

The Texas Education Agency (TEA) adopts new §§89.1601, 89.1603, 89.1605, 89.1607, 89.1609, 89.1611, 89.1613, 89.1615, and 89.1617, concerning transition assistance for highly mobile students who are homeless or in substitute care. New §§89.1601, 89.1603, 89.1605, 89.1611, 89.1613, and 89.1615 are adopted with changes to the proposed text as published in the November 22, 2019 issue of the *Texas Register* (44 TexReg 7120) and will be republished. New §§89.1607, 89.1609, and 89.1617 are adopted without changes to the proposed text as published in the November 22, 2019 issue of the *Texas Register* (44 TexReg 7120) and will not be republished. The adopted new rules assist with the transition of students who are homeless or in substitute care from one school to another and provide local education agencies (LEAs) with guidance on the requirements of Texas Education Code (TEC), §25.007.

REASONED JUSTIFICATION: Senate Bill (SB) 1220, 85th Texas Legislature, 2017, amended TEC, §25.007, relating to transition assistance for students who are homeless or in substitute care. SB 1220 addressed the continuity of education for this population of students, including placement in comparable courses or education programs and provision of comparable services during the referral process, and authorized the commissioner to establish rules to implement TEC, §25.007.

Adopted 19 TAC 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, addresses school district and open-enrollment charter school responsibilities, as follows.

Adopted §89.1601, Definitions, provides clarity by defining terms having meanings specific to new Chapter 89, Subchapter FF. In response to public comment, the definition of educational decision-maker in paragraph (6) was modified at adoption to include a person designated by a court.

Adopted §89.1603, Transfer of Student Records and Transcripts, addresses responsibilities for LEAs to request, send, and receive student records and transcripts as required by TEC, §25.002(a-1), to ensure a seamless enrollment and transition. In response to public comment, subsection (e) was modified at adoption to change the word "shall" to "may" to be more permissive in reporting noncompliance regarding requested information by a district. Subsection (e) was also modified at adoption to provide more specification as to the TEA office that would receive reports of noncompliance.

Adopted §89.1605, Development of Systems to Ease Transitions and Establish Procedures to Lessen the Adverse Impact of Movement of a Student, establishes systems that LEAs must develop to ease the transition during the first two weeks of enrollment at a new school. The adoption addresses welcome packets, introductions, and a process to ensure that eligible students receive nutrition benefits. It also addresses the necessary elements for the required enrollment conference.

In response to public comment, the following changes were made to §89.1605 at adoption. Subsection (a)(1) was modified to clarify that information in the welcome packet is to be provided as applicable. Subsection (b)(2) was modified to specify the type of interventions to be addressed as part of the enrollment conference. Subsection (b)(2)(H) was modified to add relative caregiver to the list of individuals who may comprise the enrollment conference. Subsection (b)(2)(K) was modified to stipulate that a parent and/or guardian may participate in the enrollment conference unless their rights have been restricted by the court. Proposed subsection (b)(3), regarding development of systems to ease transitions and establish procedures to lessen the adverse impact of movement of a student, was deleted and will be included in guidance documents. Subsection (c) was modified to prevent the creation of a training requirement that is not statutorily authorized.

Adopted §89.1607, Award of Credit, addresses the creation and examination of existing local policies to assist LEAs with the award of credits, including credit by examination, credit recovery plans, course transition plans, and personal graduation plans. No changes were made to this rule since published as proposed.

Adopted §89.1609, Placement in Educational Programs and Courses, addresses LEA responsibilities relating to course and educational program placement in order to ensure continuity for students. No changes were made to this rule since published as proposed.

As proposed, adopted §89.1611, Promotion of Access to Educational and Extracurricular Programs for Students Who Are Homeless or in Substitute Care, would have set forth LEA responsibilities relating to access and participation in educational and extracurricular programs, including tutoring programs, Communities in Schools or similar programs, and University Interscholastic League (UIL) participation to mitigate transition barriers to participation.

In response to public comment, the following changes were made to §89.1611 at adoption. Proposed subsections (a) and (b), regarding access to educational programs, including tutoring, were deleted and will be included in guidance documents. Additionally, instead of requiring appropriate school staff to complete and submit a UIL waiver form, language was added to only require staff to facilitate the process. Language was also added to paragraph (1) to clarify that a durational residence requirement may not prohibit a student from full participation in school activities.

