

Chapter 89. Adaptations for Special Populations

Subchapter DD. Commissioner's Rules Concerning High School Equivalency Programs

§89.1401. Purpose.

The purpose of a High School Equivalency Program approved by the commissioner of education is to prepare eligible students to take the high school equivalency examination.

Statutory Authority: The provisions of this §89.1401 issued under the Texas Education Code, §29.087.

Source: The provisions of this §89.1401 adopted to be effective April 28, 2010, 35 TexReg 3259.

§89.1403. Student Eligibility.

A student is eligible to participate in a High School Equivalency Program if:

- (1) the student has been ordered by a court under Texas Family Code, §65.103, or by the Texas Juvenile Justice Department to:
 - (A) participate in a preparatory class for the high school equivalency examination; or
 - (B) take the high school equivalency examination administered under the Texas Education Code (TEC), §7.111; or
- (2) the following conditions are satisfied:
 - (A) the student is at least 16 years of age at the beginning of the school year or semester;
 - (B) the student is at risk of dropping out of school, as defined by the TEC, §29.081;
 - (C) the student and the student's parent, or person standing in parental relation to the student, agree in writing to the student's participation; and
 - (D) at least two school years have elapsed since the student first enrolled in Grade 9 and the student has accumulated less than one third of the credits required to graduate under the minimum graduation requirements of the district or school.

Statutory Authority: The provisions of this §89.1403 issued under the Texas Education Code, §29.087.

Source: The provisions of this §89.1403 adopted to be effective November 27, 2001, 26 TexReg 9620; amended to be effective May 2, 2004, 29 TexReg 3957; amended to be effective September 18, 2006, 31 TexReg 7988; amended to be effective April 28, 2010, 35 TexReg 3259; amended to be effective February 14, 2017, 42 TexReg 555.

§89.1405. Application to Operate a High School Equivalency Program.

- (a) Applicant eligibility. Any school district or open-enrollment charter school may apply for authorization to operate a High School Equivalency Program (HSEP).
- (b) Cooperative HSEP criteria. A cooperative of school districts or open-enrollment charter schools may apply for permission to operate a cooperative HSEP if it operates pursuant to a written agreement. The fiscal agent of a cooperative HSEP is responsible for complying with all requirements of this subchapter.
- (c) Application process.
 - (1) As part of the application process, the commissioner of education will require a school district or open-enrollment charter school to provide information regarding the operation of any similar program during the preceding five years.
 - (2) Reported historical information disaggregated by ethnicity, age, gender, and socioeconomic status will include, but not be limited to:
 - (A) the total number of students served in the program;

- (B) the number of program participants who passed the high school equivalency examination; and
 - (C) when available, information on students' subsequent attendance in postsecondary educational programs.
- (3) The Texas Education Agency (TEA) will make available to eligible school districts and open-enrollment charter schools an application form that must be completed and submitted to the TEA for approval.

Statutory Authority: The provisions of this §89.1405 issued under the Texas Education Code, §29.087.

Source: The provisions of this §89.1405 adopted to be effective November 27, 2001, 26 TexReg 9620; amended to be effective May 2, 2004, 29 TexReg 3957; amended to be effective April 28, 2010, 35 TexReg 3259.

§89.1407. Public Hearing.

- (a) The board of trustees of a school district or the governing board of an open-enrollment charter school must hold a public hearing concerning the proposed application of the district or school before applying to operate a High School Equivalency Program (HSEP).
- (b) The board of trustees of a school district or the governing board of an open-enrollment charter school must hold a public hearing annually to review the performance of the HSEP.

Statutory Authority: The provisions of this §89.1407 issued under the Texas Education Code, §29.087.

Source: The provisions of this §89.1407 adopted to be effective November 27, 2001, 26 TexReg 9620.

§89.1409. Assessment.

- (a) A student entering a High School Equivalency Program (HSEP) must take:
 - (1) each state assessment instrument required for the student's applicable grade or cohort prior to entering the program; and
 - (2) each state assessment instrument required for the student's applicable grade or cohort during the period in which the student is enrolled in the program.
- (b) A student entering an HSEP by order of the court under Texas Family Code, §65.103, or by order of the Texas Juvenile Justice Department, is exempt from the assessment requirements specified in subsection (a) of this section.
- (c) The school district or open-enrollment charter school operating an approved HSEP must present to the Texas Education Agency (TEA) proof that a student has been administered the assessment instruments required by subsection (a) of this section. The TEA will not allow an HSEP student to take the high school equivalency examination without proof from the approved HSEP that the student has been administered the required assessment instruments. A student who is enrolled in an HSEP as described in this section and withdraws from the HSEP before taking the assessment instruments required by this subsection cannot take the high school equivalency examination until after the individual's 18th birthday.
- (d) The school district or open-enrollment charter school operating an approved HSEP must inform each student who has completed the program of the time and place at which the student may take the high school equivalency examination as authorized by the TEC, §7.111. A student must be over 17 years of age or meet other requirements specified in the TEC, §7.111, to take the high school equivalency examination.

Statutory Authority: The provisions of this §89.1409 issued under the Texas Education Code, §29.087.

Source: The provisions of this §89.1409 adopted to be effective November 27, 2001, 26 TexReg 9620; amended to be effective May 2, 2004, 29 TexReg 3957; amended to be effective September 18, 2006, 31 TexReg 7988; amended to be effective April 28, 2010, 35 TexReg 3259; amended to be effective February 14, 2017, 42 TexReg 555.

