

The Texas Education Agency (TEA) proposes an amendment to §61.1031, concerning school safety requirements. The proposed amendment would implement Senate Bill (SB) 838 and House Bill (HB) 3, 88th Texas Legislature, Regular Session, 2023, and clarify requirements for school safety to ensure a safe and secure environment in Texas public schools.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Section 61.1031 prescribes minimum school safety standards to address the safety of students and staff in Texas public schools.

Legislation from the 88th Texas Legislature, Regular Session, 2023, added and amended school safety requirements in Texas Education Code (TEC), §§7.061, 37.1083, 37.117, 37.351, and 37.355. The proposed amendment to §61.1031 would implement legislation and clarify existing requirements, as follows.

The proposed amendment would modify the definition of "exterior secure area" in subsection (a)(2)(A) to establish that an exterior secure area is utilized when keeping doors closed, latched, and locked is not operationally practicable.

The proposed amendment to subsection (a)(7)(C) would clarify the functionality of a "secure vestibule."

The proposed amendment to subsection (c)(1) would add information related to door numbering requirements in compliance with International Fire Code, §505, and remove the phrase "campus-wide."

The proposed amendment to subsection (c)(3)(A) would modify the requirements for exterior doors by removing the phrase "by default."

The proposed amendment to subsection (c)(8) would clarify the intent of the requirement. The language would outline that roof access doors should remain closed, latched, and locked when not actively in use.

The proposed amendment to subsection (c)(11) would be modified to specify that school systems must ensure compliance with federal and state Kari's Laws and RAY BAUM's Act related to 9-1-1 for school telephone systems.

The proposed amendment to subsection (d)(2)(C) would be modified in accordance with new statutory requirements in TEC, §37.117, as added by HB 3, 88th Texas Legislature, Regular Session, 2023. This statute requires that each school district and open-enrollment charter school provide the Department of Public Safety, local law enforcement, and emergency first responders an accurate map of each district campus and school campus. These entities must also be provided an opportunity to conduct a walk-through of facilities utilizing the maps provided.

The proposed amendment to subsection (d)(3)(A)(iv) would remove the requirement that video surveillance monitoring systems trigger an alert. Artificial intelligence is not intended to be a minimal safety standard.

Proposed new subsection (i) would be added to address the confidentiality requirements of TEC, §37.355, as added by HB 3, 88th Texas Legislature, Regular Session, 2023.

The proposed amendment to re-lettered subsection (j)(1) would align school safety initiatives, including vulnerability assessments, with the responsibility of TEA rather than the Texas School Safety Center.

The proposed amendment would remove provisional language set to expire on August 31, 2024.

**FISCAL IMPACT:** James Finley, deputy chief of school safety and security, has determined that for the first five years the proposal is in effect, there are no additional costs to state government. However, there will be fiscal implications for local government, including school districts and open-enrollment charter schools, required to comply with the proposal. The statewide cost to school systems totals approximately \$1.5 billion during fiscal years 2023 and 2024. The estimate was determined based on a sample of district costs to upgrade school safety standards. To offset these projected costs, \$400 million was appropriated by the Budget Execution Order dated October 27, 2022, executed by Governor Abbott, and \$1.1 billion was appropriated by SB 30, Section 4.02, 88th Texas Legislature, Regular Session, 2023.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The requirements of this proposal would impose costs on school districts and open-enrollment charter schools. However, the rule is not subject to the limitations of Texas Government Code, §2001.0045. The school safety requirements are necessary to protect the safety and welfare of residents of this state. Additionally, TEC, §7.061, explicitly requires the commissioner to review at least every two years the rules for a safe and secure environment and update those rules when necessary. Consequently, any costs imposed by the update of the rules are necessary to implement the legislation passed by the legislature. Additionally, grants provided to school districts help defray or completely offset the estimated costs. Safety and Facilities Enhancement (SAFE) Grants total \$1.1 billion and School Safety Standards Formula Grants total \$400 million.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation to clarify existing definitions and incorporate additional statutory requirements following the 88th Texas Legislature, Regular Session, 2023, specifically those outlined in TEC, §§7.061, 37.1083, 37.117, 37.351, and 37.355.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Mr. Finley has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring that school districts and open-enrollment charter schools implement minimum school safety standards to address the safety of students and staff in Texas public schools. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data and reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The public comment period on the proposal begins May 24, 2024, and ends June 24, 2024. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on May 24, 2024. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code (TEC), §7.061, as amended by House Bill (HB) 3, 88th Texas Legislature, Regular Session, 2023, which requires the commissioner of education to adopt and amend rules to ensure a safe and secure environment for public schools, which includes best practices for design and construction of new facilities and improving, renovating, and retrofitting existing facilities. The section requires the commissioner to review all rules by September 1 of each even-numbered year and take action as necessary to ensure school facilities for school districts and open-enrollment charter schools continue to

