

The Texas Education Agency (TEA) adopts new §61.1073, concerning counseling public school students. The new section is adopted with changes to the proposed text as published in the November 4, 2022 issue of the *Texas Register* (47 TexReg 7387) and will be republished. The adopted new section implements the statutory requirement for school districts to annually assess compliance with the district policy requiring a school counselor to spend at least 80% of the school counselor's total work time on duties that are components of a counseling program as required by Senate Bill (SB) 179, 87th Texas Legislature, Regular Session, 2021.

REASONED JUSTIFICATION: Texas Education Code (TEC), §33.006(d), as added by SB 179, 87th Texas Legislature, Regular Session, 2021, requires school districts to adopt a policy that requires a school counselor to spend at least 80% of the school counselor's total work time on duties that are components of a counseling program developed under TEC, §33.005. TEC, §33.006(h), requires each school district to annually assess the district's compliance with the policy regarding school counselors' work time, and, on request by the commissioner, provide a written copy of the assessment to TEA on or before a date specified by the commissioner.

Adopted new §61.1073 implements TEC, §33.006(h). The new rule requires each district school counselor to track and document, using a district-standardized tracking tool, the time spent on work duties performed by the school counselor throughout a school year. The new rule also identifies the elements that district assessments must include and the documentation to be included in annual requests by TEA for district assessments.

The following changes were made to the rule since published as proposed.

In response to public comment, §61.1073(b) was amended to clarify that the standardized tracking tool would be selected by each school district. In addition, §61.1073(b)(1)(B) was amended to require that the tracking tool include reporting of the total time spent on all duties that are components of a counseling program as opposed to time spent on each component.

In response to public comment, §61.1073(b)(1)(C) was clarified by adding "including time spent in administering assessment instruments or providing other assistance in connection with assessment instruments (except time spent in interpreting data from assessment instruments)" to the requirement for tracking of the total time spent on duties that are not components of a counseling program.

In response to public comment, §61.1073(b)(1)(D) that would have required a calculation of the percentage of work time spent on each component of a counseling program was stricken in acknowledgment that this calculation is unnecessary.

In response to public comment, §61.1073(c) was amended to require the assessment of compliance with the number rather than the percentage of school counselors in the district whose work was not in compliance with the district policy adopted under TEC, §33.006(d), to better reflect the level of compliance with state law.

In response to public comment, proposed §61.1073(e)(2) and (4) were stricken. The provisions would have required randomly selected school districts to submit all completed district-standardized tracking tools from the previous school year and the number of school counselors whose work is determined by the district to be in compliance with the district policy adopted under TEC, §33.006(d). New subsection (e)(2) was added to require the randomly selected school districts to submit a copy of the district annual assessment required by subsection (c) to streamline the reporting requirement.

The assessment of data and reporting impact has been updated since the rule was published as proposed. The new rule will have a data and reporting impact for school districts randomly selected to submit information to TEA annually. In response to public comment, the information required to be reported by randomly selected districts would no longer include all completed district-standardized tracking tools from the previous school year or the number of school counselors whose work is determined by the district to be in compliance with the district policy adopted under TEC, §33.006(d). Under the adopted rule, selected school districts will still be required to provide a copy of the school district policy adopted under TEC, §33.006(d); a copy of the district annual assessment; the number of school counselors in the school district from the previous school year; the number of school counselors in the school district whose work is determined by the district to be out of compliance with the school district policy adopted under TEC, §33.006(d); and any other findings, conclusions, or analysis included in the annual assessment,

including proposed strategies to address any lack of compliance with the district policy adopted under TEC, §33.006(d).

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began November 4, 2022, and ended December 5, 2022. Following is a summary of public comments received and agency responses.

Comment: Sixty school counselors expressed support for the proposed rule, noting that the rule would allow them to support students and counsel according to TEC, §33.005, while limiting non-counseling duties.

Response: The agency agrees that the rule will permit school counselors to support students while limiting non-counseling duties.

