

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) Caseworker--A person who works on behalf of a student in the Texas Department of Family and Protective Services (DFPS) Managing Conservatorship to make decisions regarding the student's case.
- (2) Educational and course programs--Programs intended to provide instruction to students in conjunction with or outside of the required curriculum, which may include, but are not limited to, gifted and talented services, bilingual or special language services for emergent bilingual students, career and technical education, and early college high school.
- (3) Educational decision-maker--A person designated by DFPS or a court to make education decisions on behalf of youth in substitute care.
- (4) Enrollment conference--A student-centered meeting between key school district or open-enrollment charter school staff and the newly enrolled student and/or the student's parent or guardian that occurs within the first two weeks of enrollment, as soon as feasible, at a new school to collaboratively ease transitions; identify the student's academic strengths and extracurricular interests; introduce school processes and opportunities for engagement; and identify any interventions and additional support services (e.g., special education or Section 504 services, academic and/or behavioral interventions, social and emotional needs, college and career readiness). The student's attendance in the conference should be addressed on a case-by-case basis.
- (5) Foster care--Twenty-four-hour substitute care for children placed away from their parents or guardians 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) Foster care liaison--The individual each school district or open-enrollment charter school 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.
- (7) Homeless--This term has the meaning assigned to the term "homeless children and youths" under 42 United States Code (USC), §11434a.
- (8) McKinney-Vento 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.
- (9) 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.
- (10) Substitute care--The placement of a child who is in the conservatorship of 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).

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- (11) Welcome packet--A compilation of school district or open-enrollment charter school and community resources provided to new students within the first two weeks of enrollment at a new school that helps to familiarize the student with the school.

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; amended to be effective January 1, 2023, 47 TexReg 8659.

§89.1603. Transfer of Student Records and Transcripts.

- (a) School districts and open-enrollment charter schools shall ensure that school records for students who are identified as homeless or in substitute care are transferred to the student's new school after receiving a request for records.
- (b) Student records must be requested, sent, and received using the Texas Records Exchange (TREx) system.
- (c) School districts and open-enrollment charter schools are 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.
- (d) 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.
- (e) 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.

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; amended to be effective January 1, 2023, 47 TexReg 8659.

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

- (a) School districts and open-enrollment charter schools 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, available student supports, and contact information for key school staff members such as principals, registrars, counselors, designated liaisons, nutrition coordinators, and transportation specialists;
- (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.

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- (b) School districts and open-enrollment charter schools shall convene an enrollment conference within the first two weeks, or as soon as feasible, after a student who is homeless or in substitute care enrolls at a new school.
 - (1) The convening of the enrollment conference shall not delay or impede the enrollment of the student.
 - (2) The student's attendance in the conference should be addressed on a case-by-case basis. The enrollment conference may be used in conjunction with an existing meeting that is designed for similar purposes for newly enrolled students.
 - (3) 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) McKinney-Vento or foster care liaisons;
 - (C) social workers;
 - (D) teachers;
 - (E) school counselors;
 - (F) dropout prevention specialists;
 - (G) attendance/truancy officers;
 - (H) the relative caregiver, foster placement caregiver, or Texas Department of Family and Protective Services (DFPS) caseworker;
 - (I) the DFPS designated educational decision-maker;
 - (J) the DFPS caseworker, Court Appointed Special Advocates (CASA) volunteer, or other volunteers, as applicable; and
 - (K) a parent or guardian, unless the caseworker indicates the parent's or guardian's rights to participate have been restricted by the court.
- (c) School districts and open-enrollment charter schools must provide professional development opportunities and resources to support key staff members such as principals, registrars, counselors, designated liaisons, nutrition coordinators, and transportation specialists on local processes and procedures for facilitating successful school transitions for students who are homeless or in substitute care.
- (d) School districts and open-enrollment charter schools must use the Texas Records Exchange (TReX), the Personal Identification Database (PID), or the Person Enrollment Tracking (PET) application to facilitate records transfer and expedite coordination and communication between the sending and receiving schools. In cases where records from the student's previous school are missing or cannot be located, school districts and open-enrollment charter schools should use the Texas Student Data System (TSDS) Unique ID application to identify where the student was previously enrolled.

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; amended to be effective January 1, 2023, 47 TexReg 8659.

§89.1607. Evaluation of Student Records for Students Who Are Homeless or in Substitute Care.

- (a) School districts and open-enrollment charter schools shall adopt a local policy to ensure credit, including proportionate credit, has been awarded appropriately to a student who is homeless or in substitute care for