provide a safe and secure environment; TEC, §37.1083, as added by HB 3, 88th Texas Legislature, Regular Session, 2023, which establishes the Office of School Safety and Security within the Texas Education Agency (TEA) and charges TEA with monitoring the implementation and operation requirements of school district safety and security. Monitoring efforts must include technical assistance related to multihazard emergency operations plans and safety and security audits. Further, the statute establishes that any document or information collected, identified, developed, or produced related to the monitoring of district safety and security is confidential under Texas Government Code, §418.177 and §418.181, making them not subject to disclosure under Texas Government Code, Chapter 552. Subsection (k) allows the commissioner to adopt rules as necessary to implement the section; TEC, §37.115(b), which allows Texas Education Agency (TEA), in coordination with the Texas School Safety Center, to adopt rules to establish a safe and supportive school program, including providing for physical and psychological safety; TEC, §37.117, as added by Senate Bill 838, 88th Texas Legislature, Regular Session, 2023, which requires that each school district or open-enrollment charter school have silent alert panic technology allowing for immediate contact with district or school emergency services and emergency services agencies, law enforcement agencies, health departments, and fire departments; TEC, §37.117, as added by HB 3, 88th Texas Legislature, Regular Session, 2023, which requires that each school district and open-enrollment charter school provide the Department of Public Safety, local law enforcement, and emergency first responders an accurate map of each district campus and school campus, in accordance with standards outlined in TEC, §37.351. Additionally, school systems must provide these emergency services personnel an opportunity to conduct a walk-through of each campus and school building using the map provided; TEC, §37.351, as added by HB 3, 88th Texas Legislature, Regular Session, 2023, which requires school districts to comply with each school facilities standard, including performance standards and operational requirements, related to safety and security adopted under TEC, §7.061, or provided by other law or TEA rule. Additionally, school districts must develop and maintain documentation of the district's implementation of and compliance with school safety and security facilities standards for each district facility; and TEC, §37.355, as added by HB 3, 88th Texas Legislature, Regular Session, 2023, which outlines that any document or information collected, identified, developed, or produced relating to a safety or security requirement under TEC, Chapter 37, Subchapter J, is confidential under Texas Government Code, §418.177 and §418.181, and not subject to disclosure under Texas Government Code, Chapter 552.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §7.061, as amended by House Bill (HB) 3, 88th Texas Legislature, Regular Session, 2023; §37.1083, as added by HB 3, 88th Texas Legislature, Regular Session, 2023; §37.115(b); §37.117, as added by Senate Bill 838 and HB 3, 88th Texas Legislature, Regular Session, 2023; and §37.351 and §37.355, as added by HB 3, 88th Texas Legislature, Regular Session, 2023.

<rule>

### **§61.1031. School Safety Requirements.**

- (a) Definitions. The following words and terms, when used in this section, shall have the following meanings.
- (1) Actively monitored--supervised by an adult who can visibly review visitors prior to entrance, who can take immediate action to close and/or lock the door, and whose duties allow for sufficient attention to monitoring.
  - (2) Exterior secured area--an area fully enclosed by a fence and/or wall that:
    - (A) is utilized when keeping doors closed, locked, and latched is not operationally practicable;
    - (B) ~~(A)~~ if enclosed by a fence or wall, utilizes a fence or wall at least 6 feet high with design features that prevent it from being easily scalable, such as stone, wrought iron, chain link with slats or wind screen, or chain link topped with an anti-scaling device, or utilizes a fence or wall at least 8 feet high;
    - (C) ~~(B)~~ is well maintained; and

(D) ~~(C)~~ if gated, features locked gates with emergency egress hardware and has features to prevent opening from the exterior without a key or combination mechanism.

