

Chapter 89. Adaptations for Special Populations

Subchapter FF. Commissioner's Rules Concerning Transition Assistance for Highly Mobile Students Who Are Homeless or in Substitute Care

§89.1601. Definitions.

The following words and terms, when used in this subchapter, have the following meaning, unless the context clearly indicates otherwise.

- (1) Homeless--This term has the meaning assigned to the term "homeless children and youths" under 42 United States Code (USC), §11434a.
- (2) Homeless liaison--A person designated by a school district or an open-enrollment charter school pursuant to the McKinney-Vento Homeless Assistance Act (42 USC, §11432(g)(1)(J)(ii)), to ensure homeless children and youth are identified and enrolled, with a full and equal opportunity to succeed, in schools.
- (3) Substitute care--The placement of a child who is in the conservatorship of the Texas Department of Family and Protective Services (DFPS) in care outside the child's home. The term includes foster care, institutional care, pre-adoptive homes, placement with a relative of the child, or commitment to the Texas Juvenile Justice Department under Texas Family Code, §263.001(a)(4).
- (4) Foster care liaison--The individual each local educational agency appoints to act as a liaison to facilitate enrollment or transfer of a child who is in conservatorship of the state, pursuant to Texas Education Code, §33.904.
- (5) Foster care--Twenty-four-hour substitute care for children placed away from their parents or guardians and for whom DFPS has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, childcare institutions, and pre-adoptive homes.
- (6) Educational decision-maker--A person designated by DFPS or a court to make education decisions on behalf of youth in substitute care.
- (7) Enrollment conference--A student-centered meeting for a newly enrolled student to identify academic and extracurricular interests; introduce school processes and opportunities for engagement; develop course and instructional strategies; review credits and assessment information; determine social-emotional support; and communicate confidential information that may impact a student's success, if needed.
- (8) Records--Documents in printed or electronic form that include, but are not limited to, student transcripts; individual course grades; academic achievement records; course credits, whether full or partial; individualized education program referrals; intervention data; immunizations; state assessment scores; student attendance data; disciplinary reports; graduation endorsements; special education/Section 504 committee records; performance acknowledgements; and personal graduation plans.

Statutory Authority: The provisions of this §89.1601 issued under the Texas Education Code, §25.002(a-1) and §25.007(c).

Source: The provisions of this §89.1601 adopted to be effective March 30, 2020, 45 TexReg 2159.

§89.1603. Transfer of Student Records and Transcripts.

- (a) Each school district and open-enrollment charter school must ensure that copies of student records are made available to schools to which students who are homeless or in substitute care transfer.
- (b) Each school district and open-enrollment charter school is required to transfer student records within 10 working days of receipt of a request from a district or charter school to which a student who is homeless or

in substitute care enrolls, as required by Texas Education Code (TEC), §25.002(a-1). The discretionary authority under TEC, §31.104(d), to withhold records of a student if the student has not returned or paid for instructional materials or technological equipment does not exempt a district or charter school from the mandatory provision in TEC, §25.002, to send records to another public school in which the student enrolls.

- (c) Proof of enrollment in a different school district or open-enrollment charter school permits retroactive withdrawal to the date a student enrolled in the new school. The date of enrollment in the new district or charter school is considered the date of withdrawal from the previous district or charter school.
- (d) Student records must be requested, sent, and received using the Texas Records Exchange (TREx) system.
- (e) If a school district or an open-enrollment charter school fails to receive the required information within 10 working days, the requesting district or charter school may report the noncompliant district or charter school to the division responsible for TREx Support at the Texas Education Agency.

Statutory Authority: The provisions of this §89.1603 issued under the Texas Education Code, §25.002(a-1) and §25.007(c).

Source: The provisions of this §89.1603 adopted to be effective March 30, 2020, 45 TexReg 2159.

§89.1605. Development of Systems to Ease Transitions and Establish Procedures to Lessen the Adverse Impact of Movement of a Student.

