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## ADVISORY ON SCHOOL SAFETY FOR TEXAS STUDENTS

Every school district's most sacred duty is to ensure student safety and wellbeing. This advisory is intended to educate parents about some of the most important legal requirements state law places on school districts to prepare and train staff and students for incidents of school violence. Parents should be aware that state laws have recently been enacted to require school districts to:

- Provide every classroom with silent panic alert technology that allows for immediate contact with emergency services, law enforcement, health departments, and fire departments.<sup>1</sup>
- Require certain district employees to complete a mental health training program designed to help employees recognize and support children experiencing a mental health or substance use issue that may pose a threat to school safety.<sup>2</sup>
- Provide the Department of Public Safety, local law enforcement agencies, and local emergency first responders with an accurate map of each campus and school building, and an opportunity to conduct walk-throughs using this map.<sup>3</sup>
- Adopt a policy for providing electronic notice to parents and certain others of violent activity that has occurred or is being investigated at a district campus, district facility, or district-sponsored activity.<sup>4</sup>

### **School districts must ensure an armed security officer is present at each campus.**

State law additionally now requires the school board of each district to determine the appropriate number of armed security officers for each campus but ensure an armed security officer is present at *each* campus during regular school hours.<sup>5</sup> The security officer must be either a school district peace officer, school resource officer, or a commissioned peace officer employed as security personnel.<sup>6</sup> To fulfill these requirements, the school board of any school district may employ security personnel, enter into an agreement with a local law enforcement agency for the provision of school resource officers, or directly commission peace officers.<sup>7</sup> Accordingly, *all* school districts are authorized to employ or retain trained law enforcement personnel. If a school board claims it is unable to provide an armed security officer at each campus due to lack of funding or qualified personnel, the board must develop an alternative plan. This plan may include designating an individual to act as a security officer who is a school marshal, discussed in further detail below, or a district employee or contractor who meets certain qualifications.

### **State law permits school districts to enact policies allowing employees to arm themselves.**

School districts also may allow district employees to arm themselves through either the school marshal program or a "Guardian Plan."<sup>8</sup> State law establishes that a school board may appoint one or more school marshals—district employees who, after completing required training provided by the Texas Commission on Law Enforcement, are permitted to carry a concealed handgun or possess a handgun on the

physical premises of a school.<sup>9</sup> An educational institution may also provide written regulations or authorization allowing a person to carry a weapon.<sup>10</sup> Parents may urge their elected school board officials to leverage law enforcement resources and adopt policies that allow willing teachers and staff to take steps to protect their students.

### **State law requires school districts to have a plan for responding to emergencies.**

State law requires that every school district implement a “multihazard emergency operations plan,” referred to as an EOP, that establishes benchmarks for a wide range of campus emergencies, including an active-shooter scenario, by addressing prevention, mitigation, preparedness, response, and recovery. The EOPs are required to include specific training for all school district employees,<sup>11</sup> to ensure every employee has access to a telephone,<sup>12</sup> and to include a chain of command that designates the individual responsible for making final decisions during an emergency.<sup>13</sup>

Among other requirements, an EOP must outline the district’s communications measures and ensure that the technology and infrastructure exist to provide immediate notification to parents in the event of an emergency.<sup>14</sup> Emergency response training is required for district employees, including substitute teachers.<sup>15</sup> And an EOP requires mandatory school drills and exercises to prepare students for responding to an emergency.<sup>16</sup> School districts must follow Texas Education Agency (TEA) guidance regarding the safety of students and personnel with disabilities or impairments when adopting its EOP.<sup>17</sup>

Additionally, school districts must conduct a safety and security audit of all facilities every three years.<sup>18</sup> The results of this audit must be reported to the school district’s board of trustees and to the Texas School Safety Center (TxSSC), a state agency that provides safety guidance and resources to school districts.<sup>19</sup>

### **School districts are accountable for compliance with state laws on school safety.**

The TxSSC may review and verify a school district’s EOP upon request and is required to review all school districts’ EOPs at regular intervals.<sup>20</sup> The TxSSC must verify that the school district’s EOP complies with state law and, if it does not, TxSSC must require correction of any deficiencies.<sup>21</sup> If the school district fails to comply with the requirements of the EOP plans, it may be subject to a public hearing and appointment of a conservator.<sup>22</sup>

Parents can take steps to ensure that their school district has complied with its obligation to create an EOP and conduct safety audits by requesting documents that are deemed public information by state law.<sup>23</sup> Although some aspects of a school district’s EOP are confidential due to security concerns, state law requires release of certain information that enables a person to verify the district has established a plan, the plan was reviewed within the last year, and district employees have been trained to respond to an emergency. A sample form to request these documents from a school district is linked [here](#). The Office of the Attorney General has also provided [public guidance](#) on how to file a Public Information Act Request.<sup>24</sup>

