



Texas Association of School Boards

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School Safety after Senate Bill 11

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Senate Bill 11, passed by the Texas Legislature in 2019, addressed school safety in the wake of tragic school shootings, including an attack in Santa Fe, Texas. The comprehensive bill addressed elements of Texas Governor Greg Abbott's school safety action plan, as well as recommendations from both houses of the legislature following interim hearings on school safety. The bill created a school safety allotment, estimated at \$9.72 per student. The allotment must be used to improve school safety in enumerated ways, including: improvements to school infrastructure; use or installation of physical barriers; the purchase and maintenance of security cameras or other security equipment or technology; employment of school district peace officers, private security officers, and school marshals; collaboration with local law enforcement agencies; school safety and security training and planning; and more.

The bill added requirements and resources with respect to several school safety issues, including major changes in the following areas:

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Threat Assessment

Each district must establish a threat assessment and safe and supportive school team to serve at each campus and adopt policies and procedures for the teams. A model local policy responsive to this requirement appears at a new policy code, FFB(LOCAL), as part of TASB Policy Service's Update 114. A team may serve more than one campus, but every campus must have a team. Together, the team members have requisite expertise in areas such as mental health, safety, law enforcement, special education, and classroom management. The superintendent may assign a district-wide committee to oversee the work of the campus teams.

What do the teams do? The team is responsible for developing and implementing the safe and supportive school program created in accordance with rules to be adopted by the commissioner. In brief, TEA's program will call for a systemic and coordinated, multitiered support system that addresses students' social, emotional, behavioral, and mental health and allows for multiagency collaboration to assess risks and threats in schools and provide appropriate interventions.

Each school board's policy must be consistent with model policies and procedures from the Texas School Safety Center (TxSSC). The TxSSC has posted guidelines online to help school districts get started on threat assessment practices, and TASB and the TXSSC collaborated on the model local board policies in Update 114 to districts' local policy manuals.

Board policy must require each team to receive training from the TxSSC or an ESC and to complete mandatory reports to TEA covering a broad and detailed list of matters including, but not limited to, the professional backgrounds and training of the team members, statistical and demographic information related to the assessments conducted by the team, and specific educational and law enforcement outcomes related to the assessments.

When is threat assessment appropriate? Teams will conduct threat assessments for individuals who make threats of violence or exhibit harmful, threatening, or violent behavior as defined by the law. *Harmful, threatening, or violent behavior* includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in specific interventions, including mental health or behavioral supports or certain school discipline. Teams must: gather and analyze data to determine the level of risk and appropriate intervention for each student, including referring a student for mental health assessment and implementing an escalation procedure, if appropriate, in accordance with district policy; provide guidance to students and school employees on recognizing harmful, threatening, or violent behavior that may pose a threat to the community, school, or individual; and support the district in implementing the district's multihazard emergency operations plan.

If a team determines that a student or other individual poses a serious risk of violence to self or others, the team must immediately report the determination to the superintendent, and the superintendent must immediately attempt to inform the student's parent. This section does not prevent school officials from acting immediately to respond to an imminent threat or emergency.

How do the teams work with law enforcement? Senate Bill 2135 expands the information a school district will receive from law enforcement under Texas Code of Criminal Procedure article 15.27. Upon the arrest or referral of a student to a juvenile board, a law enforcement agency must give written and oral notification to the student's school with sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the superintendent or superintendent's designee to determine whether it is necessary to conduct a threat assessment or prepare a safety plan related to the student. Upon request by the district, the law enforcement agency must provide information, including otherwise confidential information, relating to the student for the purpose of conducting a threat assessment or preparing a safety plan. The bill permits a school board to enter into an MOU with a law enforcement agency regarding this exchange of information.

Parental Involvement

Senate Bill 11 and related provisions focus on the need for school officials to notify parents about risks involving their children and to seek consent from parents before students undergo mental health screenings or receive mental health services.

Notice of threats: As described above, if a threat assessment team determines that a student is at risk of violence, the superintendent must immediately attempt to notify the student's parent. If a district receives a bomb threat or terroristic threat involving a facility where students are present, district officials must provide notice "as soon as possible" to parents whose students are assigned to or regularly use the facility. In addition, a district's emergency operations plan must provide for immediate notification to parents in circumstances involving a significant threat to the health or safety of students.

