

**ATTACHMENT
Text of 19 TAC**

Chapter 89. Adaptations for Special Populations

Subchapter A. Gifted/Talented Education

Statutory Authority: The provisions of this Subchapter A issued under the Texas Education Code, §29.122 and §42.156(b), unless otherwise noted.

§89.1. Student Assessment.

School districts shall develop written policies on student identification that are approved by the local board of trustees and disseminated to parents. The policies must:

- (1) include provisions for ongoing screening and selection of students who perform or show potential for performing at remarkably high levels of accomplishment in the areas defined in the Texas Education Code, §29.121;
- (2) include assessment measures collected from multiple sources according to each area defined in the Texas State Plan for the Education of Gifted/Talented Students;
- (3) include data and procedures designed to ensure that students from all populations in the district have access to assessment and, if identified, services for the gifted/talented program;
- (4) provide for final selection of students to be made by a committee of at least three local district educators who have received training in the nature and needs of gifted students; and
- (5) include provisions regarding furloughs, reassessment, exiting of students from program services, transfer students, and appeals of district decisions regarding program placement.

Source: The provisions of this §89.1 adopted to be effective September 1, 1996, 21 TexReg 5690.

§89.2. Professional Development.

School districts shall ensure that:

- (1) prior to assignment in the program, teachers who provide instruction and services that are a part of the program for gifted students have a minimum of 30 hours of staff development that includes nature and needs of gifted/talented students, assessing student needs, and curriculum and instruction for gifted students;
- (2) teachers without training required in paragraph (1) of this section who provide instruction and services that are part of the gifted/talented program must complete the 30-hour training requirement within one semester;
- (3) teachers who provide instruction and services that are a part of the program for gifted students receive a minimum of six hours annually of professional development in gifted education; and
- (4) administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

Source: The provisions of this §89.2 adopted to be effective September 1, 1996, 21 TexReg 5690; amended to be effective February 13, 2000, 25 TexReg 776.

§89.3. Student Services.

School districts shall provide an array of learning opportunities for gifted/talented students in kindergarten through Grade 12 and shall inform parents of the opportunities. Options must include:

- (1) instructional and organizational patterns that enable identified students to work together as a group, to work with other students, and to work independently;
- (2) a continuum of learning experiences that leads to the development of advanced-level products and performances;
- (3) in-school and, when possible, out-of-school options relevant to the student's area of strength that are available during the entire school year; and
- (4) opportunities to accelerate in areas of strength.

Source: The provisions of this §89.3 adopted to be effective September 1, 1996, 21 TexReg 5690.

§89.5. Program Accountability.

School districts shall ensure that student assessment and services for gifted/talented students comply with accountability standards defined in the Texas State Plan for the Education of the Gifted/Talented.

Source: The provisions of this §89.5 adopted to be effective September 1, 1996, 21 TexReg 5690.

Subchapter C. Texas Certificate of High School Equivalency

§89.41. Policy.

The Texas Education Agency shall be the only agency in Texas authorized to issue a certificate of high school equivalency. Tests shall be administered by authorized contracted testing centers under applicable state law and rules of the State Board of Education.

Statutory Authority: The provisions of this §89.41 issued under the Texas Education Code, §7.111.

Source: The provisions of this §89.41 adopted to be effective September 1, 1996, 21 TexReg 5690; amended to be effective December 11, 2011, 36 TexReg 8373.

§89.42. Official Testing Centers.

- (a) Entities eligible to serve as official computer-based testing centers include:
 - (1) an accredited school district;
 - (2) an institution of higher education;
 - (3) an education service center;
 - (4) a local workforce development board;
 - (5) a United States Department of Labor One-Stop Career Center;
 - (6) a United States Department of Labor Job Corps Center;
 - (7) a public or private correctional institution;
 - (8) a public or private technical institution or career preparation school;
 - (9) any other public or private postsecondary institution offering academic or technical education or vocational training under a certificate program or an associate degree program; and
 - (10) an independent, stand-alone testing center.
- (b) Entities eligible to serve as official paper-based testing centers include:
 - (1) an accredited school district;
 - (2) an institution of higher education;

