

The Texas Education Agency (TEA) proposes new §153.1015, concerning mental health training. The proposed new rule would implement the mental health training requirement established by House Bill (HB) 3, 88th Texas Legislature, Regular Session, 2023.

**BACKGROUND INFORMATION AND JUSTIFICATION:** HB 3, 88th Texas Legislature, Regular Session, 2023, added Texas Education Code (TEC), §22.904, to require each school district employee who regularly interacts with students enrolled in the district to complete an evidence-based mental health training program designed to provide instruction to participants regarding the recognition and support of children and youth who experience a mental health or substance use issue that may pose a threat to school safety. The bill also introduced an allotment to assist school districts in complying with the requirement, including costs incurred by the district for employees' travel, training fees, and compensation for the time spent completing the training.

Proposed new §153.1015 would implement HB 3 by establishing criteria for the evidence-based mental health training program for school district employees and district special program liaisons who regularly interact with students enrolled in a district.

Subsection (a) would define evidence-based mental health training program.

Subsection (b) would specify the requirements for an evidence-based mental health training program.

Subsection (c) would identify the personnel requirements for completing the mental health training program.

Subsection (d) would establish the criteria for selecting an evidence-based training program. Subsection (d)(1) would allow districts to select an evidence-based mental health training course that is on the recommended lists provided by the TEA, Texas Health and Human Services Commission, or an education service center. Subsection (d)(2) would establish requirements for a district that selects an evidence-based training course that is not on the recommended lists. Subsection (d)(3) would establish criteria for districts that may provide opportunities for personnel to complete more specialized training. Subsection (d)(4) and (5) would allow the training to be combined or coordinated with other required mental health training.

Subsection (e) would require additional training content to provide information on local district practices and procedures for mental health promotion in accordance with TEC, §38.351(i) and (j).

Subsection (f) would establish documentation requirements for the training.

Subsection (g) would introduce a phase-in timeline for districts to complete the mental health training.

Subsection (h) would establish criteria for mental health training reimbursement.

**FISCAL IMPACT:** Justin Porter, associate commissioner and chief program officer for special populations, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**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 proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**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 create a new regulation establishing a mental health training requirement for applicable school district employees who regularly interact with students enrolled in the district, which is necessary to align with HB 3, 88th Texas Legislature, Regular Session, 2023.

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 expand, 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. Porter 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 to ensure that district employees who regularly interact with students enrolled in the district receive evidence-based mental health training to align with the requirement in HB 3, 88th Texas Legislature, Regular Session, 2023. 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 July 19, 2024, and ends August 19, 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 July 19, 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 new section is proposed under Texas Education Code (TEC), §22.904, as added by House Bill 3, 88th Texas Legislature, Regular Session, 2023, which requires each school district employee who regularly interacts with students enrolled in the district to complete an evidence-based mental health training program designed to provide instruction to participants regarding the recognition and support of children and youth who experience a mental health or substance use issue that may pose a threat to school safety. TEC, §22.904(e) requires the commissioner of education to adopt rules to implement the section, including rules specifying the training fees and travel expenses subject to reimbursement.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §22.904, as added by House Bill 3, 88th Texas Legislature, Regular Session, 2023.

<rule>

§153.1015. Mental Health Training.

- (a) Definition. Evidence-based mental health training program means a program designed to provide instruction on mental health practices and procedures using current, practical, and applicable research that includes information and strategies shown to have effective, positive outcomes.
- (b) Evidence-based mental health training program requirements.

