

The background of the slide features a large, faint, circular seal of the State of Texas. The seal contains a five-pointed star in the center, surrounded by a wreath of olive and oak branches. The words "THE STATE OF TEXAS" are inscribed around the perimeter of the seal.

# 89<sup>th</sup> Legislative Session

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## Abuse and Misconduct Reporting

# Ethical and Legal Duty to Protect Students



- Educators are obligated to protect students from harmful or inappropriate behavior, whether it comes from colleagues or others.
- This responsibility is more important than any personal doubts or discomfort about reporting a colleague's misconduct or taking part in an investigation. The safety and well-being of students must always come first. **Reporting suspected abuse is not only a moral duty—it is also required by law.**
- Educators and other professionals who are required by law to report suspected child abuse or neglect are protected when they make a report in good faith. (Texas Family Code Section 261.106.)



# Child Abuse and Required Reporting





# Reporting Requirements to DFPS/Law Enforcement

## ***Texas Family Code (TFC) §261.001 and §261.101:***

If a professional has reasonable cause to believe that a child has been abused as defined by TFC §261.001, the professional shall make a report to the Department of Family and Protective Services (DFPS) or law enforcement no later than **24 hours** after the professional first has reasonable cause to believe that the child has been abused or neglected. (This timeline was previously 48 hours.)

Although the definition of [abuse](#) (linked) is extensive, common abuse types seen within Texas schools that are **REQUIRED** to be reported include:

- physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child

- **sexual conduct harmful to a child's mental, emotional, or physical welfare**

- **failure to make a reasonable effort to prevent sexual conduct harmful to a child**

- **compelling or encouraging the child to engage in sexual conduct**

- **improper relationship between educator and student**

- knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked

- the failure to make a reasonable effort to prevent a child from being trafficked

- **Indecency with a child**



# Reporting Requirements to TEA/SBEC

## REQUIREMENT TO REPORT ALLEGATIONS OF DIRECT STUDENT HARM TO TEA / SBEC WITHIN 48 HOURS OF AWARENESS- *TEC §22A.051 and §22A.052*:

A superintendent must report the following types of allegations of misconduct by SBEC-certified or non-certified employees as well as service providers to TEA / SBEC within 48 hours of becoming aware of evidence of the following types of misconduct:

- abused or otherwise committed an unlawful act with a student or minor, including by engaging in conduct that involves physical mistreatment or constitutes a threat of violence to a student or minor, regardless of whether the conduct resulted in bodily injury

- failed to maintain appropriate boundaries with a student or minor, as defined by [SBEC rule](#).

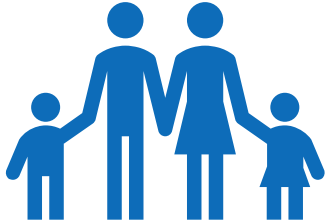
- engaged in inappropriate communications with a student or minor, as defined by [SBEC rule](#).

- was involved in or solicited a romantic relationship with or solicited or engaged in sexual contact with a student or minor

A principal must report these types of allegations to a superintendent within 48 hours of awareness.



# Required LEA Notice to Parents | SB 571



## Notice:

- Misconduct
- Outcome
- Report Status

## EDUCATIONAL ENTITY NOTICE TO PARENT OR GUARDIAN – *TEC §22A.053*:

The board of trustees or governing body of an educational entity **shall adopt a policy** under that requires that a notice is provided to the parent or guardian **as soon as feasible\*** when an employee or service provider is alleged to have engaged in certain misconduct involving a student. The notice must include the following:

- that the alleged misconduct occurred;
- whether the person was terminated following an investigation of the alleged misconduct or resigned before completion of the investigation;
- whether a report was submitted to the Texas Education Agency or State Board for Educator Certification concerning the alleged misconduct.

Allegations of misconduct requiring this Notice are listed below (same list requiring reporting to TEA/SBEC within 48 hours):

- **abused or otherwise committed an unlawful act with a student or minor,**
- was **involved in or solicited a romantic relationship** with or **solicited or engaged in sexual contact with a student or minor**
- engaged in **inappropriate communications with a student or minor**, as defined by [SBEC rule](#)
- **failed to maintain appropriate boundaries with a student or minor**, as defined by [SBEC rule](#)

\*SB 12 (89(R)) updated §26.008(a)(2), requiring school districts to notify a parent within **one school business day** after the date a school employee first suspects that a criminal offense has been committed against their student.



