

The Texas Education Agency (TEA) proposes new §61.1031, concerning school safety requirements. The proposed new rule would implement requirements for school safety to ensure a safe and secure environment in Texas public schools.

BACKGROUND INFORMATION AND JUSTIFICATION: In light of recent events and ongoing public concern, the commissioner, as authorized by Texas Education Code (TEC), §7.061 and §37.115(b), is proposing new §61.1031 to address the safety of students and staff alike in our public schools by ensuring minimum school safety standards.

The proposed new rule would require that all public school system instructional facilities have access points that are secured by design, maintained to operate as intended, and appropriately monitored.

Proposed new subsection (a) would establish definitions for the proposed rule.

Proposed new subsection (b) would require that standards outlined in the rule apply to all public school instructional facilities, whether owned, operated, or leased.

Proposed new subsection (c) would outline the safety and security standards compliance requirements that apply to public school instructional facilities. The proposed new rule would require specific standards for exterior doors and primary entrances. Other safety and security standards would apply depending on whether instructional facilities are within an exterior secured area or are actively monitored. The proposed new subsection would also establish the components for a communication infrastructure required across all public school instructional facilities.

Proposed new subsection (d) would require public school systems to implement certain operating requirements related to access control, exterior door numbering, and maintenance.

Proposed new subsection (e) would require public school systems to comply with 19 TAC §61.1040(j), School Facilities Standards for Construction on or after November 1, 2021.

Proposed new subsection (f) would establish that the provisions of the proposed new rule control in the event of any conflict between the provisions of the proposed new rule and 19 TAC §61.1040.

Proposed new subsection (g) would require implementation of the requirements in subsections (c) and (d) beginning in school year 2022-2023. The proposed new subsection would require a school system to certify compliance of these requirements as part of the ongoing security audits under TEC, §37.108(b), maintain the certification locally, and report as required by the Texas School Safety Center. The proposed new subsection would also establish that any and all non-compliance would be reported to the school system's safety and security committee, school system board, and Texas School Safety Center.

In addition, proposed new subsection (g) would allow for provisional compliance if the school system has taken the necessary steps to initiate upgrades of facilities components and, during the 2023-2024 school year, if the contractor or supplier has been procured and has provided a time frame for completion.

Proposed new subsection (h) would address the future expiration of certain provisions of subsection (g) of the rule.

FISCAL IMPACT: Alejandro Delgado, deputy commissioner for operations, has determined that for the first five years the proposal is in effect, there are no additional costs to state government. However, there will be fiscal implications for local government, including school districts and open-enrollment charter schools, required to comply with the proposal. The statewide cost to school systems totals approximately \$2.1 billion in fiscal year 2023. The estimate was determined based on a sample of district costs to upgrade school safety standards. Statewide costs were extrapolated, giving a range of probable cost values for statewide implementation. Using the median cost per rule component, total projected costs total approximately \$2.1 billion. Given the variability in school district facilities, regional price differences, and district decisions, statewide costs may range from the estimated total.

Total statewide costs were based on facilities upgrades across ten facilities components. Total costs of \$2.1 billion include \$0.2 million estimated for updating window locks; \$154.0 million for window reinforcement near doors and

adjacent to doors; \$198.0 million for door upgrades; \$23.9 million for door re-keying; \$239.5 million for radio transmitters; \$8.7 million for door numbering and exterior secured master key boxes; \$85.6 million for new fencing; and \$1,267.0 million for fencing upgrades.

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 requirements of this proposal would impose costs on school districts and open-enrollment charter schools. However, the rule is not subject to the limitations of Texas Government Code, §2001.0045. The new school safety requirements are necessary to protect the safety and welfare of residents of this state. Additionally, TEC, §7.061, explicitly requires the commissioner to review at least every two years the rules for a safe and secure environment and update those rules when necessary. Consequently, any costs imposed by the update of the rules were necessary to implement the legislation passed by the legislature. Additionally, grants provided to school districts will help defray or completely offset the estimated costs.

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 by implementing the statutory requirements regarding the school safety standards. The new rule would require all school system instructional facilities have access points that are secured by design, maintained to operate as intended, and appropriately monitored.

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. Delgado 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 school districts and open-enrollment charter schools implement minimum school safety standards to address the safety of students and staff alike in our public schools. 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 November 11, 2022, and ends December 12, 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/). A public hearing to solicit testimony and input on the proposal will be scheduled at a later date and a notice of the hearing will be filed with the *Texas Register*.

STATUTORY AUTHORITY. The new section is proposed under Texas Education Code (TEC), §7.061, which requires the commissioner of education to adopt and amend rules to ensure a safe and secure environment for public schools, which includes best practices for design and construction of new facilities and improving, renovating, and retrofitting existing facilities. The section requires the commissioner to review all rules by September 1st of each even-numbered year and take action as necessary to ensure school facilities for school districts and open-enrollment

charter schools continue to provide a safe and secure environment; and TEC, §37.115(b), which allows the agency, in coordination with the Texas School Safety Center, to adopt rules to establish a safe and supportive school program, including providing for physical and psychological safety.