- (a) Each school district and open-enrollment charter school shall develop systems to ease transition of a student who is homeless or in substitute care during the first two weeks of enrollment at a new school. These systems shall include the following:
 - (1) welcome packets containing applicable information regarding enrollment in extracurricular activities, club activities, information on fee waivers, tutoring opportunities, the student code of conduct, and contact information for pertinent school staff such as counselors, nurses, social workers, the foster care liaison, the homeless liaison, the principal and any assistant principals, and related contacts;
 - (2) introductions for new students that maintain student privacy and confidentiality to the school environment and school processes by school district or charter school faculty, campus-based student leaders, or ambassadors; and
 - (3) mechanisms to ensure that a process is in place for all students who qualify to receive nutrition benefits upon enrollment, as all students who are homeless or in substitute care are eligible for United States Department of Agriculture Child Nutrition Programs. The process must expedite communication with the district or charter school nutrition coordinator to ensure that eligible students are not charged in error or experience delays in receiving these benefits.
- (b) A school district or an open-enrollment charter school shall convene an enrollment conference with the student within the first two weeks of enrollment or within the first two weeks after the student is identified as homeless or in substitute care.
 - (1) The convening of the enrollment conference shall not delay or impede the enrollment of the student.
 - (2) The enrollment conference shall address the student's credit recovery, credit completion, attendance plans and trauma-informed interventions, interests and strengths, discipline or behavior concerns, previous successes, college readiness, and social and emotional supports as well as district policies relating to transfers and withdrawals and communication preferences with parents or guardians. The enrollment conference may be comprised of:
 - (A) school administrators;
 - (B) homeless or foster care liaisons;
 - (C) a social worker;

- (D) teachers;
 - (E) counselors;
 - (F) dropout prevention specialists;
 - (G) attendance/truancy officers;
 - (H) the relative caregiver, foster placement caregiver, or case manager;
 - (I) the Texas Department of Family and Protective Services (DFPS) designated educational decision-maker;
 - (J) the DFPS caseworker, Court Appointed Special Advocates (CASA) volunteer, or other volunteer, as applicable; and
 - (K) a parent and/or guardian, unless the caseworker indicates the parent's and/or guardian's rights to participate have been restricted by the court.
- (c) Pertinent staff members (such as principals, registrars, counselors, designated liaisons, nutrition coordinators, transportation specialists, etc.) should be knowledgeable concerning communication, processes, and procedures for facilitating successful school transitions for students who are homeless or in substitute care.
- (d) For each district or charter school, the Texas Records Exchange (TREx), the Personal Identification Database (PID), or the Person Enrollment Tracking (PET) application must be used to expedite coordination and communication between the sending and receiving schools.

Statutory Authority: The provisions of this §89.1605 issued under the Texas Education Code, §25.002(a-1) and §25.007(c).

Source: The provisions of this §89.1605 adopted to be effective March 30, 2020, 45 TexReg 2159.

§89.1607. Award of Credit.

- (a) Each school district and open-enrollment charter school must adopt a local policy to assist with awarding to a student who is homeless or in substitute care credit for a course that was earned prior to the student enrolling in or transferring to the district or charter school, as required by §74.26 of this title (relating to Award of Credit).
- (b) Each school district and open-enrollment charter school must examine how credit is awarded based on satisfactorily meeting all state and local requirements for a course upon enrollment, as required by §74.26 of this title.
- (c) Each school district and open-enrollment charter school must provide opportunities for a student who is homeless or in substitute care who enrolls in the district or charter school after the start of the school year to be administered credit by examination at any point during the school year, as required by §74.24 of this title (relating to Credit by Examination).
- (d) Each school district and open-enrollment charter school must award credit proportionately to a student who is homeless or in substitute care who successfully completes only half of a course, as required by §74.26(e) of this title.
- (e) Each school district and open-enrollment charter school must:
 - (1) develop a credit recovery plan for students who were denied credits outside the district or charter school;
 - (2) create a course transition plan for students who have been denied credit;
 - (3) develop and administer a personal graduation plan for each student in junior high or middle school, as required by Texas Education Code (TEC), §28.0212;

§89.FF.

Commissioner's Rules Concerning Transition Assistance for Highly Mobile Students Who Are Homeless or in Substitute Care

- (4) ensure that school staff engage with the student, parent, or guardian, as applicable, to develop a credit recovery plan upon enrollment if the student has a credit deficit that would impede on-time promotion or graduation; and
- (5) comply with TEC, §28.025(i), concerning the award of diplomas for students who are homeless or in substitute care who are in Grade 11 or 12.

Statutory Authority: The provisions of this §89.1607 issued under the Texas Education Code, §25.002(a-1) and §25.007(c).

Source: The provisions of this §89.1607 adopted to be effective March 30, 2020, 45 TexReg 2159.

§89.1609. Placement in Educational Programs and Courses.