§89.1411. Attendance.

- (a) A student may attend a High School Equivalency Program (HSEP) a maximum of 600 minutes, or ten hours, of instruction per day.
- (b) A student may only participate in an HSEP that is operated by the school district or open-enrollment charter school in which the student is enrolled.
- (c) School districts and open-enrollment charter schools must report student HSEP attendance in a manner provided by the Texas Education Agency. The school district or open-enrollment charter school must report total contact minutes and identify excess minutes not eligible for funding purposes.
- (d) A student may be enrolled in only an HSEP or may be enrolled in an HSEP in combination with regular attendance and/or special program attendance during the school day.

Statutory Authority: The provisions of this §89.1411 issued under the Texas Education Code, §29.087.

Source: The provisions of this §89.1411 adopted to be effective November 27, 2001, 26 TexReg 9620; amended to be effective April 28, 2010, 35 TexReg 3259.

§89.1413. Funding Under the Texas Education Code, Chapters 41, 42, and 46.

- (a) For a student enrolled in only a High School Equivalency Program (HSEP), the following funding rules apply.
 - (1) A student is counted as in attendance based on the actual number of minutes each school day the student receives instruction in the HSEP and/or traditional classes toward graduation requirements.
 - (2) A student must receive instruction in the HSEP (or HSEP in combination with traditional coursework) at least 45 minutes on a given day for instructional contact time to be recorded. If actual instructional contact time in the HSEP (or HSEP in combination with traditional classes) does not equal at least 45 minutes, the district must record zero minutes of instructional contact time for that day.
 - (3) A log of program instructional contact time must be separately maintained for each student participating in the HSEP.
 - (4) During the time a student receives instruction in the HSEP, any time in attendance in courses that may be counted toward graduation credit will also be measured as instructional contact time, but must be separately recorded.
 - (5) The maximum number of instructional minutes allowed each school day, including any instructional time accounted for in traditional courses toward graduation requirements, is 600 minutes or ten hours.
 - (6) To determine attendance for Public Education Information Management System (PEIMS) reporting and Foundation School Program (FSP) funding purposes, instructional contact time recorded for the HSEP will be summed with attendance time in courses toward graduation each six-week reporting period.
 - (7) Instructional contact time is funded at the same rate under the FSP formulas as attendance for a full-time equivalent student. A full-time equivalent student is expected to have 1,080 contact hours per year.
- (b) Attendance in an HSEP that is not authorized or does not meet the requirements of the Texas Education Code, §29.087, or this subchapter is not eligible for state funding.

Statutory Authority: The provisions of this §89.1413 issued under the Texas Education Code, §29.087.

Source: The provisions of this §89.1413 adopted to be effective November 27, 2001, 26 TexReg 9620; amended to be effective April 28, 2010, 35 TexReg 3259.

§89.1415. Extracurricular Participation.

Under the Texas Education Code, §29.087(g), a student enrolled in a High School Equivalency Program may not participate in a competition or activity sanctioned by the University Interscholastic League.

Statutory Authority: The provisions of this §89.1415 issued under the Texas Education Code, §29.087.

Source: The provisions of this §89.1415 adopted to be effective November 27, 2001, 26 TexReg 9620; amended to be effective April 28, 2010, 35 TexReg 3259.

§89.1417. Conditions of Program Operation.

- (a) A school district or open-enrollment charter school operating a High School Equivalency Program (HSEP) must comply with all assurances in the program application. Approved HSEPs will be required to submit data as stated in the assurances section of the program application.
- (b) A student enrolled in an HSEP must be offered at a minimum 420 minutes of instruction per school day and 75,600 instructional minutes per calendar year.

Statutory Authority: The provisions of this §89.1417 issued under the Texas Education Code, §29.087.

Source: The provisions of this §89.1417 adopted to be effective November 27, 2001, 26 TexReg 9620; amended to be effective May 2, 2004, 29 TexReg 3957; amended to be effective April 28, 2010, 35 TexReg 3259; amended to be effective February 14, 2017, 42 TexReg 555.

§89.1419. Revocation of Authorization to Operate a High School Equivalency Program.

- (a) The commissioner of education may revoke authorization of a High School Equivalency Program (HSEP) based on the following factors:
 - (1) noncompliance with application assurances and/or the provisions of this subchapter;
 - (2) lack of program success as evidenced by progress reports, program data including factors specified in the Texas Education Code (TEC), §29.087(l), and/or on-site monitoring visits; or
 - (3) failure to provide accurate, timely, and complete information as required by the Texas Education Agency and specified in the TEC, §29.087, to evaluate the effectiveness of the HSEP.
- (b) A revocation of an approved HSEP takes effect for the semester immediately following the date on which the revocation is issued.
- (c) An HSEP is entitled to a ten-day notice of the proposed revocation and an informal review by the commissioner's designee.
- (d) A decision by the commissioner to revoke the authorization of an HSEP is final and may not be appealed.
- (e) The HSEP is a state program subject to a special accreditation investigation under the TEC, Chapter 39. Sanctions under the TEC, Chapter 39, may be imposed on a school district or an open-enrollment charter school for failure to comply with the HSEP requirements.

Statutory Authority: The provisions of this §89.1419 issued under the Texas Education Code, §29.087.

Source: The provisions of this §89.1419 adopted to be effective November 27, 2001, 26 TexReg 9620; amended to be effective April 28, 2010, 35 TexReg 3259.