CROSS REFERENCE TO STATUTE. The proposed new section implements Texas Education Code, §7.061 and §37.115(b).

<rule>

§61.1031. School Safety Requirements.

- (a) Definitions. The following words and terms, when used in this section, shall have the following meanings.
- (1) Actively monitored--supervised by an adult who can visibly review visitors prior to entrance, who can take immediate action to close and/or lock the door, and whose duties allow for sufficient attention to monitoring.
 - (2) Exterior secured area--an area fully enclosed by a fence and/or wall that:
 - (A) if enclosed by a fence or wall, utilizes a fence or wall at least 6 feet high with design features that prevent it from being easily scalable, such as stone, wrought iron, chain link with slats or wind screen, or chain link topped with an anti-scaling device, or utilizes a fence or wall at least 8 feet high;
 - (B) is well maintained; and
 - (C) if gated, features locked gates with emergency egress hardware and has features to prevent opening from the exterior without a key or combination mechanism.
 - (3) Instructional facility--this term has the meaning assigned in Texas Education Code (TEC), §46.001, and includes any real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching curriculum under TEC, §28.002. For purposes of this section, an instructional facility does not include real property, improvements to real property, or necessary fixtures of an improvement to real property that are part of a federal, state, or private correctional facility or facility of an institution of higher education, medical provider, or other provider of professional or social services over which a school system has no control.
 - (4) Modular, portable building--
 - (A) an industrialized building as defined by Texas Occupations Code (TOC), §1202.002 and §1202.003;
 - (B) any relocatable educational facility as defined by TOC, §1202.004, regardless of the location of construction of the facility; or
 - (C) any other manufactured or site-built building that is capable of being relocated and is used as a school facility.
 - (5) Primary entrance--
 - (A) the main entrance to an instructional facility that is closest to or directly connected to the reception area; or
 - (B) any exterior door the school system intends to allow visitors to use to enter the facility during school hours either through policy or practice.
 - (6) School system--a public independent school district or public open-enrollment charter school.
- (b) The provisions of this section apply to all school instructional facilities owned, operated, or leased by a school system, regardless of the date of construction or date of lease. The provisions of this section ensure that all school system instructional facilities have access points that are:

- (1) secured by design;
 - (2) maintained to operate as intended; and
 - (3) appropriately monitored.
- (c) A school system shall implement the following safety and security standards compliance requirements to all school instructional facilities owned, operated, or leased by the school system.
- (1) All instructional facilities campus-wide, including modular, portable buildings, must include the addition of graphically represented alpha-numerical characters on both the interior and exterior of each exterior door location. The characters may be installed on the door, or on at least one door at locations where more than one door leads from the exterior to the same room inside the facility, or on the wall immediately adjacent to or above the door location. Characters shall comply with the International Fire Code, §505. The primary entrance of an instructional facility shall always be the first in the entire sequence and is the only door location that does not require numbering. The numbering sequence shall be clockwise and may be sequenced for the entire campus or for each facility individually. The door-numbering process must comply with any and all accessibility requirements related to signage.
 - (2) A primary entrance shall:
 - (A) meet all standards for exterior doors;
 - (B) include a means to allow an individual located within the building to visually identify an individual seeking to enter the primary entrance when the entrance is closed and locked, including, but not limited to, windows, camera systems, and/or intercoms;
 - (C) feature a physical barrier that prevents unassisted access to the facility by a visitor; and
 - (D) feature a location for a visitor check-in and check-out process.
 - (3) All exterior doors shall:
 - (A) be, by default, set to a closed, latched, and locked status, except that:
 - (i) a door may be unlocked if it is actively monitored or within an exterior secured area; and
 - (ii) for the purposes of ventilation, a school system may designate in writing as part of its multi-hazard emergency operations plan under TEC, §37.108, specific exterior doors that are allowed to remain open for specified periods of time if explicitly authorized by the school safety and security committee established by TEC, §37.109, when a quorum of members are present, and only if it is actively monitored or within an exterior secured area;
 - (B) be constructed, both for the door and door frame and their components, of materials and in a manner that make them resistant to entry by intruders. Unless inside an exterior secured area, doors constructed of glass or containing glass shall be constructed or modified such that the glass cannot be easily broken and allow an intruder to open or otherwise enter through the door (for example, using forced entry-resistant film);
 - (C) include:
 - (i) a mechanism that fully closes and engages locking hardware automatically after entry or egress without manual intervention, regardless of air pressure within or outside of the facility; and
 - (ii) a mechanism that allows the door to be opened from the inside when locked to allow for emergency egress while remaining locked; and
 - (D) if keyed for re-entry, be capable of being unlocked with a single (or a small set of) master key(s), whether physical key, punch code, or key-fob or similar electronic key device.