Information to parents: Senate Bill 11 amends Texas Health and Safety Code chapter 161 on mental health promotion, substance abuse, and suicide prevention to allow districts to provide all parents and families in the district information on identifying risk factors, accessing resources for treatment or support provided on or off campus, and accessing available student accommodations. House Bill 18, effective with the 2020-21 school year, will add to the information that must be shared with parents about available counseling in and out of school.

Consent to treatment: Senate Bill 11 requires that before a student under 18 may receive mental health services by a threat assessment team, parental consent is required on a form provided by the district that complies with state and federal law. In addition, the Texas Child Mental Health Care Consortium created by the new law must develop and post online a model form for securing parental consent for the treatment of minors. The requirement to obtain parental consent before treatment does not apply to school counseling provided pursuant to the Texas Education Code (including academic and guidance counseling and providing information about postsecondary education).

School-based health centers: House Bill 18 expands opportunities for school districts to establish school-based health centers. Mental health services and substance abuse services are added to the possible care available at school-based centers. Parental consent is required before a center refers a student for physical or mental health care, and the consent must clarify whether the referral is for a single visit or a course of treatment.

Mental Health Support

Curriculum changes: Beginning with the 2019-20 school year, health instruction required to be offered as part of the enrichment curriculum must include mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making; as well as suicide prevention, including recognizing suicide-related risk factors and warning signs. Starting in the

2020-21 school year, House Bill 18, addressed below, will further expand the mental health emphasis in health curriculum. In addition, the State Board of Education (SBOE) must pass rules to require each district to incorporate instruction in digital citizenship into the district's curriculum, including information regarding the potential criminal consequences of cyberbullying.

School Health Advisory Committees (SHACs): Beginning with the 2019-20 school year, suicide prevention is added to the mental health curriculum about which SHACs must advise. SHACs are charged with recommending strategies and policies to increase parental awareness regarding risky behaviors and early warning signs of suicide risks and behavioral health concerns, including mental health disorders and substance use disorders, as well as available community programs and services to address these concerns.

Starting in the 2020-21 school year, House Bill 18, described below, will clarify that all SHACs should advise on elementary and middle school health curriculum, and also high school health curriculum if the district requires health for graduation. HB 18 calls for the integration of physical and mental health in the health curriculum and expands awareness about e-cigarettes to all substance abuse. School counselors are added to the SHAC membership, and for each campus, the SHAC must post a statement of whether the campus has a full-time nurse or full-time school counselor. This bill also expands the required publication of statements from the SHAC, including a statement of the policies and procedures adopted to promote the physical health and mental health of students, the physical health and mental health resources available at each campus, contact information for the nearest providers of essential public health services, and the contact information for the nearest local mental health authority.

Trauma-informed care: Under Senate Bill 11, each district must address in its district improvement plan and adopt a policy on trauma-informed care that addresses methods for increasing staff and parent awareness of trauma-informed care; implementation of trauma-informed practices and care by district and campus staff using resources and training provided by TEA; and available counseling options for students affected by trauma or grief.

In accordance with rules to be adopted by the commissioner, the required training must be provided to all new and existing employees on a schedule set by TEA, through a program selected from the list of recommended best practice-based programs and research-based practices established under Texas Health and Safety Code. If a school district determines that the district does not have sufficient resources to provide the training, the district may partner with a community mental health organization to provide approved training at no cost to the district.

Inventory of mental health resources: Working through a rubric set by TEA, ESCs will be asked to identify regional resources for training and technical assistance on practices that support the mental health of students; school-based programs that provide prevention or intervention services to students; community-based programs that provide school-based or school-connected prevention or intervention services to students; Communities In Schools programs; school-based mental health providers; and public and private funding sources available to

address the mental health of students. TEA will use the regional reports to create a state inventory by March 1, 2020, and every other year thereafter. TEA must use the information to produce a statewide plan for mental health services, including any changes to the rubric, the results of the regional and statewide inventories, and the agency's goals for student mental health access across the state, including goals relating to: methods to objectively measure positive school climate; increasing the availability of early, effective school-based or school-connected mental health interventions and resources for students in need of additional support; and increasing the availability of referrals for students and families to specialized services for students in need of additional support outside the school.

