

The Texas Education Agency (TEA) proposes new §103.1105, concerning the procedure related to notification to a student's parent regarding the student's mental, emotional, or physical health or well-being. The proposed new rule would implement the procedure required by Senate Bill (SB) 12, 89th Texas Legislature, Regular Session, 2025, for school districts and open-enrollment charter schools to notify the parent of a student enrolled in the district of any change in services provided or monitoring related to a student's mental, emotional, or physical health or well-being.

BACKGROUND INFORMATION AND JUSTIFICATION: Subsection (a) would establish the statutory authority for the rule and the responsibilities of school districts and open-enrollment charter schools to implement SB 12, 89th Texas Legislature, Regular Session, 2025.

Subsection (b) would establish definitions applicable to the rule.

Subsection (c) would establish parent rights and access to information about a child that schools may not restrict.

Subsection (d) would require school districts to provide parental notification regarding health-related and health-care services available at the campus the student attends.

Subsections (e) and (f) would establish criteria for school districts related to parental notification when health-related services or health-care services change.

Subsection (g) would establish timelines for parental notification when a school district changes monitoring of a student's mental, emotional, or physical health or well-being.

Subsection (h) would require that services and monitoring related to a student's mental, emotional, or physical health or well-being reinforce a parent's right to make decisions for the parent's child.

Subsection (i) would require timely parental notification when a student discloses behaviors indicating an adverse change in the student's mental, emotional, or physical health or well-being.

Subsection (j) would prohibit school district procedures that encourage withholding information from parents or interfere with a parent's ability to access information or participate in decision making regarding the parent's child.

Subsection (k) would preserve parental choice by requiring opt-in or opt-out decisions to be made on an individual service basis.

Subsection (l) would require school districts to allow parents to opt out of any health-related service provided to their child.

Subsection (m) would specify a parent's statutory right to exempt their child from a service or monitoring.

Subsection (n) would require parental consent before a student receives specified services, including psychological or psychiatric examinations or treatments (except as otherwise permitted by law), health-care services (except in emergencies), or the administration of certain well-being questionnaires or health screening forms.

Subsection (o) would establish when a health-related service also meets the definition of a health-care service for purposes of this rule and would require parental consent before a student participates in such a service.

Subsection (p) would require schools to provide parents with a copy of any well-being questionnaire or health screening form before it is administered to a student.

Subsection (q) would limit the use of opt-in practices by school districts for first aid and routine health-related services reasonably expected to be provided in schools.

Subsection (r) would establish the duration of parental consent for health-related and health-care services, providing that consent remains effective through the end of the school year unless otherwise specified by the parent.

Subsection (s) would require school districts to maintain written parental consent in a student's education records.

Subsection (t) would allow school personnel to make routine, non-service-based inquiries regarding a student's daily or general well-being without parental consent.

Subsection (u) would clarify that general caretaking provided by a school district is not considered a health-related service or a health-care service.

Subsection (v) would specify that parental notification and any opt-out rights for health screenings required by law are governed by those laws and related rules.

Subsection (w) would specify that consent for services provided through an individualized education program or as part of an evaluation to determine eligibility under the Individuals with Disabilities Education Act (IDEA) is governed by IDEA requirements related to informed consent, consent revocation, and consent expiration.

Subsection (x) would preserve existing requirements to report and investigate child abuse or neglect.

Subsection (y) would establish exceptions to required parental notification when disclosure would likely result in abuse or neglect or when conducting behavioral threat assessments, while requiring compliance with other applicable notification and consent laws.

FISCAL IMPACT: Jennifer Alexander, associate commissioner for special populations and student supports, 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 parental notification requirement regarding a student's mental, emotional, or physical health or well-being, which is necessary to align with SB 12, 89th Texas Legislature, Regular Session, 2025.