- (1) This section implements Texas Education Code (TEC), §22.904 (Mental Health Training). School districts may be eligible for reimbursement as specified in subsection (h) of this section.
  - (2) To complete the evidence-based mental health training program under this section, personnel who regularly interact with students as determined under subsection (c) of this section shall:
    - (A) participate and complete the required content in subsection (d) of this section;
    - (B) participate and complete the required content in subsection (e) of this section; and
    - (C) submit and maintain supporting documentation of completion as described in subsection (f) of this section.
- (c) Personnel required to complete the evidence-based mental health training program.
- (1) A school district shall require each district employee who regularly interacts with students enrolled at the district to complete an evidenced-based mental health training program that is designed to provide instruction regarding the recognition and support of children and youth who experience mental health or substance use issues that may pose a threat to school safety.
  - (2) School district employees who regularly interact with students are employees working on a school campus, including, but not limited to, teachers, coaches, librarians, instructional coaches, counselors, nurses, administration, administrative support personnel, student support personnel, paraprofessionals, substitutes, custodians, cafeteria staff, bus drivers, crossing guards, and district special programs liaisons. Special programs liaisons may include, but are not limited to, individuals who provide support for students who are homeless or in substitute care, military connected students, and emergent bilingual students; individuals involved in the prevention of child maltreatment and human trafficking; individuals who support special education services; and members of a Safe and Supportive Schools Program Team.
    - (A) A school district will determine the number of employees who regularly interact with students for purposes of compliance with this section using the requirements in this subsection and ensure that training is provided for the number and percentage of personnel in accordance with the timeline in subsection (g) of this section.
    - (B) A school district may, at its discretion, require contracted personnel who regularly interact with students to participate in the training.
    - (C) A school district may, at its discretion, require supervisors of personnel who regularly interact with students to participate in the training.
- (d) General Training Program Required Content.
- (1) A school district may select an evidence-based mental health training course that is on the recommended lists provided by the Texas Education Agency (TEA), the Texas Health and Human Services Commission (HHSC), or an education service center (ESC). A school district may not require a district employee who has previously completed the Youth Mental Health First Aid (YMHFA) or Mental Health First Aid (MHFA) course provided by a Local Mental Health Authority (LMHA), an ESC, or a YMHFA or MHFA trainer certified to teach those courses by the National Council on Mental Wellbeing if the employee provides the certificate of completion to the school district in accordance with the timeline established in subsection (g) of this section.
  - (2) If a school district selects an evidence-based mental health training course that is not on the recommended lists provided by TEA, HHSC, or an ESC, the school district may review and select the course to satisfy the training requirement under this section only if the course provides employees with the following evidence-based information, practices, and strategies:
    - (A) awareness and understanding of mental health and substance use prevalence data;
    - (B) knowledge, skills, and abilities for implementing mental health prevention and substance use prevention in a school to protect the health and safety of students and staff, including strategies to prevent harm or violence to self or others that may pose a threat to school safety;

- (C) awareness and introductory understanding of typical child development, adverse childhood experiences, grief and trauma, risk factors, the benefits of early identification and early intervention for children who may have potential mental health challenges and substance use concerns, and evidence-supported treatment and self-help strategies;
  - (D) awareness and understanding of mental health promotive and protective factors and strategies to deploy them for students in the school environment;
  - (E) experiential activities designed to:
    - (i) increase the participant's understanding of the impact of mental illness on individuals and families, skills for listening respectfully, and strategies for supporting the individual and family in a mental health crisis;
    - (ii) encourage help-seeking to obtain appropriate professional care; and
    - (iii) identify professional care, other supports, and self-help strategies for mental health and substance use challenges;
  - (F) knowledge, skills, and abilities to recognize risk factors and warning signs for early identification of students who may potentially have mental health challenges or substance use concerns in alignment with TEC, §38.351, and evidence-based information;
  - (G) knowledge, skills and abilities to support a student when potential mental health concerns or early warning signs are identified, including effective strategies for teachers to support student mental health in the classroom, including students with intellectual or developmental disabilities who may have co-occurring mental health challenges;
  - (H) knowledge, skills, and abilities to respectfully notify and engage with a child's parent or guardian regarding potential early warning signs of mental health or substance use concerns and make recommendations so a parent or guardian can seek help for their child;
  - (I) knowledge of school-based and community-based resources and referrals to connect families to services and support for student mental health, including early intervention in a crisis situation that may involve risk of harm to self or others; and
  - (J) knowledge of strategies to promote mental health and wellness for school staff.
- (3) In addition to the basic mental health training course under paragraph (1) or (2) of this subsection, school districts may provide more specialized mental health training opportunities for personnel with specific school mental health and safety related roles and responsibilities to strengthen their capacity to:
- (A) plan for and monitor a continuum of evidence-based school mental and behavioral health related services and supports;
  - (B) deliver practical, evidence-based practices and research-based programs that may include resources recommended by TEA, HHSC, or ESCs to strengthen training, procedures, and protocols designed to promote student mental health and wellness, to prevent harm or violence to self or others, and to prevent threats to school safety;
  - (C) intervene effectively to engage parents or guardians and caregivers with practical evidence-based practices and programs, including in mental and behavioral health related crisis situations;
  - (D) facilitate mental health safety planning, including suicide prevention and intervention;
  - (E) facilitate referral pathways that connect parents, guardians, and caregivers to school-based or community-based mental health assessment, counseling, treatment, and related support services for students and families with effective coordination of efforts across systems;