- (3) Instructional facility--this term has the meaning assigned in Texas Education Code (TEC), §46.001, and includes any real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching curriculum under TEC, §28.002. For purposes of this section, an instructional facility does not include real property, improvements to real property, or necessary fixtures of an improvement to real property that are part of a federal, state, or private correctional facility or facility of an institution of higher education, medical provider, or other provider of professional or social services over which a school system has no control.
  - (4) Modular, portable building--
    - (A) an industrialized building as defined by Texas Occupations Code (TOC), §1202.002 and §1202.003;
    - (B) any relocatable educational facility as defined by TOC, §1202.004, regardless of the location of construction of the facility; or
    - (C) any other manufactured or site-built building that is capable of being relocated and is used as a school facility.
  - (5) Primary entrance--
    - (A) the main entrance to an instructional facility that is closest to or directly connected to the reception area; or
    - (B) any exterior door the school system intends to allow visitors to use to enter the facility during school hours either through policy or practice.
  - (6) School system--a public independent school district or public open-enrollment charter school.
  - (7) Secure vestibule--a secured space with two or more sets of doors and an office sign-in area where all but the exterior doors shall:
    - (A) remain closed, latched, and locked;
    - (B) comply with subsection (c)(3)(B) of this section; and
    - (C) only unlock ~~open~~ once the visitor has been visually verified.
- (b) The provisions of this section apply to all school instructional facilities owned, operated, or leased by a school system, regardless of the date of construction or date of lease. The provisions of this section ensure that all school system instructional facilities have access points that are:
- (1) secured by design;
  - (2) maintained to operate as intended; and
  - (3) appropriately monitored.
- (c) A school system shall implement the following safety and security standards compliance requirements to all school instructional facilities owned, operated, or leased by the school system.
- (1) All instructional facilities ~~campus-wide~~, including modular, portable buildings, must include the addition of graphically represented alpha-numerical characters on both the interior and exterior of each exterior door location. The characters may be installed on the door, or on at least one door at locations where more than one door leads from the exterior to the same room inside the facility, or on the wall immediately adjacent to or above the door location. Characters shall comply with the International Fire Code, §505, which requires numbers to be a minimum of four inches in height. The primary entrance of an instructional facility shall always be the first in the entire sequence and is the only door location that does not require numbering. The numbering sequence shall be clockwise and may be sequenced for the entire campus or for each facility individually. The door-numbering process must comply with any and all accessibility requirements related to signage.

- (2) Unless a secure vestibule is present, a primary entrance shall:
  - (A) meet all standards for exterior doors;
  - (B) include a means to allow an individual located within the building to visually identify an individual seeking to enter the primary entrance when the entrance is closed and locked, including, but not limited to, windows, camera systems, and/or intercoms;
  - (C) feature a physical barrier that prevents unassisted access to the facility by a visitor; and
  - (D) feature a location for a visitor check-in and check-out process.
- (3) All exterior doors shall:
  - (A) be [~~by default,~~] set to a closed, latched, and locked status, except that:
    - (i) a door may be unlocked if it is actively monitored or within an exterior secured area; and
    - (ii) for the purposes of ventilation, a school system may designate in writing as part of its multi-hazard emergency operations plan under TEC, §37.108, specific exterior doors that are allowed to remain open for specified periods of time if explicitly authorized by the school safety and security committee established by TEC, §37.109, when a quorum of members are present, and only if it is actively monitored or within an exterior secured area;
  - (B) be constructed, both for the door and door frame and their components, of materials and in a manner that make them resistant to entry by intruders. Unless inside an exterior secured area, doors constructed of glass or containing glass shall be constructed or modified such that the glass cannot be easily broken and allow an intruder to open or otherwise enter through the door (for example, using forced entry-resistant film);
  - (C) include:
    - (i) a mechanism that fully closes and engages locking hardware automatically after entry or egress without manual intervention, regardless of air pressure within or outside of the facility; and
    - (ii) a mechanism that allows the door to be opened from the inside when locked to allow for emergency egress while remaining locked; and
  - (D) if keyed for re-entry, be capable of being unlocked with a single (or a small set of) master key(s), whether physical key, punch code, or key-fob or similar electronic device.
- (4) Except when inside an exterior secured area, classrooms with exterior entry doors shall include a means to allow an individual located in the classroom to visually identify an individual seeking to enter the classroom when the door is closed and locked, including, but not limited to, windows, camera systems, and/or intercoms.
- (5) Except when inside an exterior secured area, all windows that are adjacent to an exterior door and that are of a size and position that, if broken, would easily permit an individual to reach in and open the door from the inside shall be constructed or modified such that the glass cannot be easily broken.
- (6) Except when inside an exterior secured area, all ground-level windows near exterior doors that are of a size and position that permits entry from the exterior if broken shall be constructed or modified such that the glass cannot be easily broken and allow an intruder to enter through the window frame (for example, using forced entry-resistant film).
- (7) If designed to be opened, all ground-level windows shall have functional locking mechanisms that allow for the windows to be locked from the inside and, if large enough for an individual to enter when opened or if adjacent to a door, be closed and locked when staff are not present.