- (a) When a student who is homeless or in substitute care transfers before or during the school year, the receiving school district or open-enrollment charter school shall initially place the student in educational programs and courses based on the student's prior enrollment in and current educational assessments from the sending school.
 - (1) Educational programs include, but are not limited to, gifted and talented program services, bilingual or special language services for English learners, career and technical education, and early college high school.
 - (2) Course placement includes, but is not limited to, honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathway courses.
- (b) Each school district and open-enrollment charter school must ensure that a student who is homeless or in substitute care has the ability to earn the same endorsement categories, if applicable. If only one endorsement is offered, it must be multidisciplinary studies.
- (c) To the extent possible, each school district and open-enrollment charter school shall ensure the continuation of a student's educational and course programs from the previous district or charter school and promote placement in academically challenging and career preparation courses.

Statutory Authority: The provisions of this §89.1609 issued under the Texas Education Code, §25.002(a-1) and §25.007(c).

Source: The provisions of this §89.1609 adopted to be effective March 30, 2020, 45 TexReg 2159.

§89.1611. Promotion of Access to Educational and Extracurricular Programs for Students Who Are Homeless or in Substitute Care.

Appropriate school district or open-enrollment charter school staff must facilitate the process to complete and submit a University Interscholastic League (UIL) waiver of residence application form for a student who is homeless or in substitute care and plans to participate in varsity athletics or other UIL-sponsored activities.

- (1) Districts and charter schools must comply with Texas Education Code, §25.001(f), and a durational residence requirement may not prohibit a student in substitute care from fully participating in any activity sponsored by the school district.
- (2) Students in foster care remaining in their school of origin but residing outside of the school district of attendance shall be afforded a waiver, as allowed under UIL Constitution and Contest Rules Section 442: Residence in School District and Attendance Zone.

Statutory Authority: The provisions of this §89.1611 issued under the Texas Education Code, §25.002(a-1) and §25.007(c).

Source: The provisions of this §89.1611 adopted to be effective March 30, 2020, 45 TexReg 2159.

§89.1613. Promotion of Postsecondary Information.

- (a) School district and open-enrollment charter school counselors or other designated staff shall work with district homeless and foster care liaisons to ensure that all students who are identified as homeless or in substitute care graduate with endorsements, if applicable, and have postsecondary plans identified in their personal graduation plans, to the extent required by Texas Education Code (TEC), §28.02121.
- (b) School district and open-enrollment charter school counselors or other designated staff must inform unaccompanied homeless youths of their rights and status as independent students for the purpose of applying for financial aid for higher education and provide verification of such status for the Free Application for Federal Student Aid (FASFA), pursuant to 42 United States Code, §11432(g)(6)(A)(x).
- (c) Each school district and open-enrollment charter school shall ensure that a student in substitute care who is enrolled in Grade 11 or 12 in that district or charter school is provided information regarding tuition and fee exemptions under TEC, §54.366, for dual-credit or other courses provided by a public institution of higher education for which a high school student may earn joint high school and college credit.

Statutory Authority: The provisions of this §89.1613 issued under the Texas Education Code, §25.002(a-1) and §25.007(c).

Source: The provisions of this §89.1613 adopted to be effective March 30, 2020, 45 TexReg 2159.

§89.1615. Provision of Special Education Services.

- (a) When a student who is homeless or in substitute care transfers into a school district or an open-enrollment charter school after being referred by a previous district or charter school for a special education evaluation, the receiving district or charter school must accept the referral and ensure that any written report of a full individual and initial evaluation must be completed in accordance with the timelines established in §89.1011 of this title (relating to Full Individual and Initial Evaluation).
- (b) When a student who is already eligible for special education and is homeless or in substitute care transfers into a school district or an open-enrollment charter school during the school year, the receiving district or charter school must ensure that it meets the student transfer requirements of §89.1050(j) of this title (relating to The Admission, Review, and Dismissal Committee).

Statutory Authority: The provisions of this §89.1615 issued under the Texas Education Code, §25.002(a-1) and §25.007(c).

Source: The provisions of this §89.1615 adopted to be effective March 30, 2020, 45 TexReg 2159.

§89.1617. Notice to Student's Educational Decision-Maker and Caseworker.

Each school district and open-enrollment charter school must comply with Texas Education Code (TEC), §25.007(b)(10), and provide notice in writing to the educational decision-maker and caseworker of a student who is homeless or in substitute care regarding events that may significantly impact the education of the student.

Statutory Authority: The provisions of this §89.1617 issued under the Texas Education Code, §25.002(a-1) and §25.007(c).

Source: The provisions of this §89.1617 adopted to be effective March 30, 2020, 45 TexReg 2159.