- (F) support students with intellectual or developmental disabilities who may have co-occurring mental health and behavioral health challenges and their families;
- (G) facilitate mental health safety planning at schools, including suicide prevention and intervention;
- (H) coordinate back-to-school transition plans from mental health or substance use treatment or from a discipline alternative education program when a mental health or substance use challenge has been identified;
- (I) collaborate within a community system of care to support students and their families, including assistance offered through organizations such as LMHAs, HHSC, hospitals, school-based and community-based clinics, out of school time programs, non-profit mental health and faith-based groups, family partner services, the juvenile justice system, the child welfare system, the Texas Child Mental Health Care Consortium, and community resource coordination groups;
- (J) establish partnerships and referral pathways with school-based and community-based mental health service providers and engage resources that may be available to the school, including resources that are identified by TEA, state agencies, or an ESC in the Texas School Mental Health Resources Database in accordance with TEC, Chapter 38, and which may include services that are delivered by telehealth or telemedicine;
- (K) support classroom educators with job-embedded training, coaching, and consultation on supporting student mental health and wellness and preventing youth violence; and
- (L) establish strategies and support plans to promote educator mental health and wellness.
- (4) The training in this section may be combined or coordinated with suicide prevention, intervention, and postvention training, but it does not replace that required training.
- (5) The training in this section may be combined or coordinated with grief and trauma informed care practices training, but it does not replace the required trauma informed training under TEC, §38.036. The training may be combined to include up to three required mental health training topics under TEC, §38.351, and as cited in TEC, §21.451(d-1)(2), at the discretion of the local school district.
- (6) The training may be delivered through various modalities, such as face-to-face delivery, synchronous online learning, or hybrid or blended formats, and it may include job-embedded learning and coaching strategies for evidence-based implementation support.
- (7) For alignment, a school district must consider the recommendations from the State Board for Educator Certification Clearinghouse on providing mental health training per TEC, §21.451; develop a local policy on what training will be provided; and determine the training frequency for personnel required to be trained.
- (e) Training Program Required Content Related to Local School District Practices and Procedures.
  - (1) For applicability of the course content in subsection (d) of this section to local school district context, the personnel who regularly interact with students must be informed of the local district practices and procedures for mental health promotion required by TEC, §38.351(i), concerning each of the following areas listed in TEC, §38.351(c), including where multiple areas are listed together, in accordance with TEC, §38.351(j):
    - (A) early mental health prevention and intervention;
    - (B) building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
    - (C) substance abuse prevention and intervention;
    - (D) suicide prevention, intervention, and postvention;
    - (E) grief-informed and trauma-informed practices;

- (F) positive school climates;
- (G) positive behavior interventions and supports;
- (H) positive youth development; and
- (I) safe, supportive, and positive school climate.

(2) If the school district also develops practices and procedures for providing educational material to all parents and families in the district that contain information on identifying risk factors, accessing resources for treatment or support provided on and off campus, and accessing available student accommodations provided on campus in accordance with TEC, §38.351(i-1), personnel who regularly interact with students must also be informed of those practices and procedures.

(f) Documentation.

- (1) School districts shall require each district employee to provide the certificate of completion of the training content in subsection (d) of this section to the school district.
- (2) Documentation of the training content described in subsection (e) of this section may be satisfied when the employee submits to the district an acknowledgement form signed by the employee who received the current training and a copy of local procedures and practices that are published in the district handbook and/or district improvement plan.
- (3) Documentation of training for the mental health training program must be kept by the school district and made available to TEA upon request for the duration of the employee's employment with the district.

(g) Timeline.

- (1) At least 25% of the applicable district employees shall be trained before the start of the 2025-2026 school year.
- (2) At least 50% of the applicable school district employees shall be trained before the start of the 2026-2027 school year.
- (3) At least 75% of the applicable school district employees shall be trained before the start of the 2027-2028 school year.
- (4) 100% of the applicable district employees shall be trained before the start of the 2028-2029 school year.
  - (A) When calculating the percentage of staff to be trained, the denominator is the number of school district employees who regularly interact with students who are required under subsection (c) of this section to receive mental health training.
  - (B) The percentages in this subsection shall be calculated using the number of school district employees who regularly interact with students and are employed by the district as of September 1 in any given school year.
  - (C) The number and percentage of employees and the procedure for making the determination under this subsection and subsection (c) of this section must be made available upon request by TEA.

(h) Mental health training reimbursement.

- (1) If funds are appropriated, an allotment shall be provided to assist local school districts in complying with this section.
- (2) The amount of the allotment provided to school districts under this subsection may not exceed the allowable costs incurred by the district for completing the required training.
- (3) The funding shall be used to assist the school district in complying with the section and should include only the costs incurred by the district from employees' travel, training fees, and

compensation for time spent completing the required training. Substitute pay, travel costs such as mileage and lodging, and cost of materials are eligible for this reimbursement.

- (4) School districts may use the funding for training fees, travel expenses, and material costs for employees to attend trainer of trainer courses that allow staff to facilitate trainings for their district that meet the requirements set out in this section.
- (5) TEA may proportionally reduce each school district's allotment if the amount appropriated is insufficient to pay for all costs incurred by districts under this subsection.
- (6) School districts shall maintain an accounting of funding and documentation on expenses for the allocated funds and make the accounting of expenses available as requested by TEA.