

Draft Rule Text to Provide Guidance for Senate Bill (SB) 12 and the Texas Education Agency's (TEAs) adopted procedure for Texas Education Code (TEC), §26.0083:

*Note: This guidance **has been updated as of 9/8/2025** and is subject to change.*

CHAPTER 103. HEALTH AND SAFETY

SUBCHAPTER BB. COMMISSIONER'S RULES CONCERNING GENERAL PROVISIONS FOR HEALTH AND SAFETY

§103.1105. Procedure Related to Notification to a Student's Parent Regarding the Student's Mental, Emotional, or Physical Health or Well-Being.

(a) This rule reflects the Texas Education Agency's (TEA's) procedure required under Texas Education Code (TEC), Section 26.0083, that school districts and open-enrollment charter schools must follow to notify parents of enrolled students of any changes in services to or monitoring of the student related to the student's mental, emotional, or physical health or well-being, and TEC, Section 26.009, of applicability to school districts.

(b) **Definitions.** For purposes of this rule, the following definitions shall apply:

- (1) "District personnel" includes all employees, as well as volunteers and contractors utilized by a school district or open-enrollment charter school who interact with students on a regular basis.
- (2) "District" includes both a school district and an open-enrollment charter school.
- (3) "Services," as this term is used in this rule, means structured, defined efforts or activities, designed to be or capable of being delivered in a reasonably consistent manner, provided to or on behalf of a student to address a student need. Services do not include incidental, or in-the-moment methods or techniques used to de-escalate isolated behavioral or other incidents.
- (4) "Monitoring," as this term is used in TEC, Section 26.0083, means planned and recurring observations of a student. Monitoring does not include incidental or in-the-moment observations or unplanned interactions.
- (5) "Psychological or psychiatric examination or test," as also defined by TEC, Section 26.009(a-1)(2), means a method designed to elicit information regarding an attitude, habit, trait, opinion, belief, feeling, or mental disorder or a condition thought to lead to a mental disorder, regardless of the manner in which the method

is presented or characterized, including a method that is presented or characterized as a survey, check-in, or screening or is embedded in an academic lesson.

(6) “Psychological or psychiatric treatment,” as also defined by TEC, Section 26.009(a-1)(3), means the planned, systematic use of a method or technique that is designed to affect behavioral, emotional, or attitudinal characteristics of an individual or group.

(7) “Health-care services” mean services that would meet the definition of either psychological or psychiatric examination or test or psychological or psychiatric treatment, as well as services that involve medical treatment, medical procedures, or dispensing medication.

(8) “Health-related services,” as used in TEC, Section 26.0083(g) and this policy, means services that are typically short-term, noninvasive activities designed to promote a student’s mental, emotional, or physical health or well-being, but are not considered a health-care service. Health-related services are different from health-care services in that they are typically designed to promote healthy student behaviors and not considered formal methods that rise to the level of health-care services. These services would include, but not be limited to, school counseling services related to mental or emotional health; nutrition health and education beyond what is taught through grade-level or course instruction; physical health screenings such as scoliosis and vision; first aid; mental health screenings; social skills training; stress management; wellness promotion and education; opportunities for physical activity; emotional regulation activities; substance abuse prevention; suicide prevention; crisis prevention training; and other services offered in alignment with decisions made by the local school health advisory council. General caretaking is not a health-related service.

(9) “Behavioral threat assessment” means a threat assessment conducted as required by TEC, Section 37.115, and under protocols established by TEA and the Texas School Safety Center,

(10) “First aid” is a health-related service and means any one-time immediate treatment, and any necessary follow-up visits for the purpose of observation, of typically minor conditions or occurrences, or temporary treatment while waiting for medical care, which could be provided by a medical professional or a non-medical professional, but does not otherwise involve medical care and does not include the dispensing of medication.

(11) “General caretaking” means noninvasive actions to address minor student claims of feeling unwell or adult observations of a child being physically unwell, such as cleaning spills or other accidents, offering a change of clothing if necessary, and providing support that an adult would typically provide to support a child’s expressions of being unwell (e.g., feeling a student’s forehead, checking for a swollen throat, etc.). It also includes minor student care actions such as applying adhesive bandages (e.g., band aids), wiping a bloody nose, etc.

(12) “Parent” has the same meaning as Texas Family Code (TFC), Section 101.024. The term also includes those standing in parental relation to the student if the person who enrolls the student represents themselves as such. It does not include a parent whose rights have been terminated or whose rights have been modified by court order in relation to parental rights and duties in TFC, Section 151.001.

(13) “Opt-in” or “opt in” means a process where a parent actively grants informed consent for their child to participate in or receive a service prior to the delivery of that service.

(14) “Opt-out” or “opt out” means a process where a parent is considered to have automatically consented unless and until the parent takes action to withhold consent of or decline for their child to participate in or receive a service.

(c) **Parent rights and access to information may not be restricted.** Unless otherwise provided by or in accordance with other law, parental rights, as described by TEC, Sections 1.009 and 26.001, must not be infringed upon by a district, nor may a district withhold information from a parent regarding their student.