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- coursework completed prior to the student enrolling in or transferring to the district or charter school in accordance with §74.26 of this title (relating to Award of Credit).
- (b) School districts and open-enrollment charter schools must ensure that student records or transcripts provided by the previous district or charter school are evaluated promptly and are complete, accurate, and up to date.
 - (c) The receiving school district or open-enrollment charter school must develop, maintain, and regularly update local records and documentation, including transcripts if applicable, for a student who is homeless or in substitute care.
 - (d) School districts and open-enrollment charter schools must ensure that the records or transcripts of a student who is homeless or in substitute care and transferring from out of-state, out of country, or a Texas nonpublic school are evaluated and the award of credit is determined in a timely manner, as required by §74.26(a)(2) of this title.
 - (e) School districts and open-enrollment charter schools 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 of this title. Districts and charter schools must evaluate the student record upon a student's enrollment and ensure that proportionate credit has been awarded appropriately.
 - (f) If a school district or open-enrollment charter school determines that there are courses in which a student was enrolled but for which the student has not earned credit, the district or charter school may use a variety of methods to determine whether the student may be eligible for full or proportionate credit for coursework completed. The award of credit must be based on demonstrated proficiency in all state and local requirements for a course in accordance with §74.26 of this title.
 - (g) School districts and open-enrollment charter schools 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).
 - (h) School districts and open-enrollment charter schools must:
 - (1) develop processes for students who have credit deficits or incomplete coursework that would impede on-time promotion or graduation to earn credit and implement appropriate academic interventions to address any credit deficiencies identified;
 - (2) develop and administer a personal graduation plan in accordance with Texas Education Code, (TEC), §28.0212, for each student in junior high or middle school who is not likely to receive a high school diploma before the fifth school year following the student's enrollment in Grade 9, as determined by the district or charter school, or does not perform satisfactorily on a state assessment instrument administered under TEC, Chapter 39, Subchapter B;
 - (3) review personal graduation plan options with each student entering Grade 9 and with that student's parent or guardian as required by TEC, §28.02121. Before the conclusion of the school year, the student and the student's parent or guardian must confirm and sign a personal graduation plan for the student;
 - (4) ensure that school staff actively engage with the student and the student's parent or guardian, as applicable, to develop a plan to recover credits if the student has credit deficits or incomplete coursework 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, §25.007.

Source: The provisions of this §89.1607 adopted to be effective January 1, 2023, 47 TexReg 8659.

§89.1609. Placement in Educational Programs and Courses.

- (a) School districts and open-enrollment charter schools must establish procedures to receive, review, and assess student records for the initial course and educational program placement for a student who is homeless or in substitute care upon enrollment at a new school.
- (b) School districts and open-enrollment charter schools must ensure that a student who is homeless or in substitute care has the opportunity to pursue the same endorsement categories, to the extent possible. If only one endorsement is offered, it must be multidisciplinary studies.
- (c) To the extent possible, school districts and open-enrollment charter schools shall ensure the continuation of a student's course and educational programs, if appropriate, from the previous district or charter school by placing the student in comparable courses and programs for which they are eligible.
- (d) School districts and open-enrollment charter schools shall 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; amended to be effective January 1, 2023, 47 TexReg 8659.

§89.1611. Promotion of Access to Educational and Extracurricular Programs, Summer Programs, Credit Transfer Services, Electronic Courses, and After-School Tutoring Programs for Students Who Are Homeless or in Substitute Care.

- (a) School districts and open-enrollment charter schools must develop processes to increase awareness of opportunities available to students who are homeless or in substitute care to participate in extracurricular programs, summer programs, credit transfer services, electronic courses, and after-school tutoring programs.
- (b) School districts and open-enrollment charter schools must identify and remove barriers, whenever possible, to participation by students who are homeless or in substitute care in extracurricular programs, summer programs, credit transfer services, electronic courses, and after-school tutoring programs.
- (c) Appropriate school district or open-enrollment charter school staff must facilitate the process to complete and submit a University Interscholastic League waiver of residence application form for a student who is homeless and plans to participate in varsity athletics. In compliance with Texas Education Code, §25.001(f), a durational residence requirement may not be used to prohibit a student in substitute care from fully participating in any activity sponsored by the school district.

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; amended to be effective January 1, 2023, 47 TexReg 8659.

§89.1613. Promotion of Postsecondary Information.

- (a) The provisions of this subsection apply both for students who are homeless and students who are in substitute care.
 - (1) School district and open-enrollment charter school counselors or other designated staff shall work with district McKinney-Vento 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.
 - (2) School districts and open-enrollment charter schools must provide postsecondary counseling in alignment with TEC, §33.007, for all students, including students who are homeless or in substitute care.

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- (3) School districts and open-enrollment charter schools must connect students to college readiness initiatives, campus visits, and other postsecondary preparation opportunities provided by the school district or open-enrollment charter school.
 - (4) School counselors must provide information about postsecondary education to the student and the student's parent or guardian during the first school year a student is enrolled in high school and each subsequent year throughout high school.
- (b) The provisions of this subsection apply only for students who are homeless.
- (1) McKinney-Vento liaisons must inform unaccompanied homeless youths of their 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)(III).
 - (2) School counselors must assist and advise students experiencing homelessness with college preparation and readiness, pursuant to 42 United State Code, §11432(g)(1)(K).
- (c) The provisions of this subsection apply only for students who are in substitute care.
- (1) School districts and open-enrollment charter schools shall ensure that a student in substitute care who is enrolled in Grade 11 or 12 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.
 - (2) School districts and open-enrollment charter schools shall inform students in substitute care of tuition and fee exemptions under TEC, §54.367, regarding monthly payments, medical assistance benefits, and reimbursement of fees.
 - (3) School districts and open-enrollment charter schools shall ensure students in substitute care are informed that every higher education institution in Texas has a designated foster care liaison to assist students.
 - (4) Foster care liaisons are encouraged to support students in substitute care with linking to colleges to develop connections and facilitate effective transitions into postsecondary education.
 - (5) Foster care liaisons, school counselors, and others must assist students with seeking and applying for all types of scholarships for which the student may qualify.

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; amended to be effective January 1, 2023, 47 TexReg 8659.

§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 is completed in accordance with the timelines established in §89.1011 of this title (relating to Full and Individual Initial Evaluation).
- (b) When a student who is homeless or in substitute care is eligible for special education and transfers into a new school district or 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; amended to be effective January 1, 2023, 47 TexReg 8659.

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

School districts and open-enrollment charter schools must comply with Texas Education Code, §25.007(b)(10), and provide notice in writing to the educational decision-maker and caseworker of a student who is 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; amended to be effective January 1, 2023, 47 TexReg 8659.