- (8) Roof access doors should remain closed, latched, and locked [~~default to a locked, latched, and closed position~~] when not actively in use [~~and be lockable from the interior~~].
- (9) All facilities must:
- (A) include one or more distinctive, exterior secure master key box(es) designed to permit emergency access to both law enforcement agencies and emergency responder agencies from the exterior (for example, a Knox box) at a location designated by the local authorities with applicable jurisdiction; or
  - (B) provide all local law enforcement electronic or physical master key access to the building(s).
- (10) A communications infrastructure shall be implemented that must:
- (A) ensure equipment is in place such that law enforcement and emergency responder two-way radios can function within most portions of the building(s); and
  - (B) include a panic alert button, duress, or equivalent alarm system, via standalone hardware, software, or integrated into other telecommunications devices or online applications, that includes the following functionality.
    - (i) An alert must be capable of being triggered by campus staff, including temporary or substitute staff, from an integrated or enabled device.
    - (ii) An alert must be triggered automatically in the event a district employee makes a 9-1-1 call using the hardware or integrated telecommunications devices described in this subparagraph from any location within the school system.
    - (iii) With any alert generated, the location of where the alert originated shall be included.
    - (iv) The alert must notify a set of designated school administrators as needed to provide confirmation of response, and, if confirmed, notice must be issued to the 9-1-1 center of an emergency situation requiring a law enforcement and/or emergency response and must include the location of where the alert originated. A notice can simultaneously be issued to all school staff of the need to follow appropriate emergency procedures.
    - (v) For any exterior doors that feature electronic locking mechanisms that allow for remote locking, the alert system will trigger those doors to automatically lock.
- (11) School [~~In implementing the requirements of this section, school~~] systems shall ensure compliance [~~comply~~] with state and federal Kari's Laws and federal RAY BAUM's Act and corresponding rules and regulations pertaining to 9-1-1 service for school telephone systems, including a multi-line telephone system.
- (d) Certain operating requirements. A school system shall implement the following.
- (1) Access control. The board of trustees or the governing board shall adopt a policy requiring the following continued auditing of building access:
    - (A) conduct at least weekly inspections during school hours of all exterior doors of all instructional facilities to certify that all doors are, by default, set to a closed, latched, and locked status and cannot be opened from the outside without a key as required in subsection (c)(3)(A) of this section;
    - (B) report the findings of weekly inspections required by subparagraph (A) of this paragraph to the school system's safety and security committee as required by TEC, §37.109, and ensure the results are kept for review as part of the safety and security audit as required by TEC, §37.108;
    - (C) report the findings of weekly inspections required by subparagraph (A) of this paragraph to the principal or leader of the instructional facility to ensure awareness of any

deficiencies identified and who must take action to reduce the likelihood of similar deficiencies in the future; and