(d) **Notice of available health-related and health-care services.** Before the first instructional day of each school year, a district must provide to the parent of each enrolled student written notice of each health-related service and health-care service offered at the campus the student attends. The notice must:

(1) include a statement of the parent’s right to withhold consent for or decline any listed service, delineating between services that are opt-in (consent must be provided prior to service delivery) and opt-out (consent is assumed unless specifically communicated otherwise);

(2) allow a parent the opportunity to provide or withhold consent, as appropriate, for any listed service offered by the district; and

(3) provide instructions on how to inform the school during the school year of a change in consent for any of the services.

(e) **Change in services.** Any proposed change in services provided to a student related to the student's mental, emotional, or physical health or well-being should be shared with the parent prior to initiating the change. If prior notification is not possible and is not otherwise required under other law, the parent must be notified of the change in services within three school days, unless a different timeline is provided by other law. Services that are ongoing require notification only when services are first delivered within a school year (as opposed to notice at each individual interaction with the student). Administration of first aid is not considered a change in service under this rule, although schools are encouraged to notify parents as appropriate.

(f) **Change in monitoring.** When a district intends to make a change in monitoring of a student related to the student's mental, emotional, or physical health or well-being, the district should notify the student's parent prior to initiating the change. If prior notification is not possible or is not otherwise required under other law, the parent must be notified of the monitoring change within three school days, unless a different timeline is provided by other law.

(g) **Services and monitoring must reinforce parental rights.** Any activity related to the provision of services or monitoring of a student's mental, emotional, or physical health or well-being by a district must reinforce the right of a parent to make decisions regarding the upbringing and control of the parent's child. District personnel must:

- (1) encourage a student to discuss issues related to the student's well-being with the student's parent; or
- (2) facilitate a discussion regarding a student's well-being with the student and the student's parent.

(h) **Notification to Parent.** District personnel should be encouraged to notify, and must not be prohibited by the district from notifying, the parent of a student regarding:

- (1) information about the student's mental, emotional, or physical health or well-being; or
- (2) a change in services provided to or monitoring of a student related to the student's mental, emotional, and physical health and well-being.

(i) **No withholding of information.** Any procedure adopted by a district must not:

- (1) encourage or have the effect of encouraging a student from withholding information from their parent about the student's mental, emotional, or physical health or well-being;
- (2) prevent a parent from accessing education or health records of the student;
or
- (3) discourage or prohibit parental knowledge of or involvement in critical decisions affecting their child's mental, emotional, or physical health or well-being.

(j) **Exception to required parental notification.** Notification of information under this rule to a student's parent is not required when a reasonably prudent person would believe that disclosure is likely to result in the student suffering abuse or neglect, as defined by TFC, Section 261.001. If the decision is made not to inform the parent under this subsection, campus-based personnel must report it to the principal and district-level personnel must report it to the superintendent or designee to make the decision on whether disclosure is necessary.

(k) **Duty to report abuse or neglect.** Nothing in this rule alters the requirement to report child abuse or neglect under TFC, Chapter 261, or an investigation of a report of abuse or neglect under that chapter.

(l) **Asking about daily or general well-being.** Parental consent is not required for district personnel to inquire about a student's daily or general well-being, which is not considered a service under this rule.

(m) **General caretaking.** General caretaking is not considered a health-related or health-care service. Districts shall provide general caretaking to students.

(n) **Individual service selection.** A district may not require a parent to make the same opt-out or opt-in choice for all health-care services or health-related services.

(o) **Opt-out requirements.** A district must allow a parent to opt out of receiving any health-related service for their child.

(p) **Opt-in requirements.** A parent must opt in to each type of service provided before their child may receive the provision of:

- (1) psychological or psychiatric examinations or tests, and psychological or psychiatric examination treatments, unless a specific exemption is provided by law;
- (2) health-care services, except in the case of emergencies; and

(3) the administration of a well-being questionnaire or health screening form to a student in accordance with subsection (r).

(q) **First aid and opt-in practices.** A district must not impose an opt-in practice for first aid and should not impose an opt-in process on health-related services that a reasonably prudent person would expect a school to provide for the majority of students.

(r) **Well-being questionnaire and health screening form.** Before administering a well-being questionnaire or a health screening form to a student, a copy must be provided to the student's parent.

(s) **Consent expiration.** Unless otherwise provided by a parent, a parent's consent (whether provided explicitly or whether assumed for opt-out health-related services) to the provision of health-related services or health-care services will be considered effective until the end of the school year in which the consent was obtained or assumed.

(t) **Retention of parental consent.** A district must retain consent that has been provided in writing from a student's parent in the student's education records for any consent provided in writing under this rule.

(u) **Behavioral threat assessment.** Parental notifications for behavioral threat assessments are exempt from the requirements of this rule and will be made in accordance with TEC, Section 37.115, and the requirements set by TEA and the Texas School Safety Center.