

The Texas Education Agency (TEA) proposes new §103.1401 and §103.1403, concerning prevention, awareness, and reporting of child abuse or neglect, including trafficking of a child. The proposed new sections would relocate existing requirements from 19 TAC Chapter 61, Subchapter EE, relating to school district policies on reporting child abuse and neglect and required signage pertaining to criminal offenses of human trafficking. Proposed new §103.1401 would include updates to school district policy requirements to align with Texas Family Code, §261.104, as amended by House Bill (HB) 63, 88th Texas Legislature, Regular Session, 2023. Proposed new §103.1403 would include updates to signage requirements to align with Senate Bill (SB) 2069, HB 3553, and HB 3554, 88th Texas Legislature, Regular Session, 2023.

BACKGROUND INFORMATION AND JUSTIFICATION: Proposed new §103.1401 would include existing requirements from 19 TAC §61.1051, which relates to the reporting of child abuse and neglect and related training requirements for school districts and open-enrollment charter schools. The following updates would align the new section with HB 63, 88th Texas Legislature, Regular Session, 2023. Proposed new §103.1401(b)(2)(D) would require local policies for reporting to include notice that oral reports made to the Texas Department of Family and Protective Services are recorded. Proposed new §103.1401(b)(2)(E) would require local policies to include notice that an individual making a report must provide his or her name, telephone number, and address and include an explanation of the limited circumstances under which the identity of an individual making a report may be disclosed.

Proposed new §103.1403 would include existing requirements from 19 TAC §61.1053, which relates to signage requirements for posting the offenses of human trafficking on public school premises. To align with SB 2069, 88th Texas Legislature, Regular Session, 2023, proposed new §103.1403(a) would be updated to remove the definition of "premises" and modify the definition of "school." Proposed new §103.1403(b) would also align with SB 2069 by updating the required location of signage. Proposed new §103.1403(c)(1)(A) would update the information related to penalties for trafficking of persons to align with changes to Texas Penal Code, §20A.02, made by HB 3553 and HB 3554, 88th Texas Legislature, Regular Session, 2023.

FISCAL IMPACT: Steve Lecholop, deputy commissioner for governance, 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 new regulations to update the requirements for school district policies related to reporting child abuse and neglect to align with statute and update the requirements related to signage pertaining to criminal offenses of human trafficking to align with statute.

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. Lecholop 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 rule language is based on current law. 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 August 16, 2024, and ends September 16, 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 August 16, 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 sections are proposed under Texas Education Code (TEC), §37.086, as amended by Senate Bill 2069, 88th Texas Legislature, Regular Session, 2023, which requires each public school to post warning signs describing the increased penalties for trafficking of persons under Texas Penal Code, §20A.02(b-1); TEC, §38.004, which requires the agency to develop a policy governing the reports of child abuse or neglect; TEC, §38.0041, which requires school districts and open-enrollment charter schools to adopt and implement policies addressing sexual abuse, sex trafficking, and other maltreatment of children; TEC, §38.0042, which authorizes the commissioner to adopt rules relating to the size and location of the required posting of the child abuse hotline telephone number; Texas Family Code, §261.001, which defines child abuse and neglect, which includes knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Texas Penal Code, §20A.02(a)(5)-(8); and Texas Penal Code, §20A.02(a)(5)-(8), which provides a person commits an offense if the person knowingly: traffics a child with the intent that the trafficked child engage in forced labor or services; receives a benefit from participating in such a venture; traffics a child and by any means causes the trafficked child to engage in, or become a victim of, conduct prohibited by §20A.02(a)(7)(A)-(K); or receives a benefit from participating in such a venture or engages in sexual conduct with a child trafficked in this manner.

CROSS REFERENCE TO STATUTE. The new sections implement Texas Education Code, §§37.086, as amended by Senate Bill 2069, 88th Texas Legislature, Regular Session, 2023; 38.004; 38.0041; and 38.0042; Texas Family Code, §261.001; and Texas Penal Code, §20A.02(a)(5)-(8).