Adopted §89.1613, Promotion of Postsecondary Information, addresses LEA responsibilities to promote postsecondary access and to ensure students are progressing toward graduation and are linked with appropriate higher education financial resources and supports in order to implement TEC, §28.02121 and §54.366, and 42 United States Code, §11432(g)(6)(A)(x). In response to public comment, subsection (a) was modified at adoption to remove reference to students being "on track" to graduate with endorsements and to hinge the subsection's requirements on the applicable requirements of TEC, §28.02121, regarding high school personal graduation plans.

Adopted §89.1615, Provision of Special Education Services, addresses LEA responsibilities to provide special education services and accept referrals made by previous school districts or open-enrollment charter schools for special education evaluation to ensure the appropriate placement of services for students. In response to public comment, subsection (a) was modified at adoption to clarify that any written report of a full individual and initial evaluation must be completed in accordance with established timelines.

Adopted §89.1617, Notice to Student's Educational Decision-Maker and Caseworker, addresses the requirement in TEC, §25.007, that LEAs provide notice to the student's educational decision-maker or caseworker of information that significantly impacts the education of the student. The adoption includes the requirement passed by House Bill 1709, 86th Texas Legislature, 2019, requiring school districts and open-enrollment charter schools to provide notice to the student's educational decision-maker and caseworker regarding the appointment of a surrogate parent for the child under TEC, §29.0151. No changes were made to this rule since published as proposed.

At proposal, TEA had determined that the adoption would require a written report or other paperwork but would not specifically require a principal or classroom teacher to complete the report or paperwork. However, local district decisions could have varied. In such an instance, the proposal would have imposed the least burdensome requirement possible to achieve the objective of the proposed rule. Section 89.1611 would have required that appropriate district or charter school staff complete and submit a UIL waiver of residence application form for students who are homeless or in substitute care plan and to participate in varsity athletics or other UIL-sponsored activities. However, since §89.1611 was modified at adoption to change the requirement to complete and submit a UIL waiver to only facilitate the process, this paperwork requirement assessment is no longer applicable.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began November 22, 2019, and ended December 23, 2019. Following is a summary of public comments received and corresponding agency responses.

Comment: The Texas Association of School Boards (TASB) commented that in §89.1601, the definition of educational decision maker should also include that the person can be designated by the court to serve in this role.

Agency Response: The agency agrees and has modified §89.1601(6) at adoption to include that an educational decision maker can also be designated by the court.

Comment: Disability Rights Texas commented that the definition of surrogate parent under 20 U.S.C. §1415(b) should be added to §89.1601.

Agency Response: The agency disagrees with adding the term surrogate parent, as it does not appear elsewhere in Chapter 89, Subchapter FF. Therefore, defining it may cause confusion.

Comment: TASB commented that §89.1603(e) will create a new reporting requirement for districts seeking records to report a noncompliant district to TEA even if there might be extenuating circumstances that prevent the sending district from providing records. TASB commented that allowing permissive language will allow districts more flexibility in this reporting requirement.

Agency Response: The agency agrees and has modified §89.1603(e) at adoption to include permissive language to allow districts flexibility when reporting noncompliant districts. The agency also modified this subsection to specify that the TEA division responsible for TREx support would receive reports of noncompliance.

Comment: Disability Rights Texas commented that §89.1605 should require additional individuals to participate in the enrollment conference such as extracurricular activity sponsors or athletic instructors or directors.

Agency Response: The agency encourages districts to include educators of different capacities to participate in the enrollment conference; however, the agency disagrees with mandating additional individuals than those included on the list because districts may not have those individuals at the district or campus level to participate.

Comment: A senior policy attorney with the Texas Department of Family and Protective Services (DFPS) commented that requirements of §89.1605(a)(1) and (b)(2) may not apply to all students and should include language to recognize that elementary students may not need the same information as secondary students.

Agency Response: The agency agrees in part and has modified §89.1605(a)(1) at adoption to clarify that requirements are not applicable to all students. Districts may use the applicable provisions of subsection (b)(2) as needed. Best practices for conducting enrollment conferences for elementary students will be addressed in agency guidance.

Comment: Four individuals, including a surrogate parent, high school registrar, a Texas counselor, and a foster care coordinator, commented that §89.1605(a)(1) should include fee waivers for instructional tools and supplies required for instructional practices. These individuals also stated that §89.1605(b)(2) should require enrollment conferences to include trauma-informed practices and proactive interventions as topics of discussion.

Agency Response: The agency agrees in part and disagrees in part. The agency agrees with and has modified §89.1605(b)(2) at adoption to integrate trauma-informed interventions during enrollment conferences. The agency disagrees that fee waivers for instructional tools and supplies should be added to the rule. Any additional information to clarify fee waivers will be addressed in guidance and should be addressed at the local education agency level.

