

Texas Society of Architects
Comments on Proposed amendment to
19 Texas Administrative Code (TAC) Chapter 61, School Districts, Subchapter CC,
Commissioner’s Rules Concerning School Facilities, §61.1031, School Safety Requirements
Submitted to TEA on December 12, 2022

The Texas Society of Architects (TxA) provides these comments in response to proposed rule §61.1031, published by the Texas Education Agency (TEA) in the Texas Register on November 11, 2022, to establish minimum school safety standards requiring all school system instructional facilities to have access points that are secured by design, maintained to operate as intended, and appropriately monitored.

TxA is a state component of the American Institute of Architects (AIA) and is one of the nation’s largest organizations for the architecture profession, with 18 regional components across Texas. We have been actively involved in policy and rulemaking discussions related to improving facility standards for Texas schools for many years. In 2018, TxA created a School Safety Subcommittee to focus on the role architects play in improving safety in the built environment through school design – with the goal of promoting enhanced safety and security standards and better learning outcomes for students. This group is composed of over a dozen leaders from top educational facility design firms of every size across Texas, serving urban, suburban, and rural school districts.

Through the work of the members of the TxA School Safety Subcommittee, the creation and involvement of a TxA architect board position on the Texas School Safety Center board of directors, the practice leadership of individual architects, and our ongoing effort to improve safety and security standards for school facilities – the architectural profession is committed to continuing to work with TEA and other school stakeholders to promote implementation of best practices and standards for safety and security of school facilities.

TxA appreciates the significant effort reflected in the proposed rule as published – and is pleased to voice support for the goals of the proposed rule and offer comments in support of implementing proposed Sec. 61.1031 to establish new minimum school safety standards. TxA provides these comments, as well as suggested redlines to the rule which are attached, to convey proposed changes and recommended clarifications to the new rule.

TxA believes the focus of proposed new rule §61.1031 appropriately seeks to address minimum standards for implementation of best practices for the safety and security of *existing and new* instructional facilities in the following areas: the creation of minimum standards for establishing a perimeter layer, effective communications performance targets, and enhanced operational and maintenance standards for instructional facilities.

Without additional clarification, however, the proposed new safety and security facility requirements could pose significant implementation challenges for school systems – many of which could inadvertently create new civil liability exposure for school systems and related parties. Also, the timeline requirement for 2022-2023 school year implementation proposed for 61.1031 could be logistically impossible if TEA intends that all Texas public school districts and open enrollment charter schools are to implement these requirements for all applicable schools – at all applicable facilities on all campuses, district-wide across the state – within essentially the same, very short time frame.

TxA and its members are concerned that current funding allocations will not be sufficient to ensure effective implementation of the requirements established in the proposed rule – particularly given the funding limitations and challenges facing rural school systems that lack the more robust tax base of many urban and suburban areas, and given the significant number of older school buildings still in use across the state.

To address these concerns, TxA has proposed a rule provision creating a process by which a school system could petition TEA for a “good faith accommodation ruling” or a “good faith clarification ruling” regarding the various compliance requirements established in the rule. To ensure school systems are provided the bright line guidance needed to facilitate implementation of the rule and related compliance monitoring, TxA believes the proposed language for rule 61.1031 should very clearly conform to the language established for specifications for the allowable uses of funding for the “2022-2025 safety and security standards formula grant”.

Our comments highlight recommended refinements and proposed rule revisions, with the goal of clarifying implementation requirements and priorities, and compliance standards being established by the proposed new rule. We urge TEA to ensure the language of the new rule more clearly harmonizes with previously established safety standards in subsection (k) of §61.1040, which are required to be implemented as part of all design and construction projects for new or renovated instructional facilities as of November of 2021.

Clarification and harmonization needed for proposed rule. Several elements contained in proposed new rule §61.1031 are also addressed in the existing §61.1040, such as communication standards. In addition, many local school districts have already implemented, or begun to implement, a host of best practices for improving the safety and security of school facilities through both operational requirements and technical solutions, and through design professional adoption of best practices for renovation and new construction projects undertaken by school districts.

TxA is concerned proposed rule provisions potentially conflict with or undermine efforts to comply with existing provisions in §61.1040, or could undermine previous investments made by the school system to improve school safety. Despite language in proposed subsection (f) specifying that the new rules would govern in the event of a conflict, we believe additional clarification is needed. TxA proposes that the new rule include a process to allow a school system to contextually accommodate and recognize previous investments in school safety strategies and solutions, rather than potentially invalidating previous investments by overriding them with new specific requirements.

We encourage TEA to exercise extreme care and diligence to ensure new requirements proposed in §61.1031 are harmonized with and do not conflict with or undermine existing rule requirements, statutory directives, or building code requirements. Where it is determined by the Commissioner that policy goals sought through the new proposed rule require changes that conflict with the existing rule – or changes that would create questions or require judgment calls about implementation priorities and timelines that potentially overlap or conflict – we recommend very clear language references and directives be included in the proposed new rule to ensure effective implementation and compliance accountability.

Language for certain performance criteria lacks appropriate specificity. Performance criteria can be a powerful tool for creating minimum standards to reduce the type of site/building penetration these rules are intended to reduce – but the criteria must be clearly understood and realistically achievable to be effective.

