

The Texas Education Agency (TEA) proposes an amendment to §103.1209, concerning mandatory school drills. The proposed amendment would implement Senate Bill (SB) 168, 87th Texas Legislature, Regular Session, 2021, which required the adoption of rules for best practices for conducting emergency school drills and exercises, including definitions for relevant terms.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), Chapter 37, Subchapter D, addresses the protection of school buildings and grounds. Specifically, TEC, §37.114, addresses mandatory school drills. SB 168, 87th Texas Legislature, Regular Session, 2021, amended TEC, §37.114, to require that the commissioner of education, in consultation with the Texas School Safety Center and the state fire marshal, adopt rules for best practices related to emergency drills and exercises, including definitions for relevant terms. The proposed amendment to §103.1209 would implement SB 168 by expanding definitions and establishing best practices.

Subsection (a) would be amended to stipulate that drills do not include persons acting as active aggressors or other simulated threats.

Subsection (b) would be amended to include additional definitions for drills and exercises and modify existing definitions. In addition, clarification would be added that the definitions do not apply to an active threat exercise, which is defined in TEC, §37.1141, and any associated rules.

Technical changes would also be made in subsection (c) to conform the names of the drills listed in subsection (c)(1)-(5) with their definitions in subsection (b). In addition, subsection (c)(6) would be modified to address the required frequency for fire evacuation drills, including for school districts without a local fire marshal. Proposed new subsection (d) would provide best practices for conducting drills and exercises.

FISCAL IMPACT: Tim Regal, associate commissioner for instructional support, 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 expand an existing regulation by adding definitions for additional types of exercises and including best practices for conducting emergency drills and exercises in accordance with SB 168, 87th Texas Legislature, Regular Session, 2021. The proposed new language would direct school districts and open-enrollment charter schools to guidance and resources from the Texas School Safety Center that should be used in the design and implementation of drills and exercises to ensure physical and psychological safety for all participants, minimize disruptions to learning, and minimize the potential for trauma for students and staff.

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. Regal 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 districts and open-enrollment charter schools practice critical drills to keep students, staff, and visitors safe during an actual emergency. 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 February 4, 2022, and ends March 7, 2022. 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 February 4, 2022. 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), §37.114, as amended by Senate Bill 168, 87th Texas Legislature, Regular Session, 2021, which requires the commissioner of education, in consultation with the state fire marshal and Texas School Safety Center, to adopt rules providing best practices for conducting emergency drills and exercises, including definitions for relevant terms, and designating the number and type of mandatory school drills to be conducted each semester of the school year, not to exceed a total of eight drills.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §37.114, as amended by Senate Bill 168, 87th Texas Legislature, Regular Session, 2021.

<rule>

§103.1209. Mandatory School Drills.

- (a) Requirement. Each school district and open-enrollment charter school shall conduct emergency safety drills in accordance with Texas Education Code (TEC), §37.114. Drills do not include persons role playing as active aggressors or other simulated threats.
- (b) Definitions and related terms . The following words and terms related to drills and exercises , when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. These definitions do not apply to an active threat exercise, which is defined in TEC, §37.1141, and associated rules, if any.
 - (1) Active aggressor--An individual actively engaged in killing or attempting to kill people in a confined and populated area.
 - (2) ~~(1)~~ Drill--A set of procedures that test a single, specific operation or function. Drills do not include persons role playing as active aggressors or other simulated threats. Drill examples include evacuating for a fire or locking down from an internal threat.
 - ~~(2) Secure (Lockout) --A response action schools take to secure the perimeter of school buildings and grounds during incidents that pose a threat or hazard outside of the school building. Secure (Lockout) uses the security of the physical facility to act as protection to deny entry.~~
 - ~~(3) Lockdown --A response action schools take to secure interior portions of school buildings and grounds during incidents that pose an immediate threat of violence inside the school. The primary~~

objective is to quickly ensure all school students, staff, and visitors are secured away from immediate danger.]