Comment: Thirty-six school counselors expressed support for the proposed rule, noting that the rule would hold districts more accountable for allowing counselors to spend at least 80% of their time on duties established in TEC, §33.005. The commenters noted that some districts require counselors to test students despite testing being listed as a non-counseling duty in TEC, §33.006.

Response: The agency agrees that the rule supports compliance with TEC, §33.005 and §33.006.

Comment: Nineteen school counselors expressed support for the rule, stating that a mental health crisis has followed the pandemic, leading to emotional and behavioral concerns that require school counselors to spend at least 80% of their time on counseling duties.

Response: The agency agrees that counselors spending 80% of their time on counseling duties supports students with emotional and behavioral concerns.

Comment: Twenty-four school counselors expressed support for the rule but indicated a preference to track time and effort in larger time frames such as weekly or monthly instead of daily. They recommended only reporting time on non-counseling duties and requested that education service centers (ESCs) provide a time tracker for districts that do not develop their own.

Response: The agency disagrees that only non-counseling duties should be tracked. TEC, §33.005, describes a comprehensive counseling program and each of its components. Data on time spent in each category provides information on what services are being provided to students. Regarding time trackers, the agency provides the following clarification. TEC, §33.006, requires an annual assessment of compliance; however, districts have the flexibility to develop or adopt appropriate time trackers and/or work time analysis procedures. The *Texas Model for Comprehensive School Counseling Programs* and the *ASCA National Model: Implementation Guide* provide various templates for work time analysis. The comment regarding ESC development of tools is outside the scope of the proposed rulemaking.

Comment: Ten school counselors expressed support for the rule but raised concerns about current counselor-to-student ratios.

Response: Counselor-to-student ratios are outside the scope of the proposed rulemaking.

Comment: Seven school counselors and one administrator expressed support for the rule but recommended clearer definitions of counseling duties and clearer guidance for districts to follow regarding counseling as compared to non-counseling duties.

Response: The agency disagrees that the duties should be defined in administrative rule. TEC, §33.006, defines counseling duties and does not give the commissioner of education authority to provide further guidance.

Comment: Two teachers and one retired teacher expressed support for the rule, noting that counselors are too often assigned non-counseling duties and that the rule will allow counselors more time to serve students.

Response: The agency agrees that the rule supports counselors in serving students as described in TEC, §33.005 and §33.006.

Comment: One student expressed support for the rule, specifically noting that the student's local school board adopted a policy aligned to the language in SB 179 with no modifications but did not alter the time counselors spend on non-counseling duties like testing. The student requested that counselors be more available to students.

Response: The agency agrees that the rule supports counselors spending more time with students on counseling duties described in TEC, §33.005 and §33.006.

Comment: Six community members, including two parents, expressed support for the rule to allow counselors more time on counseling duties and better support students by limiting non-counseling duties.

Response: The agency agrees that the rule supports counselors spending more time with students on counseling duties described in TEC, §33.005 and §33.006.

Comment: One community member expressed a belief that tracking hours is an undue burden and not necessary to help students.

Response: The agency disagrees. Tracking time and effort is a practice used in many fields and can be done efficiently. The rule supports counselors spending more time with students on counseling duties described in TEC, §33.005 and §33.006.

Comment: One school administrator expressed support for the rule but recommended that only districts out of compliance with counselors spending 80% of their time on counseling duties report their time.

Response: The agency disagrees that only districts whose counselors are not spending 80% of their time on counseling duties should report their time. In order for a district to ensure it is in compliance with the law, time must be reported for all counselors.

Comment: One school administrator expressed agreement with the rule and stated that without it, no district would comply with TEC, §33.006.

Response: The agency provides the following clarification. School districts are required to comply with statute regardless of agency administrative rules. However, the rule is intended to provide support and accountability for districts for their compliance.

Comment: One school administrator proposed reporting time spent on counseling duties and time spent on non-counseling duties as opposed to time spent within each category of comprehensive school counseling.