For certain requirements, the proposed rule language is vague and fails to establish appropriate specificity and clarity for measurable performance standards – which creates confusion about the standards, and has the potential to inadvertently create compliance traps.

Absent additional specificity or clarification, the new rule could have the unintended consequence of creating new civil liability exposure for school systems as they seek to navigate these requirements. Increases in liability exposure function to increase implementation costs for products and services required for compliance

with the proposed rule. To that end, we have proposed rule language in the attached redline to address this concern and to include additional specificity to ensure that implementation of the proposed new standards does not inadvertently create new challenges for improving school safety.

We encourage TEA to include, where needed, additional specificity by incorporating by reference known technical standards and applicable building codes in the proposed rule. This will ensure measurable and achievable performance targets, which are essential for effective implementation and compliance monitoring.

Changes recommended for options to establish layers. The published rule proposes a standard that would require a minimum of one layer to slow down a person trying to enter a school site or building without credentials. That layer would either be at the site level or at the building envelope/exterior walls.

TxA appreciates that multiple options were proposed for school districts and design professionals to satisfy this one-layer minimum requirement. However, the language providing these multiple options is separated into various sections and areas in such a way that makes treatment of the glass of exterior doors and frames vague and ambiguous. The language also includes fencing options that are inappropriate for children and the instructional education facilities that serve as community hubs.

We recommend organizational and substantive changes that address the dispersed nature of certain requirements, to provide additional clarity for compliance standards related to establishing effective perimeter layers, and a design framework for achieving these objectives. TxA has included suggested revisions to provide additional clarity on the minimum requirement of one layer at the site or building envelope level. Importantly, in the current landscape of school design it is a customary best practice for architects to create what are referred to as layers in the site and building design to slow down a potential bad actor, and we support efforts to establish minimum standards for establishing effective perimeter layers.

Additional technical review of communications infrastructure requirements needed. While we agree with the goal of strengthening communication standards, we are concerned the proposed language for panic alerts contains requirements that would establish, as the minimum standard, technical requirements that are just emerging as the latest best practice for communications integration. Systems and platforms are still being built out to support the type of integration that appears to be envisioned by the rule – and in some cases, without clarification, the minimum standards could be impossible or extremely cost prohibitive to implement, particularly under the proposed timeline.

TxA notes it is a customary best practice in the current landscape of school design to include infrastructure to allow for effective communications between staff in the building and district personnel. School districts request and design professionals include security cameras, access control in strategic locations, and a wide range of other systems to assist in information sharing as well as putting a campus into lockdown. The IBC/IFC requires two-way radios work effectively in a majority of a school building (and this majority language is moving closer and closer to the entire building with each 3-year revision). TEC and §61.1040(k) require communications capability between teachers and emergency personnel. We urge clear recognition of these existing standards in the rule to provide more measurable compliance standards and performance objectives.

TxA recommends a specialized “due diligence” technical review of the functional capabilities of the various regional public and private entities that play a role in providing and supporting emergency communications services at the local level. TxA is concerned that limitations on the functional capability of these local and regional entities could affect a school system’s ability to meet performance targets laid out in the proposed rule.

One size can’t fit all. Texas has roughly 30,000 existing school buildings in a variety of geographically and demographically diverse areas that have been developed over the last 100+ years in a wide range of ways –

and we believe the proposed rule should more clearly envision and appropriately accommodate the reality of that diversity.

Rules that are focused on existing buildings must address that diversity in age, condition, and layout – by envisioning the challenges and limitations projects done in the past face when attempting to comply with new rules that are future-focused and include requirements for more current and future technologies.

To effectively establish minimum standards, TxA believes the rules should embrace an appropriate level of flexibility for local districts that respects the funding limitations, inflationary market conditions, and supply chain challenges that exist as very real obstacles to the implementation timeline proposed in the published rule.

TxA is committed to supporting healthy learning environments and safe and secure school buildings.

School safety and security encompasses an incredibly wide range of issues and school districts are working with design professionals daily to find ways to minimize the danger to students and their facilities through the building design.

We encourage TEA to ensure that any standards or requirements adopted through the proposed rule seek to address existing buildings and systems in a way that empowers school districts and design professionals to make design decisions that are specific to the campus, site, and community. Making tailored decisions in the context of a realistic framework will result in more responsive design while satisfying a set of minimum standard expectations. In addition, it is imperative that school districts and design professionals have room within that framework to design spaces and buildings that foster pro-social relationship building, promote a strong campus and community culture, and minimize emotional dysregulation. It is a delicate balance, yet completely possible to advance all these initiatives if schools are given the right framework balancing expectations, clarity, and autonomy.

Thank you for the opportunity to provide these comments and suggested revisions, and to participate in the rulemaking process. TxA and its architect members are available to serve as a resource in any way that is helpful to TEA – and we remain a committed partner in the work to ensure effective implementation of best practices and improved safety standards for the **physical school environment**, and for the **teaching and learning environment** shared by teachers and students.

Attachment: 2022.12.12 Final TxA Redlines 61.1031