

Chapter 61. School Districts**Subchapter EE. Commissioner's Rules on Reporting Child Abuse or Neglect, Including Trafficking of a Child****§61.1051. Reporting Child Abuse or Neglect, Including Trafficking of a Child.**

- (a) The following words and terms, when used in this subchapter, have the following meanings.
- (1) Child abuse or neglect--The definition of child abuse or neglect includes the trafficking of a child in accordance with Texas Education Code (TEC), §38.004.
 - (2) Other maltreatment--This term has the meaning assigned by Human Resources Code, §42.002.
 - (3) Trafficking of a child--This term has the meaning assigned by Texas Penal Code, §20A.02(a)(5), (6), (7), or (8).
- (b) The board of trustees of a school district or governing body of an open-enrollment charter school shall adopt and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements outlined in Texas Family Code, Chapter 261.
- (1) The policies must require that every school employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by abuse or neglect submit a written or oral report to at least one of the following authorities within 48 hours or less, as determined by the board of trustees, after learning of facts giving rise to the suspicion:
 - (A) a local or state law enforcement agency;
 - (B) the Texas Department of Family and Protective Services, Child Protective Services Division;
 - (C) a local office of Child Protective Services, where available; or
 - (D) the state agency that operates, licenses, certifies, or registers the facility in which the alleged child abuse or neglect occurred.
 - (2) The policies must require a report to the Texas Department of Family and Protective Services if the alleged abuse or neglect involves a person responsible for the care, custody, or welfare of the child and must notify school personnel of the following:
 - (A) penalties under Texas Penal Code, §39.06; Texas Family Code, §261.109; and Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases) for failure to submit a required report of child abuse or neglect;
 - (B) applicable prohibitions against interference with an investigation of a report of child abuse or neglect, including the following:
 - (i) Texas Family Code, §261.302 and §261.303, prohibiting school officials from denying an investigator's request to interview a student at school; and
 - (ii) Texas Family Code, §261.302, prohibiting school officials from requiring the presence of a parent or school administrator during an interview by an investigator;
 - (C) immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;
 - (D) confidentiality provisions relating to reports of suspected child abuse or neglect;
 - (E) any disciplinary action that may result from noncompliance with the district's reporting policy; and

- (F) the prohibition under TEC, §26.0091, against using or threatening to use the refusal to consent to administration of a psychotropic drug to a child or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, except as authorized by TEC, §26.0091.
- (3) Each school district and open-enrollment charter school shall adopt and implement a policy addressing sexual abuse, trafficking, and other maltreatment of children. The policy must be included in any informational handbook provided to students and parents and must address the following:
 - (A) methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, trafficking, and other forms of maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
 - (B) actions a child who is a victim of sexual abuse, trafficking, or other maltreatment should take to obtain assistance and intervention; and
 - (C) available counseling options for students affected by sexual abuse, trafficking, or other maltreatment.
- (4) The policies must be consistent with Texas Family Code, Chapter 261, and 40 TAC Chapter 700 (relating to Child Protective Services) regarding investigations by the Texas Department of Family and Protective Services, including regulations governing investigation of abuse by school personnel and volunteers.
- (5) The policies may not require that school personnel report suspicions of child abuse or neglect to a school administrator prior to making a report to one of the agencies identified in paragraph (1) of this subsection.
- (6) The policies must include the current toll-free telephone number of the Texas Department of Family and Protective Services.
- (7) The policies must provide for cooperation with law enforcement child abuse investigations without the consent of the child's parent, if necessary, including investigations by the Texas Department of Family and Protective Services.
- (8) The policies must include child abuse anti-victimization programs in elementary and secondary schools consisting of age-appropriate, research-based prevention designed to promote self-protection and prevent sexual abuse and trafficking.
- (c) The policies required by this section and adopted by the board of trustees shall be distributed to all school personnel at the beginning of each school year. The policies shall be addressed in staff development programs at regular intervals determined by the board of trustees.
- (d) Training concerning prevention techniques for, and recognition of, sexual abuse, trafficking, and all other maltreatment of children, including the sexual abuse, trafficking, and other maltreatment of children with significant cognitive disabilities, must be provided as a part of new employee orientation to all new school district and open-enrollment charter school employees and to existing school district and open-enrollment charter school employees not previously trained as required by TEC, §38.0041.
 - (1) The training must include:
 - (A) factors indicating a child is at risk for sexual abuse, trafficking, or other maltreatment;
 - (B) warning signs indicating a child may be a victim of sexual abuse, trafficking, or other maltreatment;
 - (C) internal procedures for seeking assistance for a child who is at risk for sexual abuse, trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
 - (D) techniques for reducing a child's risk for sexual abuse, trafficking, or other maltreatment; and

- (E) information on community organizations that have relevant research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff, students, and parents.
- (2) Each school district and open-enrollment charter school must maintain records that include the name of each staff member who participated in training.
- (3) To the extent that resources are not yet available from the Texas Education Agency or commissioner of education, school district and open-enrollment charter schools shall implement the policies and trainings with existing or publicly available resources. The school district or open-enrollment charter school may also work in conjunction with a community organization to provide the training at no cost to the district or charter school.
- (e) Using a format and language that is clear, simple, and understandable to students, each public school and open-enrollment charter school shall post, in English and in Spanish:
 - (1) the current toll-free Texas Department of Family and Protective Services Abuse Hotline telephone number;
 - (2) instructions to call 911 for emergencies; and
 - (3) directions for accessing the Texas Department of Family and Protective Services website (www.txabusehotline.org) for more information on reporting abuse, neglect, and exploitation.
- (f) School districts and open-enrollment charter schools shall post the information specified in subsection (e) of this section at each school campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The information must be on a poster (11x17 inches or larger) in large print and placed at eye-level to the student for easy viewing. Additionally, the current toll-free Texas Department of Family and Protective Services Abuse Hotline telephone number should be in bold print.

Statutory Authority: The provisions of this §61.1051 issued under the Texas Education Code, §§38.004, 38.0041, and 38.0042; Texas Family Code, §261.001; and Texas Penal Code, §20A.02(a)(5)-(8).

Source: The provisions of this §61.1051 adopted to be effective December 5, 1999, 24 TexReg 10527; amended to be effective January 20, 2004, 29 TexReg 457; amended to be effective July 22, 2014, 39 TexReg 5573; amended to be effective November 6, 2019, 44 TexReg 6534.