Response: The agency disagrees that only counseling and non-counseling duties should be tracked as opposed to time spent within each category. TEC, §33.005, describes a comprehensive counseling program and each of its components. Data on time spent in each category provides information on what services are being provided to students. The data helps ensure that students are receiving appropriate services.

Comment: Four school administrators expressed support for the rule but expressed concern that the tracking of time will be an additional burden. The commenters also asked for lower counselor-to-student ratios.

Response: The agency disagrees that the tracking of time will be an additional burden and provides the following clarification. Districts have the flexibility to develop or adopt appropriate time trackers and/or work time analysis procedures. The *Texas Model for Comprehensive School Counseling Programs* and the *ASCA National Model: Implementation Guide* provide various templates for work time analysis. The data gathered provides districts with valuable information to support counselors in meeting the needs of their students. The comment regarding counselor-to-student ratios is outside the scope of the proposed rulemaking.

Comment: Two school administrators expressed support for the rule as a way to meet the needs of students.

Response: The agency agrees that the rule supports counselors spending more time with students on counseling duties described in TEC, §33.005 and §33.006.

Comment: Four school administrators disagreed with the determination that the rule does not have a fiscal impact.

Response: The agency offers the following clarification: There are no additional costs resulting from the proposed rule. TEC, §33.005, requires the implementation of a comprehensive counseling program. System support, a component of the comprehensive counseling program, establishes work time analysis as an appropriate counseling duty. State law also requires school districts to adopt a policy that requires a school counselor to spend at least 80% of the school counselor's total work time on duties that are components of a counseling program and annually assess the district's compliance with the policy.

Comment: One school administrator asked if a draft could be sent out, if a standardized tracker could be provided, how districts will be measured, and how the random districts would be chosen.

Response: The agency provides the following clarification. Both the *Texas Model for Comprehensive School Counseling Programs* and the *ASCA National Model: Implementation Guide* provide various templates for work time analysis, including standardized time trackers. The rule will require school districts to annually assess the work time tracking documentation for each school counselor in the district; the number of school counselors whose work was in compliance with a district policy adopted under TEC, §33.006(d); and the number of school counselors in the district whose work was not in compliance with the district policy adopted under TEC, §33.006(d). Finally, districts will be randomly selected to provide documentation to TEA each year.

Comment: Eighteen school administrators disagreed with the rule and expressed concern that counselors are too busy to add another clerical task to their plate.

Response: The agency disagrees that work time analysis is a clerical task and offers the following clarification. Tracking time and effort is a practice used in many fields and can be done efficiently. Counselors should spend at least 80% of their work time on appropriate counseling duties described in TEC, §33.006. A comprehensive counseling program described in TEC, §33.005, includes the component of system support, under which work time analysis (time tracking) falls. Work time analysis is a necessary and appropriate counseling duty.

Comment: Nederland Independent School District (ISD) disagreed with the rule and stated it will only add another layer of bureaucracy between teaching and learning.

Response: The agency disagrees that the rule adds a layer of bureaucracy and offers the following clarification. A comprehensive counseling program described in TEC, §33.005, includes the component of system support, under which work time analysis (time tracking) falls. Work time analysis is a necessary and appropriate counseling duty. Work time analysis will ensure that districts demonstrate compliance with the statutory requirement that 80% of school counselors' total work time is spent on duties described in TEC, §33.005 and §33.006. In this way, the rule supports counselors spending more time with students on counseling duties described in TEC, §33.005 and §33.006.

Comment: Kaufman ISD expressed disagreement with the proposed rule and stated that the rule would increase the paperwork burden while ostensibly acting to decrease it. The district further commented that counselors in the district are not in favor of the rule and that the commissioner's distrust of public-school personnel is made evident in rules of this nature.

Response: The agency disagrees that work time analysis will increase paperwork. A comprehensive counseling program described in TEC, §33.005, includes the component of system support, under which work time analysis (time tracking) falls. Work time analysis is a necessary and appropriate counseling duty. The agency provides the following clarification. State law requires the commissioner to adopt a rule to implement the requirement that each school district annually assess the district's compliance with the policy that requires a school counselor to spend at least 80% of the school counselor's total work time on duties that are components of a counseling program and on request by the commissioner, provide a written copy of the assessment to the agency on or before the date specified by the commissioner.

