

The Texas Education Agency (TEA) adopts the review 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter AA, Commissioner's Rules Concerning Special Education Services; Subchapter BB, Commissioner's Rules Concerning State Plan for Educating Emergent Bilingual Students; Subchapter DD, Commissioner's Rules Concerning High School Equivalency Programs; Subchapter EE, Commissioner's Rules Concerning the Communities in Schools Program; Subchapter FF, Commissioner's Rules Concerning Transition Assistance for Highly Mobile Students Who Are Homeless or in Substitute Care; Subchapter GG, Commissioner's Rules Concerning Dropout Prevention Strategies; and Subchapter HH, Commissioner's Rules Concerning Education in a Juvenile Residential Facility, pursuant to Texas Government Code, §2001.039. TEA proposed the review of Chapter 89, Subchapters AA, BB, and DD-HH, in the February 27, 2026 issue of the *Texas Register* (50 TexReg 1313).

Relating to the review of Chapter 89, Subchapters AA, BB, and DD-HH, TEA finds that the reasons for adopting these rules continue to exist and readopts the rules.

TEA received comments related to the review of Subchapters AA, BB, EE, and GG. Following are the comments received and the corresponding responses.

Subchapter AA

Comment: Disability Rights Texas (DRTx) recommended updating §89.1005 to improve transparency and documentation related to students educated in "shadow campuses," emphasizing the importance of accurately reporting where students with disabilities receive instruction to ensure compliance with least restrictive environment requirements.

Response: The agency provides the following clarification. A new data element called educational environment will be added to special education data collection in the 2026-2027 school year. Suggestions for revisions could be made through that special education data collection process and when the Student Attendance Accounting Handbook (SAAH) adopted by reference under 19 TAC §129.1025 is proposed for amendment in the July 10, 2026 issue of the *Texas Register*.

Comment: DRTx urged revisions to §89.1005(e)(2), related to the homebound instructional arrangement/setting, to clarify that admission, review, and dismissal (ARD) committees determine individualized services for students in homebound placements. DRTx raised concerns about the setting being used with early childhood special education students and suggested safeguards, including physician documentation.

Response: The agency provides the following clarification. Home-based placements for three-to-five-year-olds have not been restricted to medical reasons for many years. Further, a young child's natural environment must be of primary consideration when determining least restrictive environment. The agency notes, however, that recommendations for revisions to this practice could also be made when the SAAH adopted by reference under 19 TAC §129.1025 is proposed for amendment in the July 10, 2026 issue of the *Texas Register*.

Comment: The Texas Association of School Psychologists (TASP) requested an amendment to Chapter 89 to allow school psychologists to verify Attention-Deficit/Hyperactivity Disorder (ADHD) for Other Health Impairment (OHI) eligibility. TASP noted that Individuals with Disabilities Education Act (IDEA) regulations do not require physician verification, emphasized school psychologists' qualifications to conduct ADHD evaluations, and stated that requiring physician verification delays access to special education services, particularly in rural and underserved communities.

Response: The agency provides the following clarification. The commenter's suggested change would need to be discussed with a variety of stakeholders prior to the agency recommending an amendment to

§89.1040. The agency will consider adding this suggestion for discussion with its continuing advisory committee for special education.

Comment: DRTx, Texas Appleseed, Texas Parent to Parent (TxP2P), Educators in Solidarity (EIS), Prevention Institute, Texas American Federation of Teachers (AFT), Arc of Texas, Coalition for Texans with Disabilities (CTD), Mental Health America of Greater Houston (MHA-H), TASP, Jodie Smith Law, Houston Area Urban League (HAUL), Intercultural Development Research Association (IDRA), the National Association of Social Workers Texas Chapter (NASW-TX), and the Education Justice Coalition (EJC) urged strengthening §89.1053 to align with statute on seclusion, including explicitly defining seclusion to cover blocked or obstructed exits, and improving oversight due to risk of harm in isolated settings. DRTx also recommended allowing parents to request video monitoring and clarifying that such spaces be treated as special education settings for accountability purposes.

Response: The agency agrees. An amendment to §89.1053 was published as proposed in the May 8, 2026 issue of the *Texas Register*. The proposed amendment would incorporate several of the issues raised by the commenters, including alignment with statutory language related to seclusion and clarification of practices intended to strengthen oversight and student protections. The agency will continue to consider stakeholder input as part of the ongoing rulemaking process.

Comment: DRTx recommended amending §89.1075 to require districts to conduct structured self-assessments of their 18-plus programs, focusing on transition planning, individualized programming, community-based instruction, data collection on post-school outcomes, and use of evidence-based transition practices.