Additionally, the TEA has broad authority to ensure school districts comply with state law regarding school safety, including the implementation and operation of EOPs and safety and security audits.<sup>25</sup> A division of the TEA called the Office of School Safety and Security (OSSS) provides technical assistance to districts and conducts detailed vulnerability assessments of each district on a random basis every four years.<sup>26</sup> This vulnerability assessment pertains to facility access controls, emergency operations procedures, and other school safety requirements.<sup>27</sup> After the vulnerability assessment is completed, the

TEA must give the superintendent and district’s school safety and security committee a confidential report on the results, including recommendations and required corrective actions.<sup>28</sup> Further, the OSSS must establish school safety review teams to conduct on-site general intruder detection audits on each campus and provide the superintendent and district’s school safety and security committee with a confidential report on the results of the audit, including recommendations and required corrective actions.<sup>29</sup>

If you believe that a school district is failing to comply with state law regarding school safety and security, you may file a complaint with the TEA [here](#).<sup>1</sup> Be aware that the TEA may require evidence of a good-faith attempt at resolution through local school district processes prior to review of your complaint.

**Safety training resources are available to school districts and the public.**

The Texas Legislature established the TxSSC as “a central location for school safety and security information, including research, training, and technical assistance related to successful school safety and security programs.”<sup>30</sup> The TxSSC provides safety training and model safety and security audit procedures and can provide on-site assistance to school districts upon request.<sup>31</sup> These resources, and many others produced by the TxSSC, are [publicly available](#).

Further, I have instructed my Law Enforcement Division to make available supplemental training for school resource officers, marshals, guardians, and any other law enforcement personnel who are authorized to carry firearms on campus and are responsible for school safety. The Office of the Attorney General has invested in a VirTra law enforcement training simulator that provides an immersive training experience that prepares law enforcement personnel for real-life incidents. My office is pleased to make this technology available to train those entrusted with school safety who do not have state-of-the-art training simulators readily available. For more information on participation in this program, [contact](#) my office.

Parents deserve to know what state law requires of their school district so that they can hold school boards and administrators accountable and better understand how school districts should prepare for a worst-case scenario. Although no amount of preparedness can guarantee against all threats, parental engagement and involvement is critical to keeping schools safe.



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<sup>1</sup>The TEA Commissioner can assign a conservator if a school district fails to comply with applicable safety and security requirements or address issues within a reasonable time period. A conservator would oversee the operations of a school district in order to correct any failures concerning school safety.

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<sup>1</sup> Tex. Educ. Code § 37.117(a).

<sup>2</sup> *Id.* § 22.904(a).

<sup>3</sup> *Id.* § 37.117.

<sup>4</sup> *Id.* § 37.1131.

<sup>5</sup> Tex. Educ. Code § 37.0814(a).

<sup>6</sup> *Id.* § 37.0814(b).

<sup>7</sup> *Id.* § 37.081(a).

<sup>8</sup> Tex. Att’y Gen. Op. No. GA-1051 (2014); *see also* Tex. Pen. Code § 46.03(a)(1)(A); Tex. Educ. Code § 37.0811.

<sup>9</sup> Tex. Educ. Code § 37.0811.

<sup>10</sup> Tex. Pen. Code § 46.03(a)(1)(A).

<sup>11</sup> *Id.* § 37.108(a)(1).

<sup>12</sup> *Id.* § 37.108(a)(2).

<sup>13</sup> *Id.* § 37.108(f)(1).

<sup>14</sup> *See id.* § 37.108(a)(2), (f)(5).

<sup>15</sup> *Id.* § 37.108(a)(1).

<sup>16</sup> *Id.* § 37.108(a)(4); *see also id.* § 37.114.

<sup>17</sup> *Id.* § 37.1086.

<sup>18</sup> *Id.* § 37.108(b).

<sup>19</sup> *Id.* § 37.108(c).

<sup>20</sup> *Id.* § 37.2071(a).

<sup>21</sup> *Id.* § 37.2071(c).

<sup>22</sup> *Id.* § 37.2071(d)–(i).

<sup>23</sup> “Public information” means “information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; (2) for a governmental body . . . or (3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.” Tex. Gov’t Code § 552.002(a)(2).

<sup>24</sup> More information about public information requests can be found on the Office of the Attorney General’s website at <https://www.texasattorneygeneral.gov/open-government/members-public/how-request-public-information> (last visited May 12, 2022). *See also* Office of the Attorney General, Public Information Handbook 2022 *available at* [https://www.texasattorneygeneral.gov/sites/default/files/file\\_s/divisions/open-government/publicinfo\\_hb.pdf](https://www.texasattorneygeneral.gov/sites/default/files/file_s/divisions/open-government/publicinfo_hb.pdf) (last visited May 13, 2022).

<sup>25</sup> Tex. Educ. Code § 37.1083(a).

<sup>26</sup> *Id.* § 37.1083(b)–(d).

<sup>27</sup> *Id.* § 37.1083(d).

<sup>28</sup> *Id.* § 37.1083(f).

<sup>29</sup> *Id.* § 37.1084(b), (d).

<sup>30</sup> *Id.* § 37.202(1).

<sup>31</sup> *Id.* §§ 37.205–.208.