Comment: Lumberton ISD expressed disagreement with the rule and stated that the district's counselors are already swamped with counseling students experiencing mental health situations. The district further stated that adding time and effort log requirements will do nothing to assist students.

Response: The agency disagrees that the rule does nothing to assist students and offers the following clarification. Counselors should spend at least 80% of their work time on appropriate counseling duties described in TEC, §33.006. A comprehensive counseling program described in TEC, §33.005, includes the component of system support, under which work time analysis falls. Work time analysis is a necessary and appropriate counseling duty.

Comment: Cisco ISD stated that the proposal has a cost to districts--and, more importantly, counselors--who will have to spend valuable man-hours on completing these reports. The district expressed understanding that there are counselors who feel they are not able to provide counseling because they are required to manage assessments or perform other non-counseling duties but that punishing every counselor in the state to complete a time and effort sheet is counterintuitive. The district stated that, if TEC, §33.006(h), must be monitored, it would be much easier to simply have the counselors sign a statement that is submitted annually stating that 80% of their work time is spent on duties that are components of a counseling program developed under TEC, §33.005.

Response: The agency disagrees that signing a statement is sufficient evidence of compliance with TEC, §33.006. The agency disagrees that the rule punishes counselors and adds additional cost because counselors should spend at least 80% of their work time on appropriate counseling duties described in TEC, §33.006. A comprehensive counseling program described in TEC, §33.005, includes the component of system support, under which work time analysis falls. Work time analysis is a necessary and appropriate counseling duty.

Comment: Big Sandy ISD expressed agreement with the 80% rule but stated a concern that the additional paperwork and time tracking will be overwhelming and demeaning.

Response: The agency disagrees that the tracking of time will be demeaning and overwhelming. Tracking time and effort is a practice used in many fields and can be done efficiently. Counselors should spend at least 80% of their work time on appropriate counseling duties described in TEC, §33.006. A comprehensive counseling program described in TEC, §33.005, includes the component of system support, under which work time analysis falls. Work time analysis is a necessary and appropriate counseling duty.

Comment: The Texas Counseling Association (TCA), Texas School Counselor Association (TSCA), two professors, and two school administrators expressed support for the rule but requested that the agency consider amending §61.1073(a)(1) to specifically cite the *Texas Model for Comprehensive School Counseling Programs* and to expand the reference in this subsection to include all of TEC, §33.005, rather than just one subsection to provide a clearer reference for school districts.

Response: The agency disagrees that specifically citing the *Texas Model for Comprehensive School Counseling Programs* or expanding the statutory reference will provide additional clarity.

Comment: TCA, TSCA, two professors, and two school administrators expressed support for the rule but requested that the agency consider amending §61.1073(b) to allow each school district to adopt its own tracking tool; change the reporting requirements to focus on time spent on the entire school counseling program, rather than each of the four components; and add language to explicitly state that testing duties are not components of a counseling program.

Response: The agency disagrees that reporting on the counseling program as a whole will be sufficient. TEC, §33.005, describes a comprehensive counseling program and each of its components. Data on time spent in each category provides information on what services are being provided to students. The data helps ensure that students are receiving appropriate services.

Comment: TCA, TSCA, two professors, and two school administrators expressed support for the rule but requested that the agency consider amending §61.1073(c) for consistency in reporting numbers rather than percentages of school counselors whose work complies or does not comply with the district's policy.

Response: The agency agrees and has adjusted §61.1073(c)(3) at adoption to read, "the number of school counselors in the district whose work was not in compliance with the district policy adopted under TEC, §33.006(d)."

Comment: TCA, TSCA, two professors, and two school administrators expressed support for the rule but requested that the agency consider amending §61.1073(e) to reduce reporting requirements by allowing districts to simply submit their annual assessments upon request since the data requested in this subsection is required to be included in each district's annual assessment.