# How to Report Abuse / Human Trafficking



# How to Report Abuse/ Human Trafficking

***If you believe a child is being abused, is a victim of sexual misconduct, or any other crime, contact law enforcement immediately.***

| In an Emergency:                                                                                                                                                                                                                                                                                                                                                               | If There Is No Immediate Danger                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | If You Suspect Human Trafficking                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>If the situation is life-threatening or requires immediate help:</p> <ul style="list-style-type: none"><li>•<b>Call 911</b> or your local law enforcement agency right away.</li><li>•<b>Please note: School district or local education agency (LEA) police departments are not considered local law enforcement for emergency reporting or abuse reporting.</b></li></ul> | <p>If you suspect child abuse or neglect but the child is not in immediate danger:</p> <ul style="list-style-type: none"><li>•Report it to DFPS. <b><u>Please note, school employees are required to report abuse to DFPS.</u></b> (TFC §261.103(c))<ul style="list-style-type: none"><li>o Online: <a href="#">Texas Abuse Hotline</a></li><li>o By phone: 1-800-252-5400 (recommended for urgent situations)</li></ul></li></ul> <p>You should also report the matter to local law enforcement.</p> | <p>Human trafficking of children constitutes child abuse per TFC §261.001(1)(L) and requires reporting.</p> <p>If the suspected abuse involves human trafficking, you must report it to <b><u>both</u></b>:</p> <ul style="list-style-type: none"><li>•DFPS <a href="#">online</a> or at 1-800-252-5400, and</li><li>•Local law enforcement, the National Human Trafficking Hotline at 1-888-373-7888, or the iWatchTexas <a href="#">website</a> or phone number at 844-643-2251.</li></ul> |



# Important Reminders for Abuse Reporting

## Important Reminders for School Employees:

**When in doubt, report.** If you have reasonable cause to believe abuse may have occurred—even if you're unsure—you are still required to report it. **The DFPS Texas Abuse Hotline can help if you're uncertain.**

<https://www.txabusehotline.org/Login/Default.aspx>

**Do not investigate the situation yourself before reporting:** School staff must not try to confirm or rule out abuse before reporting. Even well-meaning actions can interfere with official investigations and may unintentionally harm the child.

**You must report it yourself.** The legal duty to report suspected abuse cannot be passed on to someone else.

**Work in coordination with trained investigators from DFPS and law enforcement to complete employee investigations.**

**For specific questions, please consult your district's legal counsel.**



# Consequences for Failure to Report



# Criminal Consequences

## Texas Family Code Sec. 261.109

### FAILURE TO REPORT; PENALTY.

A person who is a professional commits an offense if the person is required to make a report and knowingly fails to make a report as provided in this chapter. This is a **Class A misdemeanor**, except that the offense is a **state jail felony** if it is shown on the trial of the offense that the actor intended to conceal the abuse or neglect.

#### Class A Misdemeanor Penalties:

- A fine not to exceed \$4,000;
- Confinement in jail for a term not to exceed one year; or
- Both such fine and confinement.

## Texas Education Code Sec. 22A.051 and 22A.052

### REQUIREMENT TO REPORT EDUCATOR MISCONDUCT

A superintendent or principal required to submit a report of misconduct to TEA / SBEC commits a **state jail felony** if the superintendent fails to file a report with the intent to conceal a person's criminal record or alleged incident of misconduct.

#### State Jail Felony Penalties:

- Required confinement in a state jail for any term between 180 days and 2 years.
- In addition to confinement, an individual may be punished by a fine not to exceed \$10,000.



# Certification/ Employability Sanctions

The State Board for Educator Certification (SBEC) may take one or more of the following disciplinary actions against an educator's certificate:

- Place a **warning** on the certificate during an investigation
- **Deny** certification or place restrictions
- Issue an **inscribed reprimand**;
- **Suspend** a certificate for a set term
- Accept a **voluntary surrender for the revocation** of a certificate
- **Revoke** a certificate (through board decision or operation of law)
- Impose any **additional conditions or restrictions** upon a certificate as deemed necessary by the SBEC
- Impose an **administrative penalty of \$500-\$10,000** on a superintendent, director, or principal who fails to timely file a required report to TEA/SBEC

The Commissioner of Education may place a person on the **Do Not Hire Registry**, preventing that individual from being employed in Texas public schools.



## LIABILITY

### *Tex. Civ. Prac. & Rem. Code §118.002:*

•New Chapter 118 provides that **a public school** that does not take precautions in hiring, supervising, or employing an employee **may be liable for an act or omission that is committed by the employee against a student** enrolled in the school and that is:

- sexual misconduct; or
- failure to report suspected child abuse or neglect under TFC §261.101

## WAIVER OF GOVERNMENTAL IMMUNITY - *Tex. Civ. Prac. & Rem. Code §118.006:*

•A public school's **governmental immunity to suit and from liability is waived** to the extent of liability created by this chapter.

•**A professional school employee may not assert official immunity** in an action brought under this chapter.

## DAMAGES, COURT COSTS AND ATTORNEY'S FEES, AND REMEDIES NOT EXCLUSIVE - *Tex. Civ. Prac. & Rem. Code §118.003, §118.004, and §118.005:*

•Victims and families may pursue legal action when misconduct occurs and is not properly addressed and be awarded **actual damages**, in a maximum amount of \$500,000 as well as **court costs, attorney's fees** and **other legal remedies**.