- (3) ~~(4)~~ Evacuation drill [Evacuate] --A response action schools take to quickly move students and staff from one place to another. The primary objective of an evacuation is to ensure that all staff, students, and visitors can quickly move away from the threat. Evacuation examples include a bomb threat or internal gas leak.
- (4) Exercise--An instrument to train for, assess, practice, and improve performance in mitigation, prevention, preparedness, response, and recovery in a risk-free environment. While drills and exercises may overlap in some aspects, discussion-based and operation-based exercises are often more in depth and multi-faceted.
- ~~(5) Shelter in place for hazmat --A response action schools take to quickly move students, staff, and visitors indoors, perhaps for an extended period of time, because it is safer inside the building than outside. Affected individuals may be required to move to rooms without windows or to rooms that can be sealed. Shelter in place for hazmat examples include train derailment with chemical release or smoke from a nearby fire.]~~
- ~~(6) Shelter for severe weather --A response action schools take to quickly move students, staff, and visitors indoors, perhaps for an extended period of time, because it is safer inside the building than outside. For severe weather, depending on the type and/or threat level (watch versus warning), affected individuals may be required to move to rooms without windows on the lowest floor possible or to a weather shelter.]~~
- (5) ~~(7)~~ Fire evacuation drill--A method of practicing how a building would be vacated in the event of a fire. The purpose of fire drills in buildings is to ensure that everyone knows how to exit safely as quickly as possible.
- (6) Full-scale exercise--Typically the most complex and resource-intensive type of exercises. It involves multiple agencies, organizations, and jurisdictions and validates many facets of preparedness. This exercise often includes many players operating under cooperative systems such as the Incident Command System (ICS) or Unified Command. Resources and staff are mobilized as needed. All actions are taken as if the emergency is real. A full-scale exercise is the most time-consuming activity in the exercise continuum and is a multiagency, multijurisdictional effort in which all resources are deployed. A full-scale exercise tests collaborations among the agencies and participants, public information systems, communication systems, and equipment. An Emergency Operations Center (EOC) is established by either law enforcement or fire services, and the ICS is activated. Because of all the logistics and resources needed for a full-scale exercise, it often takes a year to plan and is not held often. Usually, a school district is not the organizer of such an exercise, but the district or school would play a critical role in both function and potential facility use.
- (7) Functional exercise--Designed to validate and evaluate capabilities, multiple functions and/or sub-functions, or interdependent groups of functions. A functional exercise is typically focused on exercising plans, policies, procedures, and staff members involved in management, direction, command, and control functions. It allows participants to practice their specific roles or functions in an emergency. This type of exercise is conducted in a realistic, real-time simulated environment and often includes simulators (individuals who assist with the facilitation of the exercise) and follows a master scenario events list that dictates additional information, occurrences, or activities that affect the exercise scenario.
- (8) Lockdown drill--A response action schools take to secure interior portions of school buildings and grounds during incidents that pose an immediate threat of violence inside the school. The primary objective is to quickly ensure all school students, staff, and visitors are secured away from immediate danger.
- (9) Secure drill--A response action schools take to secure the perimeter of school buildings and grounds during incidents that pose a threat or hazard outside of the school building. This type of drill uses the security of the physical facility to act as protection to deny entry.

