due from WISD to RLISD that are not accomplished in accordance with paragraph I.3, above, shall be paid or transferred to RLISD not later than the close of business on the last school business day of the month/semester in which WISD student(s) attend RLISD for the first time.

**SECTION II: RLISD Obligations**

1. RLISD shall unconditionally accept and admit all students in grades 9-12 who are residents of WISD.
2. RLISD shall unconditionally accept and admit all students in grades 9-12 who graduated from WISD in grade 8, regardless of their status as transfer students into WISD.
3. RLISD shall operate one or more school bus routes within the boundaries of WISD to pick up and deliver students in grades 9-12 who attend RLISD.
4. In addition to tuition and transportation allotment in accordance with Section I above, RLISD shall also receive the state available school fund apportionment for each WISD student, resident or transfer, who attends RLISD in grades 9-12, in accordance with Tex. Educ. Code § 25.037.

**SECTION III: Term of Agreement**

This Agreement shall be in effect for the 2015-16 school year and four additional school years thereafter, for a maximum term of five years, in accordance with Tex. Educ. Code § 25.039 (c).

**SECTION IV: General Provisions**

1. This Agreement shall be binding on and for the benefit of WISD and RLISD and their respective successors and legal representatives.
2. If any one or more of the provisions of this Agreement for any reason shall be held to be illegal, invalid, or unenforceable, that holding shall not affect any other provision of the Agreement and it shall be enforced and construed as if that illegal, invalid, or unenforceable provision had not been included.
3. The Agreement is the sole and complete agreement between the WISD and RLISD and supersedes any prior written or oral representations between them regarding the education of WISD students in grades 9-12.
4. This Agreement may be amended only in writing on a date after the original execution date and with the approval of the governing body of WISD and RLISD.

This Agreement was approved by the WISD Board of Trustees at a meeting held on \_\_\_\_\_, the agenda of which contained a subject relating to a transfer agreement with RLISD.

\_\_\_\_\_  
, President

\_\_\_\_\_  
, Secretary

This Agreement was approved by the RLISD Board of Trustees at a meeting held on \_\_\_\_\_, the agenda of which contained a subject relating to a transfer agreement with WISD.

\_\_\_\_\_  
, President

\_\_\_\_\_  
, Secretary

# AGREEMENT FOR EDUCATION OF WESTPHALIA ISD HIGH SCHOOL STUDENTS

This Agreement for Education of Westphalia ISD High School Students ("Agreement") is between Westphalia Independent School District ("WISD") and Rosebud-Lott Independent School District ("RLISD") and is entered under the authority of Texas Education Code section ~~§~~ 25.039.

## RECITATIONS

WISD is an independent school district under Texas law providing a public school program for eligible students, including nonresident transfer students, in grades Pre-Kindergarten through Grade 8 ("PK-8").

RLISD is an independent school district under Texas law providing a public school program for eligible students, including nonresident transfer students, in grades Pre-Kindergarten through Grade 12 ("PK-12").

In accordance with Tex. Educ. Code § 25.039(a), WISD is required to contract with one or more K-12 school districts to provide an education for WISD students in grades 9-12.

RLISD is willing to educate WISD students in grades 9-12.

WISD and RLISD, therefore, agree to the following terms and conditions in furtherance of providing for the education of WISD students in grades 9-12:

### SECTION 1: WISD Obligations

1. WISD and RLISD agree that RLISD shall be entitled to all state available school fund apportionment attributable to each WISD student in grades 9-12 who attends RLISD, and that said funds shall transfer to RLISD with the student in accordance with Texas Education Code § 25.037. ~~shall pay tuition to RLISD for each WISD student in grades 9-12 who attends RLISD in an amount not to exceed the greater of WISD's annual allotment per student ("WADA") under the Foundation School Program or an amount specified by rule of the Commissioner of Education.~~
2. WISD and RLISD agree that the funds described in Paragraph 1.1 above shall be considered to be the tuition for the WISD students in grades 9-12 who attend RLISD and that no other tuition shall be owed under this Agreement.
3. WISD shall also pay or transfer to RLISD a portion of its transportation allotment calculated in accordance with Tex. Educ. Code § 42.155 for the transportation of WISD students in grades 9-12 from WISD to RLISD. The payment or transfer of the portion of WISD's transportation allotment required by this Paragraph shall be limited to those funds attributable to the WISD students in grades 9-12 who actually attend RLISD.

4. All WISD payments and transfers shall be accomplished, insofar as possible, by appropriate transfers of state funds and allotments at the Texas Education Agency level from WISD accounts to RLISD accounts.
5. Any amounts due from WISD to RLISD that are not accomplished in accordance with paragraph 1.34, above, shall be paid or transferred to RLISD not later than the close of business on the last school business day of the month/semester in which WISD student(s) attend RLISD for the first time.

### **SECTION 2: RLISD Obligations**

1. RLISD shall unconditionally accept and admit all students in grades 9-12 who are residents of WISD.
2. RLISD shall unconditionally accept and admit all students in grades 9-12 who graduated from WISD in grade 8, regardless of their status as transfer students into WISD.
3. RLISD shall operate one or more school bus routes **to be determined by RLISD** within the boundaries of WISD to pick up and deliver students in grades 9-12 who attend RLISD.
4. ~~In addition to tuition and transportation allotment in accordance with Section 1 above, RLISD shall also receive the state available school fund apportionment for each WISD student, resident or transfer, who attends RLISD in grades 9-12, in accordance with Tex. Educ. Code § 25.037.~~

### **SECTION 3: Term of Agreement**

This Agreement shall be in effect for the 2015-16 school year and four additional school years thereafter, for a maximum term of five years, in accordance with Tex. Educ. Code 25.039(c).

### **SECTION 4: General Provisions**

1. This Agreement shall be binding for the benefit of WISD and RLISD and their respective successors and legal representatives.
2. If any one or more of the provisions of this Agreement for any reason shall be held to be illegal, invalid, or unenforceable, that holding shall not affect any other provision of the Agreement and it shall be enforced and construed as if that illegal, invalid, or unenforceable provision had not been included.
3. The Agreement is the sole and complete agreement between the WISD and RLISD and supersedes any prior written or oral representations between them regarding the education of WISD high school students.
4. This Agreement may be amended only in writing on a date after the original execution date and with the approval of the governing body of WISD and RLISD.



This Agreement was approved by the WISD Board of Trustees at a meeting held on April 23, 2015, the agenda of which contained a subject relating to a transfer agreement with RLISD.

\_\_\_\_\_

Michelle Weaver, President

Tanya Hoelscher, Secretary

This Agreement was approved by the RLISD Board of Trustees at a meeting held on April 20 \_\_\_\_\_, 2015, the agenda of which contained a subject relating to a transfer agreement with WISD.

\_\_\_\_\_

Dr. Marlene Zipperlen, President

Henry Bravo, Secretary