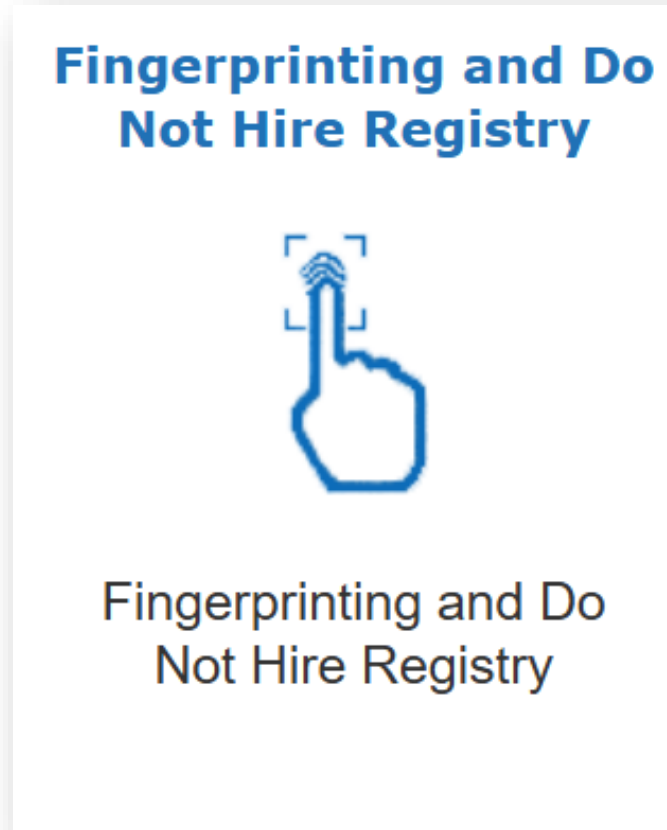
# Reporting Misconduct to TEA/SBEC Portal



Superintendents are required to report all misconduct and respond to TEA/SBEC subpoenas through the internet portal- TEC § 22A.103 and TEC § 22A.155.

**The following must be submitted through the agency's Misconduct Reporting Portal:**

- **Reports** of misconduct to TEA/SBEC required under TEC § 22A.051 and TEC § 22A.052 and
- **Responses** to subpoenas that the agency issues under TEC § 22A.103.



Agency staff will be reaching out to districts without confirmed account access over the next few months

<https://helpdesk.tea.texas.gov/Fingerprinting-and-Do-Not-Hire-Registry/#SchoolDistrictsCharterSchools>



# Pre-Employment Steps to Ensure Student Safety

# Pre-Employment Checklist:

To help ensure student safety:



- ☐ Require **Criminal History Background Checks**- Texas law requires background checks for individuals working in or around schools.
- ☐ Check the **Do Not Hire Registry** and the **Virtual Record of Educator Certificate**.
- ☐ Require prospective employees to complete the **Pre-Employment Affidavit**.

•TEA will post its updated Pre-Employment Affidavit to the TEA Website in early August.





# Policy and Training Requirements



# Policy Requirements

Texas law\* (TEC § 38.004 and § 38.0041) requires all public-school systems to adopt policies and procedures for reporting and preventing child abuse, sexual abuse, human trafficking, and other forms of maltreatment of children. These policies help ensure that students are protected, and that school staff are trained to recognize and respond to signs of abuse.

These policies must address:



**Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse and other maltreatment.**



**Actions that a child who is a victim should take to obtain assistance and intervention.**



**Available counseling options for impacted students.**

\*SB 12 (89(R)) adds TEC §1.007, which requires local education agencies to implement and comply with board policies that they are required by law to adopt.

## School Staff\*

All new school employees—and any staff who have not yet received training—must complete instruction on:

- How to recognize and prevent sexual abuse, trafficking, and other forms of maltreatment
- Special considerations for children with significant cognitive disabilities

Because there have been recent substantive updates to these requirements, **TEA encourages LEAs to require all staff to complete up-to-date training again to understand obligations under current law.**

## Superintendents

An individual who holds a superintendent certificate that is renewed on or after January 1, 2021, must complete at least two and a half hours of training every five years on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children, in accordance with TEC § 21.054(h).

## School Board Members

Board members must complete one hour of training every two years covering: Legal responsibilities, Best practices, and District policies related to child abuse, sexual abuse, and human trafficking. Training must be provided by a registered provider, authorized provider, or Lone Star Governance (LSG) coach. For more information, visit the [TEA School Board Trustee Training webpage](#).

\*In August, TEA will provide a free training that satisfies the school staff training requirement.



# TEA Training- Coming Soon



In August, TEA will issue a TAA announcing the availability of new TEA training modules on child abuse reporting and misconduct reporting requirements. Two trainings will be available:

**Training 1:** Responsibilities relating to **all school staff-** this free training satisfies the legal training requirement for school staff.

**Training 2:** Responsibilities **specific to Campus and District Administrators**, meant to support school leaders in understanding how they must recognize, report, and respond to misconduct