- (D) include a provision in the school system's applicable policy stating that nothing in a school system's access control procedures will be interpreted as discouraging parents, once properly verified as authorized campus visitors, from visiting campuses they are authorized to visit.
- (2) Exterior and interior door numbering site plan.
- (A) A school system must develop and maintain an accurate site layout and exterior and interior door designation document for each instructional facility school system-wide that identifies all exterior and interior doors in the instructional facility and depicts all exterior doors on a floor plan with an alpha-numeric designation, in accordance with the door numbering specifications established in subsection (c)(1) of this section.
  - (B) Copies of exterior and interior door numbering site plans shall be readily available in each campus main office.
  - (C) Electronic copies of exterior and interior door numbering site plans shall be provided [supplied] to the local 9-1-1 administrative entity, the Department of Public Safety, local law enforcement agencies, and emergency first responders in accordance with TEC, §37.117. These entities shall be afforded an opportunity to conduct a walk-through of facilities utilizing the site plans provided [so that the site plans can be made available to emergency responders by 9-1-1 dispatchers] .
  - (D) The site layout and exterior and interior door designation document should be oriented in a manner that depicts true north.
- (3) Maintenance.
- (A) A school system shall perform at least twice-yearly maintenance checks to ensure the facility components required in subsection (c) of this section function as required. At a minimum, maintenance checks shall ensure the following:
    - (i) instructional facility exterior doors function properly, including meeting the requirements in subsection (c)(3)(A) and (C) of this section;
    - (ii) the locking mechanism for any ground-level windows that can be opened function properly;
    - (iii) any perimeter barriers and related gates function properly;
    - (iv) all panic alert or similar emergency notification systems in classrooms and campus central offices function properly, which includes at least verification from multiple campus staff and classroom locations that a notification can be issued and received by the appropriately designated personnel and [ ] that the alert is successfully broadcast to all campus staff and to appropriate law enforcement and emergency responders [and that a potential threat observed on video triggers an alert from video surveillance monitoring systems] ;
    - (v) all school telephone systems and communications infrastructure provide accurate location information when a 9-1-1 call is made in accordance with state and federal laws and rules and when an alert is triggered in accordance with this section;
    - (vi) all exterior master key boxes function properly and the keys they contain function properly;
    - (vii) law enforcement and emergency responder two-way radios operate effectively within each instructional facility; and

- (viii) two-way radios used by school system peace officers, school resource officers, or school marshals properly communicate with local law enforcement and emergency response services.
- (B) A school system shall ensure procedures are in place to require that staff who become aware of a facility component functionality deficiency that would be identified during the twice-yearly maintenance review described by subparagraph (A) of this paragraph immediately report the deficiency to the school system's administration, regardless of the status of the twice-yearly maintenance review.
- (C) A school system shall promptly remedy any deficiencies discovered as a consequence of maintenance checks required by subparagraph (A) of this paragraph or reports made under subparagraph (B) of this paragraph.
- (e) In implementing the requirements of this section, school systems shall comply with the provisions of §61.1040(j) of this title (relating to School Facilities Standards for Construction on or after November 1, 2021).
- (f) To the extent that any provisions of this section conflict with rules adopted in Chapter 61, Subchapter CC, of this title (relating to Commissioner's Rules Concerning School Facilities), including terms defined by this section or standards established by this section, the provisions of this section prevail.
- (g) In implementing the requirements of this section, school systems shall comply with the standards adopted under Texas Government Code, §469.052.
- (h) In implementing the requirements of this section, school systems must adopt a 3-year records control schedule that complies with the minimum requirements established by the Texas State Library and Archives Commission schedule, record series item number 5.4.017, as referenced in Texas Government Code, §441.169, and Texas Local Government Code, §203.041.
- (i) Any document or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements is confidential under Texas Government Code, §418.177 and §418.181, and is not subject to disclosure under Texas Government Code, Chapter 552.
- (j) ~~(+)~~ Certification.
  - (1) A school system must annually [All requirements in subsections (c) and (d) of this section shall be implemented during the 2022-2023 school year and thereafter. Annually, a school system shall] certify compliance with subsections (c) and (d) of this section [those requirements] as part of ongoing security audits under TEC, §37.108(b); maintain the certification locally; and provide documentation upon request by TEA [report as required by the Texas School Safety Center] . Non-compliance with subsections (c) and (d) of this section and all information received upon completion of a district vulnerability assessment under TEC, §37.1083, [Any and all non-compliance] shall be reported to the school system's safety and security committee, the school system's board, and TEA, as applicable [the Texas School Safety Center, as required by TEC, §37.108(e)] .
  - ~~(2) A school system may provisionally certify compliance of a facility component described in subsection (c) of this section that is not in compliance with the requirements of paragraph (1) of this subsection if:~~
    - ~~(A) the school system has taken the necessary steps to initiate an upgrade of the facility component to ensure compliance; and~~
    - ~~(B) for the 2023-2024 school year, the contractor or supplier has been procured and has provided a time frame when the upgrade will be completed.~~
  - (2) ~~(3)~~ TEA may modify rule requirements or grant provisional certification for individual site needs as determined by TEA ~~[the agency]~~ .
- ~~(j) Subsection (i)(2) of this section and this subsection expire August 31, 2024.~~