Response: The agency disagrees that this change is necessary but will consider developing best practice guidance around the topic.

Comment: DRTx, Texas Appleseed, TxP2P, EIS, Prevention Institute, Texas AFT, Arc of Texas, CTD, MHA-H, TASP, Jodie Smith Law, HAUL, IDRA, NASW-TX, and the EJC commented that §89.1100 references outdated agencies and memoranda of understanding and recommended updating the rule to reflect the current Texas Health and Human Services memorandum following agency restructuring.

Response: The agency agrees and anticipates proposing an amendment to §89.1100 later this year. The proposed amendment would address updates to reflect current agencies and memoranda of understanding.

Comment: DRTx, Texas Appleseed, TxP2P, EIS, Prevention Institute, Texas AFT, Arc of Texas, CTD, MHA-H, TASP, Jodie Smith Law, HAUL, IDRA, NASW-TX, and the EJC commented that §89.1115 contains outdated references and recommended updating them and clarifying the responsibilities of local education agencies (LEAs) and residential facilities in ensuring the provision of a free appropriate public education to students with disabilities residing in residential facilities.

Response: The agency agrees and anticipates proposing an amendment to §89.1115 later this year. The proposed amendment would address the concerns presented by the commenters.

Comment: DRTx recommended revising §89.1150 to explicitly reference federal stay-put protections under IDEA, emphasizing the importance of ensuring parents and school districts are aware of this procedural safeguard during due process disputes.

Response: The agency disagrees that a specific change is necessary but will consider this in future iterations of technical assistance documents.

Subchapter BB

Comment: DRTx, Texas Appleseed, TxP2P, EIS, Prevention Institute, Texas AFT, Arc of Texas, CTD, MHA-H, TASP, Jodie Smith Law, HAUL, IDRA, NASW-TX, and the EJC recommended revising Subchapter BB to preserve dual language immersion program standards, strengthen monitoring of bilingual program exceptions and English as a second language waivers, require clearer justification for alternative dual language program models, and establish transparent rules for distributing capped allotment funds.

Response: The agency agrees and anticipates proposing amendments to the rules later this year.

Comment: Laredo Independent School District commented in support of the professional development requirements in §89.1207(d)(5) and (e)(4) but stated that requiring districts, particularly smaller districts, to set aside 10% of Bilingual Education Allotment (BEA) funds for this purpose is excessive and recommended reducing it for greater flexibility.

Response: This comment is outside the scope of the proposed rulemaking. The agency may consider this recommendation in future rulemaking later this year.

Subchapter EE

Comment: DRTx, Texas Appleseed, TxP2P, EIS, Prevention Institute, Texas AFT, Arc of Texas, CTD, MHA-H, TASP, Jodie Smith Law, HAUL, IDRA, and NASW-TX commented on the statutory requirement in Texas Education Code (TEC), §33.154, for annual rule updates.

Response: The agency agrees that TEC, §33.154(b), requires an annual update to the Communities In Schools rules in Subchapter EE. The agency is currently determining how best to update those rules.

Comment: DRTx, Texas Appleseed, TxP2P, EIS, Prevention Institute, Texas AFT, The Arc of Texas, CTD, MHA-H, TASP, Jodie Smith Law, HAUL, IDRA, and NASW-TX commented on the efficacy of the Communities In Schools program and the interest in seeing the program grow across Texas through promotion, marketing, supporting communities wanting to participate, training, and technical assistance.

Response: The agency agrees and recognizes the effectiveness of the Communities In Schools program and supports continued growth to serve additional school systems across Texas. The agency provides ongoing training and technical assistance for participating communities and programs.

Subchapter GG

Comment: DRTx, Texas Appleseed, TxP2P, EIS, Prevention Institute, Texas AFT, Arc of Texas, CTD, MHA-H, TASP, Jodie Smith Law, HAUL, IDRA, NASW-TX, and the EJC urged TEA to revise §89.1701 to provide additional guidance to LEAs on developing effective dropout prevention strategies, including addressing exclusionary discipline, inadequate supports for English learners, chronic absenteeism, and alignment with recent legislation related to truancy and attendance.

Response: The agency disagrees that a specific change is necessary but will consider whether future rule changes are necessary based on the suggestions.

TEA anticipates updating rules in Chapter 89, Subchapters AA, BB, and HH, as a result of legislation from the 89th Texas Legislature, Regular Session, 2025. No additional changes are anticipated to Subchapters AA and BB.

As a result of public comment, TEA plans to update the rules in Subchapter EE to align with TEC, §33.154(b).

No changes are anticipated to Subchapter DD, FF, or GG.

This concludes the review of Chapter 89.