- (10) Seminar exercise--A discussion-based exercise designed to orient participants to new or updated plans, policies, or procedures through informal discussions. Seminar exercises are often used to impart new information and formulate new ideas.
- (11) Shelter-in-place for hazardous materials (hazmat) drill--A response action schools take to quickly move students, staff, and visitors indoors, perhaps for an extended period of time, because it is safer inside the building than outside. Affected individuals may be required to move to rooms without windows or to rooms that can be sealed. Examples of a shelter-in-place for hazmat drill include train derailment with chemical release or smoke from a nearby fire.
- (12) Shelter for severe weather drill--A response action schools take to quickly move students, staff, and visitors indoors, perhaps for an extended period of time, because it is safer inside the building than outside. For severe weather, depending on the type and/or threat level (watch versus warning), affected individuals may be required to move to rooms without windows on the lowest floor possible or to a weather shelter.
- (13) Tabletop exercise--A small group discussion that walks through a scenario and the courses of action a school will need to take before, during, and after an emergency to lessen the impact on the school community. Participants problem-solve together through a detailed discussion of roles, responsibilities, and anticipated courses of action. A tabletop exercise leverages a defined scenario to direct discussion and may need an experienced facilitator depending on the complexity and objectives of the exercise.
- (14) Workshop exercise--A type of discussion-based exercise focused on increased participant interaction and achieving or building a product (e.g., plans or policies). A workshop exercise is typically used to test new ideas, processes, or procedures; train groups in coordinated activities; and obtain consensus. A workshop exercise often uses breakout sessions to explore parts of an issue with smaller groups.
- (c) Frequency. TEC, §37.114(2), requires the commissioner of education to designate the number of mandatory school drills to be conducted each semester of the school year, not to exceed eight drills each semester and sixteen drills for the entire school year. Neither this rule, nor the law, precludes a school district or an open-enrollment charter school from conducting more drills as deemed necessary and appropriate by the district or charter school. Following is the required minimum frequency of drills by type.
- (1) Secure drill [~~Lockout~~] --One per school year.
 - (2) Lockdown drill --Two per school year (once per semester).
 - (3) Evacuation drill [~~Evacuate~~] --One per school year.
 - (4) Shelter-in-place for hazmat drill --One per school year.
 - (5) Shelter for severe weather drill --One per school year.
 - (6) Fire evacuation drill-- School [~~Four per school year (two per semester). In addition, school~~] districts and open-enrollment charter schools should consult with their local fire marshal and comply with their local fire marshal's requirements and recommendations. If a district does not have a local fire marshal, it shall conduct four per school year (two per semester).
- (d) Best practices for conducting drills and exercises. This subsection highlights best practices for conducting drills and exercises. For more information about best practices, refer to Texas School Safety Center guidance.
- (1) Drills and exercises should be designed and conducted in accordance with guidance and best practice resources provided by the Texas School Safety Center.
 - (2) Drill and exercise design should include purpose, goals, and objectives that are stated in plans for each type of drill. Purpose, goals, and objectives should be developed with input from all sectors of the school community. Input in planning should be sought from multiple stakeholder perspectives for each type of drill and exercise, including from:
 - (A) the district School Safety and Security Committee;

- (B) first responders;
 - (C) mental and behavioral health professionals;
 - (D) students and families; and
 - (E) staff, including non-traditional teachers, coaches, trade instructors, custodians, and food service workers.
- (3) Drill and exercise design elements should include:
 - (A) physical and psychological safety for all participants;
 - (B) planning in a trauma-informed manner to maximize learning and to minimize potential trauma for students and staff;
 - (C) providing advance notification of drills and exercises;
 - (D) planning for post-drill or after-action reviews of each drill and exercise; and
 - (E) ensuring drills and exercises are appropriate with the understanding that more complex drills and exercises will require a hierarchy of learning to achieve or obtain more advanced goals or objectives.
- (4) Exercises tend to be more complex than drills and should be conducted in accordance with guidance and resources provided by the Texas School Safety Center. It is imperative that districts conduct exercises that match their experience and capabilities. It is usually best to start with discussion-based exercises and work up to operation-based exercises over time. Discussion-based exercises include seminar exercises, tabletop exercises, and workshop exercises. Operation-based exercises include functional exercises and full-scale exercises. Exercises can be used for:
 - (A) testing and validating policies, plans, procedures, training, equipment, and interagency agreements;
 - (B) clarifying and training personnel in roles and responsibilities;
 - (C) improving interagency coordination and communications;
 - (D) identifying gaps in resources;
 - (E) improving individual performance; and
 - (F) identifying opportunities for improvement.