<rule>

§103.1401. Reporting Child Abuse or Neglect, Including Trafficking of a Child.

- (a) The following words and terms, when used in this subchapter, have the following meanings.
- (1) Child abuse or neglect--The definition of child abuse or neglect includes the trafficking of a child in accordance with Texas Education Code (TEC), §38.004.
 - (2) Other maltreatment--This term has the meaning assigned by Human Resources Code, §42.002.
 - (3) Trafficking of a child--This term has the meaning assigned by Texas Penal Code, §20A.02(a)(5), (6), (7), or (8).
- (b) The board of trustees of a school district or governing body of an open-enrollment charter school shall adopt and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements outlined in Texas Family Code, Chapter 261.
- (1) The policies must require that every school employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by abuse or neglect submit a

written or oral report to at least one of the following authorities within 48 hours or less, as determined by the board of trustees, after learning of facts giving rise to the suspicion:

- (A) a local or state law enforcement agency;
 - (B) the Texas Department of Family and Protective Services, Child Protective Services Division;
 - (C) a local office of Child Protective Services, where available; or
 - (D) the state agency that operates, licenses, certifies, or registers the facility in which the alleged child abuse or neglect occurred.
- (2) The policies must require a report to the Texas Department of Family and Protective Services if the alleged abuse or neglect involves a person responsible for the care, custody, or welfare of the child and must notify school personnel of the following:
- (A) penalties under Texas Penal Code, §39.06; Texas Family Code, §261.109; and Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases) for failure to submit a required report of child abuse or neglect;
 - (B) applicable prohibitions against interference with an investigation of a report of child abuse or neglect, including the following:
 - (i) Texas Family Code, §261.302 and §261.303, prohibiting school officials from denying an investigator's request to interview a student at school; and
 - (ii) Texas Family Code, §261.302, prohibiting school officials from requiring the presence of a parent or school administrator during an interview by an investigator;
 - (C) immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;
 - (D) oral reports made to the Texas Department of Family and Protective Services are recorded;
 - (E) confidentiality provisions relating to reports of suspected child abuse or neglect, including the following:
 - (i) the requirement for the individual making the report to provide his or her name and telephone number;
 - (ii) the requirement for the individual making the report to provide his or her home address or, if the individual making the report is a school employee, agent, or contractor, provide his or her business address and profession; and
 - (iii) the limited circumstances under which the identity of the individual making a report may be disclosed;
 - (F) any disciplinary action that may result from noncompliance with the district's reporting policy; and
 - (G) the prohibition under TEC, §26.0091, against using or threatening to use the refusal to consent to administration of a psychotropic drug to a child or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, except as authorized by TEC, §26.0091.
- (3) Each school district and open-enrollment charter school shall adopt and implement a policy addressing sexual abuse, trafficking, and other maltreatment of children. The policy must be included in any informational handbook provided to students and parents and must address the following:

- (A) methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, trafficking, and other forms of maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
 - (B) actions a child who is a victim of sexual abuse, trafficking, or other maltreatment should take to obtain assistance and intervention; and
 - (C) available counseling options for students affected by sexual abuse, trafficking, or other maltreatment.
- (4) The policies must be consistent with Texas Family Code, Chapter 261, and 40 TAC Chapter 700 (relating to Child Protective Services) regarding investigations by the Texas Department of Family and Protective Services, including regulations governing investigation of abuse by school personnel and volunteers.
 - (5) The policies may not require that school personnel report suspicions of child abuse or neglect to a school administrator prior to making a report to one of the agencies identified in paragraph (1) of this subsection.
 - (6) The policies must include the current toll-free telephone number of the Texas Department of Family and Protective Services.
 - (7) The policies must provide for cooperation with law enforcement child abuse investigations without the consent of the child's parent, if necessary, including investigations by the Texas Department of Family and Protective Services.
 - (8) The policies must include child abuse anti-victimization programs in elementary and secondary schools consisting of age-appropriate, research-based prevention designed to promote self-protection and prevent sexual abuse and trafficking.
- (c) The policies required by this section and adopted by the board of trustees shall be distributed to all school personnel at the beginning of each school year. The policies shall be addressed in staff development programs at regular intervals determined by the board of trustees.
 - (d) Training concerning prevention techniques for, and recognition of, sexual abuse, trafficking, and all other maltreatment of children, including the sexual abuse, trafficking, and other maltreatment of children with significant cognitive disabilities, must be provided as a part of new employee orientation to all new school district and open-enrollment charter school employees and to existing school district and open-enrollment charter school employees not previously trained as required by TEC, §38.0041.
 - (1) The training must include:
 - (A) factors indicating a child is at risk for sexual abuse, trafficking, or other maltreatment;
 - (B) warning signs indicating a child may be a victim of sexual abuse, trafficking, or other maltreatment;
 - (C) internal procedures for seeking assistance for a child who is at risk for sexual abuse, trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
 - (D) techniques for reducing a child's risk for sexual abuse, trafficking, or other maltreatment; and
 - (E) information on community organizations that have relevant research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff, students, and parents.
 - (2) Each school district and open-enrollment charter school must maintain records that include the name of each staff member who participated in training.
 - (3) To the extent that resources are not yet available from the Texas Education Agency or commissioner of education, school district and open-enrollment charter schools shall implement the policies and trainings with existing or publicly available resources. The school district or open-

enrollment charter school may also work in conjunction with a community organization to provide the training at no cost to the district or charter school.

- (e) Using a format and language that is clear, simple, and understandable to students, each public school and open-enrollment charter school shall post, in English and in Spanish:
- (1) the current toll-free Texas Department of Family and Protective Services Abuse Hotline telephone number;
 - (2) instructions to call 911 for emergencies; and
 - (3) directions for accessing the Texas Department of Family and Protective Services website (www.txabusehotline.org) for more information on reporting abuse, neglect, and exploitation.
- (f) School districts and open-enrollment charter schools shall post the information specified in subsection (e) of this section at each school campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The information must be on a poster (11x17 inches or larger) in large print and placed at eye-level to the student for easy viewing. Additionally, the current toll-free Texas Department of Family and Protective Services Abuse Hotline telephone number should be in bold print.

§103.1403. Required Signage Pertaining to Criminal Offenses of Human Trafficking.

- (a) When used in this section, the term "school" means a public primary or secondary school.
- (b) Each public school shall post warning signs in a conspicuous place reasonably likely to be viewed by all school employees and visitors.
- (c) Each warning sign must:
- (1) describe the offense of trafficking in persons as provided under Texas Penal Code, §20A.02(a). The sign must emphasize that an offense under Texas Penal Code, §20A.02, is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 25 years if it is shown on the trial of the offense that the actor committed the offense in a location that was:
 - (A) on the premises of or within 1,000 feet of the premises of:
 - (i) a school;
 - (ii) a juvenile detention facility;
 - (iii) a post-adjudication secure correctional facility;
 - (iv) a shelter or facility operating as a residential treatment center that serves runaway youth, foster children, people who are homeless, or persons subjected to human trafficking, domestic violence, or sexual assault;
 - (v) a community center offering youth services and programs;
 - (vi) a child-care facility, as defined by Human Resources Code, §42.002; or
 - (vii) an institution of higher education or private or independent institution of higher education, as defined by Texas Education Code, §61.003; or
 - (B) on premises or within 1,000 feet of premises where:
 - (i) an official school function was taking place; or
 - (ii) an event sponsored or sanctioned by the University Interscholastic League was taking place;
 - (2) be written in English and Spanish;
 - (3) be at least 8.5 by 11 inches in size; and
 - (4) be properly maintained to ensure readability and protection from the elements for outdoor signs.