Comment: The DFPS attorney commented that in rare cases enrollment conferences specified in §89.1605(b)(2) may not be appropriate for students who are in substitute care and recommended adding language that caseworkers may request that a conference not be held for a student in substitute care.

Agency Response: The agency disagrees that language should be added to allow caseworkers to request that enrollment conferences not be held for students in substitute care. Students are benefitted by enrollment conferences with educators assessing and evaluating needs, academic progress, interventions, and support services of students who are homeless or in substitute care.

Comment: The DFPS attorney commented that §89.1605(b)(2) should separately list individuals invited to attend enrollment conferences specific to students in substitute care.

Agency Response: The agency disagrees that §89.1605(b)(2) should be modified to create a separate list for enrollment conferences specific to students in substitute care because there may be students who are dually identified as homeless and in substitute care.

Comment: The DFPS attorney commented that §89.1605(b)(2)(H) should be modified to add a relative caregiver as an individual who may participate in enrollment conferences.

Agency Response: The agency agrees and has modified §89.1605(b)(2)(H) at adoption to add relative caregiver.

Comment: The DFPS attorney recommended that language should be added to §89.1605(b)(2)(K) that a parent or guardian shall participate unless the caseworker indicates the parent's or guardian's right to participate have been restricted.

Agency Response: The agency agrees and has modified §89.1605(b)(2)(K) at adoption to include that a parent and/or guardian may attend an enrollment conference, unless the caseworker for a student in substitute care indicates that a parent's and/or guardian's rights to participate have been restricted by the court.

Comment: TASB commented in agreement that §89.1605(b) should be permissive regarding the individuals who may be involved in the enrollment conference because some of the positions mentioned may not be available in all districts. TASB, however, disagreed that the agency is allowed to create an ongoing enrollment conference for issues not related to transition as required by §89.1605(b)(3).

Agency Response: The agency agrees and has modified §89.1605(b) at adoption to remove paragraph (3) relating to ongoing enrollment conferences. The agency plans to include best practices in future guidance documents.

Comment: Disability Rights Texas commented that §89.1605(b) should include an additional topic for enrollment conferences and that §89.1605(c) should include a time frame for professional development trainings.

Agency Response: The agency disagrees with including additional topics for enrollment conferences and that there should be a timeline added for district staff to complete the professional development trainings. In response to other public comment, the agency has modified §89.1605(b) at adoption to remove paragraph (3) relating to ongoing enrollment conferences. The agency plans to include best practices in future guidance documents. Also in response to other public comment, the agency has modified §89.1605(c) at adoption to support that staff members may be trained without creating a training requirement that is not statutorily authorized. Districts should have the flexibility to provide these trainings.

Comment: TASB commented that TEC, §25.007, does not authorize the professional development required by proposed §89.1605(c). TASB also stated that although districts should ensure appropriate staff have the necessary information to support highly mobile students, the proposed rule would create additional professional development requirements not authorized by statute.

Agency Response: The agency agrees and has modified §89.1605(c) at adoption to support that staff members may be trained without creating a training requirement that is not statutorily authorized.

Comment: TASB commented that the language in §89.1607(d) should align with 19 TAC §74.26(e) regarding award of credit for a student who is homeless or in substitute care and successfully completes only one semester of a two-semester course.

Agency Response: The agency disagrees. The language in §89.1607(d) aligns with action recently adopted by the State Board of Education to update 19 TAC §74.26(e) to clarify that a district may award credit proportionately for successful completion of half of a course regardless of the time duration of the course.

Comment: TASB commented regarding overlapping of existing requirements, including §89.1607(e)(3), which requires districts to develop and administer a personal graduation plan for each student in homeless and substitute care as required by TEC, §28.0212; however, TEC, §28.0212, requires districts to develop a personal graduation plan for students who do not perform satisfactorily on a state assessment.

Agency Response: The agency disagrees. The language in §89.1607(e)(3) clarifies the personal graduation plan should be developed and administered for each student in junior high or middle school as required by TEC, §28.0212.

Comment: TASB commented that §89.1611 requires districts to provide programs at nominal or no cost; however, the TEC requires TEA to make a rule that promotes practices.

Agency Response: The agency agrees and has modified §89.1611 at adoption to exclude the requirements for access to educational programs, including tutoring, by removing proposed subsections (a) and (b). The agency plans to include best practices and strategies for districts to provide programs at nominal or no cost in future guidance. The adopted rule retains language relating to UIL participation; however, language was added to only require staff to facilitate the process rather than to complete and submit a UIL waiver form.