Texas Child Mental Health Care Consortium: Senate Bill 11 also establishes the Texas Child Mental Health Care Consortium to leverage the expertise and capacity of universities to address urgent mental health challenges and improve the mental health care system in this state in relation to children and adolescents. The consortium will be made up of 13 named health-related institutions of higher education, as well as the Texas Health and Human Services Commission (HHSC), the Texas Higher Education Coordinating Board, and designated nonprofit organizations. The consortium will establish a network of comprehensive child psychiatry access centers housed at the 13 universities to provide consultation services and training opportunities for pediatricians and primary care providers operating in the center's geographic region to better care for children and youth with behavioral health needs. Focused on the needs of at-risk children and youth, the consortium will establish or expand telemedicine or telehealth programs for identifying and assessing behavioral health needs and providing access to mental health care services.

State appropriations: In House Bill 1, the Legislature appropriated almost \$9 million to HHSC to support children's mental health and \$5 million to expand telemedicine through Texas Tech University. TEA and TxSSC both received additional appropriations to support training and guidance.

More to come: House Bill 18, effective December 1, 2019, and applicable with the 2020-21 school year, emphasizes the need to provide support for mental health awareness and substance abuse prevention in public schools. The bill requires district improvement plans to provide for positive behavior interventions and support, including interventions and supports that integrate best practices on grief-informed and trauma-informed care. Oversight of suicide prevention programs in schools is relocated from HHSC to TEA. Districts must provide for the implementation of a comprehensive school counseling program as defined by law.

HB 18 also alters the existing requirement that "up to" 25 percent of teacher continuing education address specified topics to be a requirement that "at least" 25 percent of teacher training focus on the listed topics, including school climate issues and special populations. By May 1, 2020, SBEC rules must expand and incentivize continuing education for educators in evidence-based mental health first aid training programs or evidence-based grief-informed and trauma-informed care programs.

Finally, under HB 18, a school district can employ or contract with one or more nonphysician mental health professionals—such as a psychologist, a registered nurse with a psychiatric background, a professional counselor, a licensed clinical social worker, or a family therapist—to provide mental health services to students or to advise school personnel on matters of mental health.

Safety Planning

Senate Bill 11 made numerous changes to districts' required multi-hazard emergency operations plans (EOPs) and safety and security audits.

- *Prevention* is added to the issues to be addressed in the plan.
- The TxSSC is now the lead entity defining the scope of EOPs, in conjunction with the governor's office of homeland security and the commissioners of education and higher education.
- Plans must address training for employees, including substitute teachers.
- Plans must ensure employees, including substitutes, must have classroom access to communications devices (like cell phones) in order to reach emergency services.
- Plans must provide measures to ensure communications technology and infrastructure are adequate during emergencies.
- Plans must provide for mandatory drills.
- Safety and security audits must comply with procedures from the TxSSC or registered providers.
- An audit must certify that the district spent its school safety allotment only on the purposes designated for the allotment.
- A district must report the results of its audit to the TxSSC in a report signed by the board or superintendent.
- Plans must include a chain of command for decision-making during emergencies, including a backup if the final decisionmaker is not available.
- Plans must provide for physical and psychological safety in natural disasters, active shooter, and other dangerous situations identified by the TxSSC.
- Plans must ensure safety for students in portables. By January 1, 2020, the TxSSC will issue guidance about best practices for ensuring safety in portables.
- Plans must ensure equal access for students and staff with disabilities.
- Plans must provide for immediate notification to parents in circumstances involving a significant threat to the health or safety of students, including identification of the individual with responsibility for overseeing the notification.

- Plans must provide for the psychological safety of students, staff, and the community during a recovery based on detailed best practices recommended by numerous sources for trauma-informed care and suicide prevention.
- Plans must provide that substitute teachers have access to buildings and materials necessary to carry out the duties of an employee in an emergency.
- Plans must list the names of the members of the safety and security committee and the date of each committee meeting in the preceding year.

School Safety and Security Committee: To the greatest extent possible, the committee will include at least the following: a representative from the county or city office of emergency management where the district is located; a representative of the local police or sheriff; a representative of the school district police, if any; the board president; another board member; the superintendent; superintendent designees including at least one classroom teacher; a member of the governing body or designee from an Open Enrollment Charter School (OECS), if the district partners with an OECS; and two parents. In addition to existing duties, the committee will periodically recommend updates to the EOP and consult with local law enforcement about how to increase law enforcement presence near campuses. Committees must meet at least three times per year (fall, spring, and summer), and are subject to the Open Meetings Act, including relevant exceptions to the Act.