Response: The agency agrees and has deleted §61.1073(e)(2) and (4), as proposed, and added new paragraph (2) to read, "a copy of the district annual assessment as required by subsection (c) of this section" at adoption. The agency has also amended renumbered §61.1073(e)(4) to read, "the number of school counselors in the district whose work is determined by the district to be out of compliance with the district policy adopted under TEC, §33.006(d)."

Comment: Texas State Teachers Association (TSTA) commented that the rule as drafted increases counselors' workloads in ways unrelated to a comprehensive counseling program. TSTA proposed revisions to §61.1073(b).

Response: The agency disagrees that reporting on each component of the school counseling program will increase workloads in ways unrelated to a comprehensive counseling program. TEC, §33.005, describes a comprehensive counseling program and each of its components. Data on time spent in each category provides information on what services are being provided to students. The data helps ensure that students are receiving appropriate services. In response to other comments, the agency revised §61.1073(b)(1)(B), (c), and (e) at adoption.

Comment: Texas Classroom Teachers Association (TCTA) commented that the proposal to track specific amounts of time spent on components of TEC, §33.005, is unnecessarily burdensome and proposed striking "each of" from §61.1073(b)(1)(B).

Response: The agency agrees that requiring the reporting of each component is unnecessary and deleted "each of" from §61.1073(b)(1)(B) at adoption.

Comment: TCTA proposed amending §61.1073(b)(1)(B)(iv) to read, "system support to support the efforts of teachers, staff, parents, and other members of the community in promoting the educational, career, personal, and social development of students."

Response: The agency disagrees that the additional language is necessary.

Comment: TCTA proposed amending §61.1073(b)(1)(C) to read, "the total time spent on duties that are not components of a counseling program developed under TEC, §33.005, including time spent in administering assessment instruments or providing other assistance in connection with assessment instruments (except time spent in interpreting data from assessment instruments)."

Response: The agency agrees and amended §61.1073(b)(1)(C) at adoption to reflect the commenter's suggested language.

Comment: TCTA proposed striking §61.1073(b)(1)(D).

Response: The agency agrees and deleted proposed §61.1073(b)(1)(D) at adoption.

Comment: TCTA proposed that the rule address potential attempts at coercion by adding specific language to prohibit coercion and adding new subsection (f) to require districts to submit their annual reports if there are allegations of coercion.

Response: The agency disagrees that the rule should address coercion. The agency has determined that the statute does not provide authority to address coercion in the rule.

Comment: Texas American Federation of Teachers (AFT) commented that tracking time is overburdensome and that districts should track only the 20% of time not spent on counseling duties. Texas AFT also commented that a clearer definition of which schools will be randomly selected is necessary.

Response: The agency disagrees that reporting only on the 20% of time not spent on school counseling duties is sufficient and that tracking each component of a school counseling program will be overburdensome. TEC, §33.005, describes a comprehensive counseling program and each of its components. Data on time spent in each category provides information on what services are being provided to students. The data helps ensure that students are receiving appropriate services. The agency also disagrees that there should be a clearer definition of which schools will be randomly selected. If the agency provided information regarding which districts were going to be selected, the process would no longer be random.

Comment: One school administrator asked if the rule applies to charter schools.

Response: The agency offers the following clarification. The rule does not apply to charter schools.

Comment: The Association of Texas Professional Educators expressed support for TEC, §33.006, and limiting time spent on testing and other non-counseling duties, but they advocated for changes to §61.1073(b) and (c) and proposed adding the option for a principal or designee to affirm the school has posted and is following the policy. The commenter expressed the belief that the current rule is over burdensome.