- (3) an education service center;
 - (4) an entity approved to provide services under the Adult Education and Family Literacy Act; and
 - (5) a local workforce development board.
- (c) In order for a testing center to administer a paper-based test, the testing center must certify in its application that it will make the following documentation available upon request by the Texas Education Agency (TEA):
- (1) a written description of the testing center management structure and how any instruction provided by the center will be separate from testing, including a certification that tests will be administered and/or proctored by an individual that has not provided direct instruction to the test taker in the previous 12 months;
 - (2) a written narrative and photographs that describe and show:
 - (A) the building;
 - (B) distraction-free testing rooms;
 - (C) a separate but attached registration and admission room;
 - (D) sufficient separation of testing space from classrooms used for instruction; and
 - (E) desk layout that includes partitions or sufficient spacing to separate test takers by at least five feet;
 - (3) a written plan detailing how the testing center will ensure test security, including:
 - (A) a secure area for staff to inventory test material and prepare documents for testing sessions;
 - (B) restricted access to administrator workstations, monitors, and printers;
 - (C) a dedicated locked storage unit for secure test material in a locked room with access only to test administrators; and
 - (D) a secure area for the shipping and receiving of all test materials, answer sheets, and related materials;
 - (4) written procedures for administering the test; and
 - (5) a written detailed emergency plan.
- (d) A testing center that administers a paper-based test must provide to the test vendor for review written procedures for administering the test. In addition, the testing center must notify both the TEA and the test vendor in writing of testing center changes such as testing personnel, testing rooms, storage of secure documentation, the emergency plan, or any other change impacting operations.
- (e) The appropriate official of an eligible entity desiring to provide the testing service to residents in the community must request approval from the TEA to apply for authorization from the authorized testing organization. If the need for a testing center in the location exists, the appropriate entity official, in writing, shall inform the state administrator appointed by the commissioner of education that the establishment of an official testing center is requested at that particular entity. The contract to operate a center shall be between the applicant entity and the authorized testing organization and its partners.
- (f) The authorization to function as an official testing center may be withdrawn by the TEA if the testing center is in violation of State Board of Education rules. Potential violations include neglecting to follow test, vendor, or jurisdictional policies and procedures; unauthorized use or sale of test candidate information; or misrepresentation of the testing center's authority to issue transcripts or credentials on behalf of the TEA.
- (g) A testing center may administer the test by paper, computer, or both, as approved by the TEA, to eligible candidates.

Statutory Authority: The provisions of this §89.42 issued under the Texas Education Code, §7.111.

Source: The provisions of this §89.42 adopted to be effective September 1, 1996, 21 TexReg 5690; amended to be effective October 15, 2006, 31 TexReg 8361; amended to be effective December 11, 2011, 36 TexReg 8373; amended to be effective October 10, 2013, 38 TexReg 6914; amended to be effective August 21, 2016, 41 TexReg 6015; amended to be effective December 25, 2016, 41 TexReg 9929.

§89.43. Eligibility for a Texas Certificate of High School Equivalency.

- (a) An applicant for a certificate of high school equivalency shall meet the following requirements.
 - (1) Residence. The applicant must be a resident of Texas or a member of the United States armed forces stationed at a Texas installation.
 - (2) Age.
 - (A) The applicant must be at least 18 years old.
 - (B) An applicant who is 17 years of age is eligible with parental or guardian consent. An applicant who is 17 years of age must submit permission of the applicant's parent or guardian according to procedures established by the Texas Education Agency (TEA). An applicant who is 17 years of age and married, who has entered military service, who has been declared an adult by the court, or who has otherwise legally severed the child/parent relationship is not required to present parent or guardian permission to be tested.
 - (C) An applicant who is at least 16 years of age may test if recommended by a public agency having supervision or custody under a court order. Recommendations must include the applicant's name and date of birth and must be submitted according to procedures established by the TEA by an official of the public agency having supervision or custody of the person under a court order. An applicant who is at least 16 years old may also test if:
 - (i) required to take the examination under a court order issued under the Texas Family Code, §65.103(a)(3);
 - (ii) enrolled in a Job Corps training program under the Workforce Investment Act of 1998 (29 United States Code, §§2801 et seq.) and its subsequent amendments; or
 - (iii) enrolled in the Texas Military Department's Texas ChalleNge Academy program.
 - (3) Educational status. The applicant must not have received a high school diploma from an accredited high school in the United States. The applicant must not be enrolled in school, unless the applicant is enrolled in a High School Equivalency Program (HSEP) approved by the TEA. A student who is 17 years of age is eligible to test if the student is enrolled in an HSEP approved by the TEA. The student must comply with the provisions of the HSEP.
 - (4) Minimum test scores. An applicant must achieve the appropriate minimum standard scores in effect at the time the applicant tested as established by the TEA or the designated test organization, as appropriate.
- (b) Verification that any person being tested meets the eligibility requirements in this section will be provided according to procedures established by the TEA.

Statutory Authority: The provisions of this §89.43 issued under the Texas Education Code, §7.111.

Source: The provisions of this §89.43 adopted to be effective September 1, 1996, 21 TexReg 5690; amended to be effective September 1, 1999, 24 TexReg 386; amended to be effective April 18, 2002, 27 TexReg 3061; amended to be effective October 15, 2006, 31 TexReg 8361; amended to be effective December 11, 2011, 36 TexReg 8373; amended to be effective October 10, 2013, 38 TexReg 6914; amended to be effective August 21, 2016, 41 TexReg 6015.

§89.44. Identification.

Test centers shall require each examinee to present a driver's license or Texas Department of Public Safety identification card, or a government issued identification card (both national and foreign), provided that the identification includes date of birth, photograph, address, and signature. The examinee must also meet the age, residency, and other requirements of this subchapter.

