

The Texas Education Agency (TEA) adopts new §61.1053, concerning reporting child abuse or neglect, including trafficking of a child. The new section is adopted without changes to the proposed text as published in the July 15, 2022 issue of the *Texas Register* (47 TexReg 4049) and will not be republished. The adopted new section implements Senate Bill (SB) 1831 and House Bill (HB) 1540, 87th Texas Legislature, Regular Session, 2021, by specifying signage requirements for posting the offenses of human trafficking on public and private school premises.

REASONED JUSTIFICATION: SB 1831 and HB 1540, 87th Texas Legislature, Regular Session, 2021, added Texas Education Code (TEC), §37.086, requiring TEA to develop rules around signage requirements for posting the penal offenses of human trafficking on public and private school premises.

Adopted new §61.1053 implements statute by specifying the penalties under Texas Penal Code, §20A.02(b-1), that must be included on each warning sign. The adopted new rule also provides definitions and the required locations for warning signs in alignment with TEC, §37.086.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began July 15, 2022, and ended August 15, 2022. A public hearing was held on August 10, 2022. Following is a summary of public comments received and agency responses.

Comment: Thirty-six private school administrators commented that the proposed rule should not apply to private schools.

Response: This comment falls outside the scope of the proposed rulemaking and is related to the requirements of statute under TEC, §37.086, as added by SB 1831 and HB 1540, 87th Texas Legislature, Regular Session, 2021.

Comment: A commenter requested that the agency provide schools and districts with the actual signage necessary to meet this requirement.

Response: The agency disagrees. TEA is unable to provide signs; however, the agency is providing templates for the required signage on the TEA website for public and private school use.

Comment: The Texas Association of School Boards (TASB) commented that the proposed rule does little to clarify the ambiguities in the statute or ease the financial burden placed on school districts. TASB further commented that (1) the agency should provide signs so that school districts experience no fiscal impact; (2) since no funds were appropriated, the agency should exercise discretion permitted in the statute; (3) the rule does not clarify the locations where signs must be posted and results in a massive unfunded mandate; (4) the rule should help clarify where signs are required rather than simply restating what is in the statute; and (5) the rule does not provide approved wording for the sign, which will result in extra expenses for school districts. TASB additionally commented that the proposed rule is flawed because it does not resolve issues with the underlying legislation that are within the agency's authority to resolve through rulemaking, and TASB suggested holding these rules until after the next legislative session, during which the agency can advocate for clarifications to the law and secure funding for all mandatory signs.

Response: The agency disagrees. TEA is unable to provide signs, as the agency was not provided funding to support this aspect of implementation; however, the agency is providing templates for the required signage on the TEA website for public and private school use. Relating to the comments about location, the rule provides information on where the signs are to be posted, while also providing public and private schools with discretion to meet the unique and individual needs and features of their respective campuses. In addition, TEC, §37.086 is very prescriptive regarding the location of the required signage. Finally, TEA is moving forward with the adoption of the rule per the statutory requirements under TEC, §37.086, and will make adjustments to the rule in alignment with any future legislative changes, as necessary.

Comment: The executive director of the Texas Private Schools Association commented in opposition to proposed new §61.1053, stating that TEA's interpretation of the rule to apply to private schools was not the legislative intent; that the impact on private schools is detrimental; and that TEA was to prioritize high crime areas in their distribution of these signs.

Response: The agency disagrees and provides the following clarification. TEA is responsible for implementing the legislation as written in TEC, §37.086, which includes provisions affecting private schools. Therefore, the rule's impact on private schools is outside the scope of the proposed rulemaking. Although TEA had flexibility to prioritize the distribution of signs based on reports of criminal activity, because there were no funds appropriated for that purpose, the agency did not have the ability to print or distribute signs to schools in specific areas with higher reports of crime.

Comment: The Legislative Counsel at the Texas Catholic Conference of Bishops commented in opposition to proposed new §61.1053, stating that the guidance removes parental control and imposes an unfunded mandate on private schools.

Response: The agency disagrees and notes that the comment about parental controls falls outside the scope of the rulemaking process. Regarding the comment that this rule imposes an unfunded mandate, the agency clarifies that TEA did not receive legislative funding for the requirements of this rule and is, therefore, unable to distribute signs or provide funding to support public and private schools with the statutory requirements included in the rule.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §37.086, as added by Senate Bill 1831 and House Bill 1540, 87th Texas Legislature, Regular Session, 2021, which requires Texas Education Agency to adopt rules regarding the placement, installation, design, size, wording, and maintenance procedures for the warning signs required under TEC, §37.086.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §37.086.

<rule>

§61.1053. Required Signage Pertaining to Criminal Offenses of Human Trafficking.

- (a) The following words and terms, when used in this section, have the following meanings.
 - (1) Premises--This term has the meaning assigned by Texas Health and Safety Code, §481.134.
 - (2) School--This term means a public or private primary or secondary school.
- (b) Each school shall post warning signs at the following locations:
 - (1) parallel to and along the exterior boundaries of the school's premises;
 - (2) at each roadway or way of access to the premises;
 - (3) for premises not fenced, at least every five hundred feet along the exterior boundaries of the premises;
 - (4) at each entrance to the premises and building; and
 - (5) at conspicuous places reasonably likely to be viewed by all persons entering the premises.
- (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 a school; 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.