Comment: TASB commented that proposed §89.1611(c)(1) should align with TEC, §25.001(f), which states a durational residence requirement may not be used to prohibit a child from fully participating in any activity sponsored by the district. TASB commented that the proposed rule might confuse districts' ability to prohibit students from participating in activities for other reasons.

Agency Response: The agency agrees and has modified §89.1611(1) at adoption to align with TEC, §25.001(f).

Comment: Disability Rights Texas commented that §89.1611(a) should include estimates of all fees for any costs associated with participation in academic activities.

Agency Response: In response to this and other comments, the agency has modified §89.1611 at adoption to exclude the requirements for access to educational programs, including tutoring, by removing proposed subsections (a) and (b). The agency plans to include best practices and strategies for districts to provide programs at nominal or no cost in future guidance.

Comment: TASB commented on §89.1613(a), agreeing school staff should work to assist students with graduation; however, TASB noted that the regulation is written to require that all of these students are on track to graduate when this unfortunately may not always be the case.

Agency Response: The agency agrees and has modified §89.1613(a) at adoption to remove reference to students "on track" to graduate. School staff will be required to work to their best ability to assist students with graduation.

Comment: An education service center staff member commented that §89.1615(a) requires districts to ensure a school referral meets timelines but that §89.1011(a) does not have a timeline requirement for school referrals.

Agency Response: The agency agrees that further clarity is necessary and has modified §89.1615(a) at adoption to specify that the requirements for any written report of full individual and initial evaluation must be completed in accordance with timelines established in §89.1011.

Comment: Disability Rights Texas commented that the agency should add references to Section 504 services in §89.1615, as well as a new subsection (c) relating to the appointment of surrogate parents for certain students placed in a residential facility who are eligible for special education services.

Agency Response: The agency disagrees because the agency does not have jurisdiction over Section 504. In addition, agency rules related to the appointment of surrogate parents are found in Chapter 89, Subchapter AA, Commissioner's Rules Concerning Special Education Services. Having additional requirements related to the appointment of surrogate parents in Chapter 89, Subchapter FF, could cause confusion. The agency will keep these comments in mind when considering future revisions to Chapter 89, Subchapter AA.

Comment: Disability Rights Texas commented in support of creating systems to improve processes for youth in foster care across Texas who are transitioning between schools.

Agency Response: The agency agrees that creating systems to improve processes for youth in foster care across Texas schools is important to mitigating academic barriers.

Comment: An education service center specialist commented in support of the proposal's new requirements for students who are homeless or in substitute care, stating that data shows highly mobile students are impacted academically by numerous school transfers and transitions they experience so any support that districts can provide to ensure a smooth transition and maintain academic progress is critical.

Agency Response: The agency agrees strengthening school transitions for students who are homeless or in substitute care mitigates barriers to their academic success.

Comment: An associate professor commented that there should be state funding provided to create a liaison position that serves as both a foster care and homeless liaison. The associate professor stated that typically individuals are randomly assigned to serve in these roles without resources or time to serve students effectively.

Agency Response: The agency disagrees. Districts are federally mandated pursuant to the McKinney-Vento Homeless Assistance Act (42 USC, §11432(g)(1)(J)(ii)) to designate a homeless liaison to ensure homeless children and youth are identified and enrolled with a full and equal opportunity to succeed in schools. In addition, districts, pursuant to TEC, §33.904, are required to designate an individual to act as a liaison to facilitate enrollment or transfer of a child who is in conservatorship of the state.

Comment: A school administrator commented that students experiencing homelessness or in substitute care traditionally have financial, transportation, and family support barriers that keep them from participating in UIL and extracurricular activities; therefore, emphasis should be placed on academics. The administrator commented in support of welcome packets, easing enrollment processes, and systems in place for earning credits.

Agency Response: The agency recognizes the importance of both academic and extracurricular activities, but disagrees with the proposition that emphasis should only be placed on academics. TEC, §25.007, requires that districts and open-enrollment charter schools promote practices that facilitate access for students who are homeless or in substitute care to extracurricular activities.

STATUTORY AUTHORITY. The new sections are adopted under Texas Education Code (TEC), §25.002(a-1), which requires school districts and open-enrollment charter schools to transfer student records to the district to which the request is made not later than the 10th working day after the date a request for the information is received by the district; and TEC, §25.007(c), which authorizes the commissioner to establish rules to facilitate the transition between schools of children who are homeless or in substitute care.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §25.002(a-1) and §25.007(c).

<rule>

§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.

§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.

§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.

§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;
 - (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.

§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.

§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.

§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.

§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).

§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.