Statutory Authority: The provisions of this §89.44 issued under the Texas Education Code, §7.111.

Source: The provisions of this §89.44 adopted to be effective September 1, 1996, 21 TexReg 5690; amended to be effective April 18, 2002, 27 TexReg 3061; amended to be effective December 11, 2011, 36 TexReg 8373.

§89.45. Retesting.

An examinee may retest in accordance with retest policies of the examination provider.

Statutory Authority: The provisions of this §89.45 issued under the Texas Education Code, §7.111.

Source: The provisions of this §89.45 adopted to be effective September 1, 1996, 21 TexReg 5690; amended to be effective April 18, 2002, 27 TexReg 3061; amended to be effective December 11, 2011, 36 TexReg 8373; amended to be effective August 20, 2014, 39 TexReg 6225.

§89.46. Accommodations.

- (a) Reasonable and appropriate accommodations shall be provided to applicants with documented disabilities that prevent fair access to the high school equivalency examinations.
- (b) Requests for accommodations must:
 - (1) be submitted in writing for approval from the examination provider; and
 - (2) include appropriate documentation of disability and rationale for each modification requested.
- (c) No fees or prepayments may be charged to the applicant to evaluate an accommodation request.
- (d) No additional fees may be charged to the applicant for the administration of the examinations with approved accommodations.

Statutory Authority: The provisions of this §89.46 issued under the Texas Education Code, §7.111.

Source: The provisions of this §89.46 adopted to be effective August 20, 2014, 39 TexReg 6225; amended to be effective August 21, 2016, 41 TexReg 6015.

§89.47. Issuance of the Certificate.

- (a) A nonrefundable state administrative fee, calculated by dividing \$25 by the number of tests in the battery, will be assessed for each individual test upon registration. A permanent file shall be maintained for all certificates issued.
- (b) Duplicate certificates will be issued upon request from the client. The client is required to pay a nonrefundable fee of \$5.00 for each request for a duplicate certificate. An additional convenience fee of no more than \$2.00 per transaction shall be charged to cover the cost of printing certificates online.
- (c) The certificate of high school equivalency shall indicate the language, format, and provider of each test taken by the applicant.
- (d) The state administrator appointed by the commissioner of education may disapprove issuance of a certificate or may cancel a certificate under the following conditions:
 - (1) an applicant does not meet eligibility requirements under §89.43 of this title (relating to Eligibility for a Texas Certificate of High School Equivalency);
 - (2) the applicant in any way violates security of the restricted test material;
 - (3) the applicant presents fraudulent identification or is not who he or she purports to be;

- (4) the applicant uses another person's certificate or test scores in an attempt to defraud; or
 - (5) the applicant willingly allows another person to use his or her certificate or test scores in an attempt to defraud.
- (e) In the case of nonissuance or cancellation of a certificate, the applicant shall be notified in writing by the state administrator that the certificate will not be issued or may be canceled. A decision by the state administrator appointed by the commissioner is final and may not be appealed.

Statutory Authority: The provisions of this §89.47 issued under the Texas Education Code, §7.111.

Source: The provisions of this §89.47 adopted to be effective September 1, 1996, 21 TexReg 5690; amended to be effective September 1, 1999, 24 TexReg 386; amended to be effective April 18, 2002, 27 TexReg 3061; amended to be effective June 6, 2004, 29 TexReg 5343; amended to be effective October 15, 2006, 31 TexReg 8361; amended to be effective December 11, 2011, 36 TexReg 8373; amended to be effective October 10, 2013, 38 TexReg 6914; amended to be effective August 21, 2016, 41 TexReg 6015.

Subchapter D. Special Education Services and Settings

§89.62. Support of Students Enrolled in the Texas School for the Blind and Visually Impaired and Texas School for the Deaf.

- (a) For each student enrolled in the Texas School for the Blind and Visually Impaired or Texas School for the Deaf, the school district responsible for providing appropriate special education and related services to the student shall share the cost of the student's education (excluding the summer programs) as provided under the Texas Education Code, §30.003.
- (1) The information required in accordance with the Texas Education Code, §30.003(d), must be submitted in a form prescribed by the commissioner of education within 30 calendar days after the student enrolls in the Texas School for the Blind and Visually Impaired or Texas School for the Deaf.
 - (2) School districts required to remit their shares to the Texas Education Agency in accordance with the Texas Education Code, §30.003(d), shall do so within 60 days of notification by the commissioner of education.
- (b) School districts shall provide, annually, in writing to each parent or legal guardian of an eligible student with visual or auditory impairments, the information specified in the Texas Education Code, §30.004(a)(1-3), before considering the student's placement for special education services.

Statutory Authority: The provisions of this §89.62 issued under the Texas Education Code, §§30.003, 30.004, and 42.151.

Source: The provisions of this §89.62 adopted to be effective September 1, 1996, 21 TexReg 5690.