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: Ms. Alexander 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 require school districts and open-enrollment charter schools to adopt a procedure to notify the parent of a student enrolled in the district regarding any change in services provided to or monitoring of the student related to the student's mental, emotional, or physical health or well-being. The new rule would establish definitions and criteria for notification and

specify parent rights, exceptions, and documentation requirements. 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: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins June 26, 2026, and ends July 27, 2026. 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 June 26, 2026. 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), §26.009, as amended by SB 12, 89th Texas Legislature, Regular Session, 2025, which establishes parental consent requirements for certain activities and services affecting a student's mental, emotional, or physical health or well-being; and TEC, §26.0083, as added by SB 12, 89th Texas Legislature, Regular Session, 2025, which establishes parental rights to receive information and to provide or withhold consent regarding a student's mental, emotional, or physical health and health related services.

CROSS REFERENCE TO STATUTE. The new section implements TEC, §26.009, as amended by SB 12, 89th Texas Legislature, Regular Session, 2025, and §26.0083, as added by SB 12, 89th Texas Legislature, Regular Session, 2025.

<rule>

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

- (a) Authority and applicability. This rule implements the Texas Education Agency's (TEA's) procedure required under Texas Education Code (TEC), §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 addresses TEC, §26.009, which is applicable to school districts. An open-enrollment charter school must comply with the provisions of this section that implement TEC, §26.0083, or other relevant referenced law with which an open-enrollment charter school must comply.
- (b) Definitions. For purposes of this section, the following definitions apply.
- (1) "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.
- (2) "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 (such as feeling a student's forehead or checking for swollen lymph nodes or tonsils). It also includes minor student care actions such as

applying adhesive bandages or wiping a bloody nose. Responding to in-the-moment emotional behavioral challenges by actions such as inquiring about a child's well-being, attempting to calm a student if they are crying, or diffusing a situation where a student is observably angry would also be considered general caretaking.

- (3) "Health-care services" means services that would meet the definition of either a psychological or psychiatric examination or test, including mental-health screenings, or a psychological or psychiatric treatment, as well as services that involve medical treatment; medical procedures; therapy of a clinical or physically, mentally, or emotionally therapeutic nature or the kind provided by a licensed professional; or dispensing medication.
- (4) "Health-related services," as used in TEC, §26.0083(g), and this section, 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, clinical, or therapeutic methods that rise to the level of health-care services. These services would include, but are not limited to, school counseling services related to mental or emotional health that do not rise to the level of therapy; first aid; and specialized health-related instruction outside the scope of instruction in the Texas Essential Knowledge and Skills on social skills, stress management, nutrition, wellness promotion, substance abuse prevention, or suicide prevention. Additionally, scoliosis, hearing, and vision screeners are health-related services. General caretaking is not a health-related service. Academic screenings and services, such as dyslexia screenings and interventions, are not considered health-related services.
- (5) "Monitoring," as this term is used in TEC, §26.0083, means planned and recurring observations of a student. Monitoring does not include incidental or in-the-moment observations or unplanned interactions.
- (6) "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.
- (7) "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.
- (8) "Parent" has the same meaning as Texas Family Code (TFC), §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, §151.001.
- (9) "Personnel" includes all employees, as well as volunteers and contractors, who interact with students on a regular basis.
- (10) "Psychological or psychiatric examination or test," as defined by TEC, §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.
- (11) "Psychological or psychiatric treatment," as defined by TEC, §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.
- (12) "Services" 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's needs. Services include responsive services offered typically by counselors to ensure students are educated and knowledgeable of skills necessary to address troubling circumstances before they become problematic. The term "services" does not include incidental or in-the-moment methods or techniques used to de-escalate isolated behavioral, emotional, or other incidents.