Response: The agency agrees that changes to §61.1073(b) and (c) are warranted. Section 61.1073(b) was amended at adoption to clarify that the standardized tracking tool would be selected by each school district. Section 61.1073(b)(1)(B) was amended at adoption to require that the tracking tool include reporting of the total time spent on all duties that are components of a counseling program as opposed to time spent on each component. In addition, §61.1073(c) was amended at adoption to require the assessment of compliance with the number rather than the percentage of school counselors in the district whose work was not in compliance with the district policy adopted under TEC, §33.006(d). The agency disagrees that affirmation of compliance is sufficient. The agency also disagrees that the rule is overburdensome. Counselors should spend at least 80% of their work time on appropriate counseling duties described in TEC, §33.006. A comprehensive counseling program described in TEC, §33.005, includes the component of system support, under which work time analysis falls. Work time analysis is a necessary and appropriate counseling duty.

Comment: One school counselor recommended that counselors only have duties that are in the rubric of the School Counselor Appraisal Instrument and that counselors should get paid more for what they do.

Response: The agency provides the following clarification. Appropriate school counseling duties are described in TEC, §33.005 and §33.006. The comment about higher pay is outside the scope of the proposed rulemaking.

Comment: Four school counselors commented that they are against tracking time because the added documentation takes away from students' mental health, but they support additional investment in more counselors.

Response: The agency disagrees that the documentation will take away from student services. Counselors should spend at least 80% of their work time on appropriate counseling duties described in TEC, §33.006. A comprehensive counseling program described in TEC, §33.005, includes the component of system support, under which work time analysis falls. Work time analysis is a necessary and appropriate counseling duty.

Comment: Sixty-eight school counselors expressed opposition to the rule because they believe it is overburdensome and will require additional time that counselors do not have in addition to all of their current duties. The commenters further stated that other educational personnel, including administrators, teachers, and TEA employees do not track their time.

Response: The agency disagrees that tracking time is overburdensome. Time and effort is a practice used in many fields and can be done efficiently. Counselors should spend at least 80% of their work time on appropriate counseling duties described in TEC, §33.006. A comprehensive counseling program described in TEC, §33.005,

includes the component of system support, under which work time analysis falls. Work time analysis is a necessary and appropriate counseling duty.

Comment: Two school counselors commented that data collection is very important but that the rule should be optional.

Response: The agency disagrees that the rule should be optional. The school counseling component of system support under TEC, §33.005, which requires work time analysis, is a necessary, required, and appropriate counseling duty.

Comment: Four school counselors commented that tracking time is unrealistic, a punishment, and a lack of professional trust. The commenters stated that currently, small/rural campus administrators and counselors wear many hats to support students and this rule adds to the duties and takes time away from students and that additional funding would be needed for new positions.

Response: The agency disagrees that tracking time is unrealistic, a punishment, or a lack of professional trust. Tracking time and effort is a practice used in many fields and can be done efficiently. Counselors should spend at least 80% of their work time on appropriate counseling duties described in TEC, §33.006. A comprehensive counseling program described in TEC, §33.005, includes the component of system support, under which work time analysis falls. Work time analysis is a necessary and appropriate counseling duty. Additional funding for positions is outside the scope of the proposed rulemaking.

Comment: Three school counselors stated that tracking time takes time away from supporting students and that the data could be used by administrators against counselors.

Response: The agency disagrees that the documentation will take time away from supporting students. Counselors should spend at least 80% of their work time on appropriate counseling duties described in TEC, §33.006. A comprehensive counseling program described in TEC, §33.005, includes the component of system support, under which work time analysis falls. Work time analysis is a necessary and appropriate counseling duty.

Comment: One school counselor commented that rules cannot just be changed and that new laws create deficiencies. The commenter also stated that children are no longer the priority; compliance is.

Response: The agency disagrees that the new rule does not prioritize children. New §61.1073 supports counselors in serving students as described in TEC, §33.005 and §33.006.

Comment: One school counselor commented that rural schools have no one to do the non-counseling duties and recommended a noncompetitive grant of \$75,000 for small districts to hire someone to do the non-counseling duties.