Mandatory drills: By January 1, 2020, the commissioner, in consultation with the TxSSC and the fire marshal, must adopt rules on evacuating and securing facilities and designating up to eight mandatory drills including the number of evacuation fire exit, lockdown, lockout, shelter-in-place, and evacuation drills.

Waiver of operational minutes for training: The commissioner may adopt rules to offer a waiver allowing a district to operate for fewer minutes than required by Texas Education Code section 25.081(a) if the district requires all district educators to attend a school safety training course approved by the TxSSC. The waiver must allow sufficient time for the school district's educators to attend the school safety training course. The waiver may not result in an inadequate number of minutes of instructional time for students or reduce the number of minutes of operation and instructional time by more than 420 minutes.

TxSSC review of EOPs and audits: School districts must submit their EOPs to the TxSSC on request or in accordance with a schedule set by the TxSSC. The TxSSC is required to conduct random or needs-based examinations of the EOPs. Every district's EOP is supposed to be reviewed periodically. The TxSSC will review plans, looking for compliance or deficiencies. If a plan has deficiencies, the district may create a corrective action plan and address the deficiencies within six months. If, however, the district does not take corrective action within six months, the TxSSC must report the district to TEA for appointment of a conservator. Documents submitted for purpose of the review are not subject to disclosure under the Texas Public Information Act.

If the results of a district's audit indicate that the district is not complying with safety standards, the TxSSC may require the district to submit its EOP for immediate review. If a district fails to submit the results of its audit, the TxSSC must issue a warning. If the district does not comply within six months, the TxSSC must notify TEA and the district that the district must conduct a mandatory public hearing regarding noncompliance. The commissioner may adopt rules to provide that if a district fails to submit an EOP to the TxSSC, the commissioner may appoint a conservator to order the district to adopt an EOP. If the district does not comply with the conservator's order, the commissioner may appoint a board of managers for the district.

School facilities: By January 1, 2020, SB 11 requires the commissioner to adopt facilities standards for school districts and OECSSs to ensure instructional facilities provide a secure and safe environment. The standards are to cover both new construction and renovation of existing facilities. Also, in addition to existing reasons for issuing debt, school districts are authorized to issue bonds for retrofitting school buses with emergency, safety, or security equipment and purchasing or retrofitting vehicles to be used for emergency, safety, or security purposes.

Security Personnel

Training for peace officers: Under existing law, school districts with an enrollment of over 30,000 students who commissioned peace officers or used school resource officers had to require their officers to take 16 hours of training on child development, de-escalation skills, restorative practices, and related issues within 120 days of being commissioned. Under Senate Bill 11, this training is required for all school-based peace officers, regardless of district enrollment. Officers will have up to 180 days to complete the training. New board policies to implement this requirement must be adopted by October 1, 2019. Officers employed before September 1, 2019, must complete the training by August 31, 2020.

In addition, under House Bill 2195, all school-based law enforcement officers must take a training course approved by the Texas Commission on Law Enforcement on active shooter incidents as soon as practicable but not later than August 31, 2020.

Duties of peace officers: Senate Bill 1707 requires the board of trustees, in coordination with district campus behavior coordinators and other district employees, to establish the law enforcement duties of peace officers, school resource officers (SROs), and security personnel (collectively "officers"). The duties must be included in the district improvement plan, the Student Code of Conduct, any MOU for an SRO, and any other campus or district document describing the role of peace officers, SROs, or security personnel in the district. School district officers must perform law enforcement duties, which must include protecting the safety and welfare of any person in the officer's jurisdiction and the property of the school district. School districts may not assign officers routine student discipline, school administrative tasks, or contact with students unrelated to the officers' law enforcement duties. Officers may have informal contact with students unrelated to the assigned duties of the officer or an incident involving student behavior or law enforcement.

School marshals: House Bill 1387 lifts a cap on the number of school marshals a school district or private school may appoint. Under prior law, public and private schools were limited to one marshal per campus or per 200 students. Now a public school district and a private school may appoint one or more school marshals per campus.

This document is continually updated, and references to online resources are hyperlinked, at tasb.org/services/legal-services/tasb-school-law-esource/business/documents/school-safety-after-senate-bill-11.pdf. For more information on this and other school law topics, visit TASB School Law eSource at schoolawesource.tasb.org.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.

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