- (4) Except when inside an exterior secured area, classrooms with exterior entry doors shall include a means to allow an individual located in the classroom to visually identify an individual seeking to enter the classroom when the door is closed and locked, including, but not limited to, windows, camera systems, and/or intercoms.
- (5) Except when inside an exterior secured area, all windows that are adjacent to an exterior door and that are of a size and position that, if broken, would easily permit an individual to reach in and open the door from the inside shall be constructed or modified such that the glass cannot be easily broken.
- (6) Except when inside an exterior secured area, all ground-level windows near exterior doors that are of a size and position that permits entry from the exterior if broken shall be constructed or modified such that the glass cannot be easily broken and allow an intruder to enter through the window frame (for example, using forced entry-resistant film).
- (7) If designed to be opened, all ground-level windows shall have functional locking mechanisms that allow for the windows to be locked from the inside and, if large enough for an individual to enter when opened or if adjacent to a door, be closed and locked when staff are not present.
- (8) Roof access doors should default to a locked, latched, and closed position when not actively in use and be lockable from the interior.
- (9) All facilities must include one exterior secure master key box designed to permit emergency access to both law enforcement agencies and emergency responder agencies from the exterior (for example, a Knox box) at a location designated by the local authorities with applicable jurisdiction.
- (10) A communications infrastructure shall be implemented that must:

 - (A) ensure equipment is in place such that law enforcement and emergency responder two-way radios can function within most portions of the building(s); and
 - (B) include a panic alert button, duress, or equivalent alarm system, via standalone hardware or integrated into other telecommunications devices, that includes the following functionality.

 - (i) An alert must be capable of being triggered manually by campus staff.
 - (ii) An alert must be triggered automatically in the event a district employee calls 911 using the hardware described in this subparagraph from any location within the school system.
 - (iii) With any alert generated, the location of where the alert originated shall be included.
 - (iv) The alert must notify a set of designated school administrators as needed to provide confirmation of response, and, if confirmed, notice must be issued to law enforcement and emergency responder agencies of an emergency situation requiring a law enforcement and/or emergency response. A notice can simultaneously be issued to all school staff of the need to follow appropriate emergency procedures.
 - (v) For any exterior doors that feature electronic locking mechanisms that allow for remote locking, the alert system will trigger those doors to automatically lock and to automatically notify relevant campus staff of any door where the lock cannot engage.
- (d) Certain operating requirements. A school system shall implement the following.

 - (1) Access control. The board of trustees or the governing board shall adopt a policy requiring the following continued auditing of building access:

 - (A) conduct at least weekly inspections during school hours of all exterior doors of all instructional facilities to certify that all doors are, by default, set to a closed, latched, and

locked status and cannot be opened from the outside without a key as required in subsection (c)(3)(A) of this section;

- (B) report the findings of weekly inspections required by subparagraph (A) of this paragraph to the school system's safety and security committee as required by TEC, §37.109, and ensure the results are kept for review as part of the safety and security audit as required by TEC, §37.108;
- (C) report the findings of weekly inspections required by subparagraph (A) of this paragraph to the principal or leader of the instructional facility to ensure awareness of any deficiencies identified and who must take action to reduce the likelihood of similar deficiencies in the future; and
- (D) include a provision in the school system's applicable policy stating that nothing in a school system's access control procedures will be interpreted as discouraging parents, once properly verified as authorized campus visitors, from visiting campuses they are authorized to visit.

(2) Exterior door numbering site plan.

- (A) A school system must develop and maintain an accurate site layout and exterior door designation document for each instructional facility school system-wide that identifies all exterior doors in the instructional facility and depicts all exterior doors on a floor plan with an alpha-numeric designation, in accordance with the door numbering specifications established in subsection (c)(1) of this section.
- (B) Copies of exterior door numbering site plans shall be readily available in each campus main office.
- (C) Electronic copies of exterior door numbering site plans shall be supplied to the local 911 entity so that the site plans can be made available to emergency responders by 911 dispatchers.

(3) Maintenance.

- (A) A school system shall perform at least twice-yearly maintenance checks to ensure the facility components required in subsection (c) of this section function as required. At a minimum, maintenance checks shall ensure the following:
 - (i) instructional facility exterior doors function properly, including meeting the requirements in subsection (c)(3)(A) and (C) of this section;
 - (ii) the locking mechanism for any ground-level windows that can be opened function properly;
 - (iii) any perimeter barriers and related gates function properly;
 - (iv) all panic alert or similar emergency notification systems in classrooms and campus central offices function properly, which includes at least verification from multiple campus staff and classroom locations that a notification can be issued and received by the appropriately designated personnel, that the alert is successfully broadcast to all campus staff and to appropriate law enforcement and emergency responders, and that a potential threat observed on video triggers an alert from video surveillance monitoring systems;
 - (v) all phones report location services properly when engaging 911/E911 systems;
 - (vi) all exterior master key boxes function properly and the keys they contain function properly;
 - (vii) law enforcement and emergency responder two-way radios operate effectively within each instructional facility; and