- (c) Parent rights and access to information. 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, §1.009 and §26.001, must not be infringed upon by a school district, nor may a district withhold information from a parent regarding their student. In the event of any conflicts regarding parental notification or consent between this section and other programs, such as the model counseling program under TEC, §33.005(a), the requirements of this section shall prevail.
- (d) Notice of available health-related and health-care services. Before the first instructional day of each school year, a school 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 district during the school year of a change in consent for any of the services.
- (e) Change in health-related services. Any proposed change in providing health-related services to a student 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 or when immediate services are sought by students rather than planned to be offered by staff, the parent must be notified of any change in health-related services within three school days, unless a different timeline is provided by other law. Health-related services that are regular, recurring, and ongoing require notification only when services are first delivered within a school year and not for each individual interaction with the student. Sporadically provided health-related services of the same type that are not regular and recurring require notification for each occurrence (e.g., occasional but irregular health-related services by a counselor with a student). Administration of first aid is not considered a change in health-related service under this section, although schools are encouraged to notify parents as appropriate.
- (f) Change in health-care services. A school district must notify parents when a student is identified as needing or possibly needing health-care services. Health-care services may not be provided without prior consent except in emergencies. If provided in an emergency, notification must be provided to the parent as soon as possible.
- (g) Change in monitoring. When a school 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.
- (h) Services and monitoring. 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 school district must reinforce the right of a parent to make decisions regarding the upbringing and control of the parent's child. 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.
- (i) Notification to parent of certain behaviors. Personnel must notify the parent of a student within one school day or as soon as feasible information that the student discloses about behaviors, including planned behaviors, that represent an adverse change in the student's mental, emotional, or physical health or well-being, including, but not limited to, disclosures related to any sexual behaviors, behaviors involving unlawful use of substances, behaviors related to tattoos or permanent physical or body modifications, violence or suicidal ideation, or other harmful behaviors.
- (j) No withholding of information. Any procedure adopted by a school district must not:

- (1) encourage or have the effect of encouraging a student to withhold 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 decisions affecting their child's mental, emotional, or physical health or well-being.
- (k) Individual service selection. A school district may not require a parent who opts out of or opts into one or more health-care services or health-related services to make the same choice for any or all other health-care services or health-related services.
- (l) Opt-out requirements. A school district must allow a parent to opt out of each health-related service offered or provided by the school district.
- (m) Exemption from instruction. A parent may exercise their right under TEC, §26.010, to exempt their child from a service or monitoring. A separate written request as described by TEC, §26.010, is not required if the parent has already opted out in accordance with this section.
- (n) 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 (p) of this section.
- (o) Determining when health-related services may also meet the definition of health-care services. Not all health-related services are health-care services. But a health-related service may become a health-care service based on the nature, frequency, or ongoing provision of the service. If the service becomes a health-care service, parental consent must be obtained prior to a student's participation in the effort or activity.
- (p) Well-being questionnaire and health screening form. Before administering a well-being questionnaire or a health screening form to a student, including one that is scheduled to be administered as part of a required course, class, or elective, a copy must be provided to the student's parent.
- (q) Opt-in practices. A school 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) Consent expiration. Unless otherwise provided by a parent, a parent's consent to the provision of health-related services or health-care services, whether provided explicitly or assumed for opt-out health-related services, remains effective until the end of the school year in which the consent was obtained or assumed.
- (s) Retention of parental consent. A school district must retain any written consent provided by a student's parent under this section in the student's education records.
- (t) Asking about daily or general well-being. Parental consent is not required for personnel to inquire about a student's daily or general well-being, which is not considered a service under this section.
- (u) General caretaking. General caretaking is not considered a health-related or health-care service. School districts shall provide general caretaking to students.
- (v) Health screenings required by other law. Parental notification and any rights to opt out of health screenings required by law, such as spinal, hearing, and vision screenings, will be made in accordance with those laws, such as Texas Health and Safety Code, §§36.004, 36.005, 37.001, and 37.002, and with any related rules.
- (w) Informed consent under the Individuals with Disabilities Education Act (IDEA). Services provided through an individualized education program or as part of an evaluation to determine eligibility as a child with a disability under IDEA will adhere to informed consent, consent revocation, and consent expiration provisions under IDEA.

- (x) Duty to report abuse or neglect. Nothing in this section 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.
- (y) Exception to required parental notification. Notification of information to a student's parent under this section is not required for the following situations, but notification and consent, if applicable, will be provided or obtained in accordance with other applicable law:
 - (1) when a reasonably prudent person would believe that disclosure is likely to result in the student suffering abuse or neglect, as defined by TFC, §261.001. If the decision is made not to inform a parent under this subsection, campus-based personnel must report it to the principal, district-level personnel must report it to the superintendent or designee to make the decision on whether disclosure is necessary, and the decision must be documented; and
 - (2) when conducting behavioral threat assessments, for which notifications will be made in accordance with TEC, §37.115, and the requirements and protocols set by TEA and the Texas School Safety Center.