Response: This comment is outside the scope of the proposed rulemaking.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §33.005, which provides that a school counselor shall plan, implement, and evaluate a comprehensive school counseling program that meets the requirements of the section; TEC, §33.006(d), as added by Senate Bill (SB) 179, 87th Texas Legislature, Regular Session, 2021, which requires, except as provided by subsection (e) of the section, school districts to adopt a policy that requires a school counselor to spend at least 80% of the school counselor's total work time on duties that are components of a counseling program developed under TEC, §33.005; TEC, §33.006(e), as added by SB 179, 87th Texas Legislature, Regular Session, 2021, which requires school district boards of trustees that determine that staffing needs require school counselors to spend less than 80% of their work time on duties that are components of counseling programs developed under TEC, §33.005, to change the policy adopted under subsection (d) of the section to reflect the reasons why counselors need to spend less than 80% of their work time on components of the counseling program, list those non-component duties, and set the required percentage of work time to be spent on components of the counseling program; and TEC, §33.006(h), as added by SB 179, 87th Texas Legislature, Regular Session, 2021, which requires each school district to annually assess the district's compliance with the policy adopted under TEC, §33.006(d), and, on request by the commissioner, provide a written copy of the

assessment to Texas Education Agency on or before a date specified by the commissioner. This section requires the commissioner to adopt rules to implement these requirements.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §33.005 and §33.006, as amended by Senate Bill 179, 87th Texas Legislature, Regular Session, 2021.

<rule>

§61.1073. Annual Assessment of School District Compliance.

- (a) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.
 - (1) Comprehensive school counseling program--provision of a guidance curriculum, responsive services, individual planning, and system support as described in Texas Education Code (TEC), §33.005(b).
 - (2) Duties that are components of a counseling program--work activities related to the development, implementation, and evaluation of a comprehensive school counseling program as described in TEC, §33.005(b).
 - (3) School counselor--the position described by TEC, §21.003, and Chapter 239, Subchapter A, of this title (relating to School Counselor Certificate).
 - (4) School counselor's total work time--the amount of time, reported in hours, that a school counselor is contracted to work as a school counselor for a school district during a school year.
- (b) School districts shall require each district school counselor to track and document, using a standardized tracking tool, as established by each district, the time spent on work duties performed by the school counselor throughout a school year. This tracking tool shall:
 - (1) include the following components:
 - (A) the total work time worked by the school counselor for the year;
 - (B) the total time spent on the following duties that are components of a counseling program developed under TEC, §33.005:
 - (i) provision of a guidance curriculum;
 - (ii) responsive services for students;
 - (iii) individual planning for students; and
 - (iv) system support; and
 - (C) the total time spent on duties that are not components of a counseling program developed under TEC, §33.005, including time spent in administering assessment instruments or providing other assistance in connection with assessment instruments (except time spent in interpreting data from assessment instruments); and
 - (2) be maintained by the district in a format that can be made available to Texas Education Agency (TEA) upon request.
- (c) School districts shall annually assess the district's compliance with the policy adopted under TEC, §33.006(d). The assessment shall include:
 - (1) work time tracking documentation as described in subsection (b) of this section for each school counselor in the district;
 - (2) the number of school counselors whose work was in compliance with the district policy adopted under TEC, §33.006(d); and

- (3) the number of school counselors in the district whose work was not in compliance with the district policy adopted under TEC, §33.006(d).
- (d) The assessment described in subsection (c) of this section shall be maintained by the school district in a format that can be made available to TEA upon request.
- (e) Not later than October 15 of each year, TEA will request the following information from a randomly selected sample of school districts, with district responses required to be submitted to TEA not later than November 15 of each year in the format requested by TEA:
 - (1) a copy of the district policy adopted under TEC, §33.006(d);
 - (2) a copy of the district annual assessment as required by subsection (c) of this section;
 - (3) the number of school counselors in the district from the previous school year;
 - (4) the number of school counselors in the district whose work is determined by the district to be out of compliance with the district policy adopted under TEC, §33.006(d); and
 - (5) any other findings, conclusions, or analysis included in the annual assessment required by subsection (c) of this section, including proposed strategies to address any lack of compliance with the district policy adopted under TEC, §33.006(d).