

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 351. COORDINATED PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES

SUBCHAPTER B. ADVISORY COMMITTEES

DIVISION 1. COMMITTEES

1 TAC §351.851

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes new §351.851, concerning Interested Parties Advisory Group.

BACKGROUND AND PURPOSE

The purpose of the proposal is to comply with 42 Code of Federal Regulations (42 CFR) §447.203(b)(6), which requires HHSC to "establish an advisory group for interested parties to advise and consult on provider rates with respect to service categories under the Medicaid State Plan, 1915(c) waiver, and demonstration programs, as applicable, where payments are made to direct care workers specified in §441.311(e)(1)(ii) for the self-directed or agency-directed services found at §440.180(b)(2) through (4), and (6)."

New §351.851 establishes the Interested Parties Advisory Group (IPAG) to advise and consult with HHSC on current and proposed payment rates, Home and Community Based Services (HCBS) payment adequacy data as required by 42 CFR §441.311(e), and access to care metrics described in 42 CFR §441.311(d)(2), associated with services found in 42 CFR §440.180(b)(2) through (4), and (6).

The IPAG is intended to advise the executive commissioner and HHSC on certain current and proposed Medicaid provider payment rates to ensure the relevant Medicaid payment rates are sufficient to ensure Medicaid beneficiaries access to personal care, home health aide, homemaker, and habilitation services.

SECTION-BY-SECTION SUMMARY

Proposed new §351.851(a) provides the statutory authority for the IPAG.

Proposed new §351.851(b) describes the purpose of the IPAG.

Proposed new §351.851(c) lists the tasks performed by IPAG.

Proposed new §351.851(d) explains the reporting requirements.

Proposed new §351.851(e) describes the meeting requirements.

Proposed new §351.851(f) lists the membership composition and appointment terms.

Proposed new §351.851(g) describes how the chair and vice chair are selected and the terms of office.

Proposed new §351.851(h) explains the required training.

Proposed new §351.851(i) provides the travel reimbursement policy.

Proposed new §351.851(j) provides the abolishment date.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rule will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rule will be in effect:

- (1) the proposed rule will not create or eliminate a government program;
- (2) implementation of the proposed rule will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;
- (4) the proposed rule will not affect fees paid to HHSC;
- (5) the proposed rule will not create a new regulation;
- (6) the proposed rule will not expand, limit, or repeal existing regulation;
- (7) the proposed rule will not change the number of individuals subject to the rule; and
- (8) the proposed rule will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood, Chief Financial Officer, has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

The rule does not apply to small or micro-businesses, or rural communities.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule does not impose a cost on regulated persons and is necessary to receive a source of federal funds or comply with federal law.

PUBLIC BENEFIT AND COSTS

Victoria Grady, Director of Provider Finance, has determined that for each year of the first five years the rule is in effect, the public benefit will be by allowing interested parties to provide advice on provider rates.

Trey Wood, Chief Financial Officer, has also determined that for the first five years the rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because any costs can be absorbed by HHSC to establish the Interested Parties Advisory Group.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 25R053" in the subject line.

STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §532.0051, which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §532.0057(a), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for Medicaid payments under Texas Human Resources Code Chapter 32; and Texas Government Code §523.0203, which provides that the executive commissioner of HHSC shall establish and maintain advisory committees and adopt rules governing such advisory committees in compliance with Texas Government Code, Chapter 2110.

The new section affects Texas Government Code §§524.0151, 524.0005, 532.0051, 532.0057(a), 523.0203, and Chapter 2110. It also affects Texas Human Resources Code Chapter 32.

§351.851. Interested Party Advisory Group.

(a) Statutory authority. Interested Party Advisory Group (IPAG) is established under 42 CFR 447.203(b)(6) and is subject to §351.801 of this division (relating to Authority and General Provisions).

(b) Purpose. The IPAG advises the executive commissioner and Health and Human Services Commission (HHSC) on certain current and proposed Medicaid provider payment rates to ensure the relevant Medicaid payment rates are sufficient to ensure Medicaid beneficiaries access to personal care, home health aide, homemaker, and habilitation services.

(c) Tasks. The IPAG performs the following tasks:

(1) advises and consults with HHSC on current and proposed payment rates with respect to service categories under the Medicaid State plan, 1915(c) waiver, and demonstration programs, as applicable, where payments are made to the direct care workers based on current and proposed payment rates, Home and Community-Based Services (HCBS) payment adequacy data, and access to care metrics; and

(2) adopts bylaws to guide how the IPAG operates.

(d) Reporting requirements. HHSC will publish IPAG's recommendations within one month of the group's recommendation to the agency.

(e) Meetings.

(1) Open meetings. In accordance with the statute, the IPAG complies with the requirements for open meetings under Texas Government Code, Chapter 551, as if it were a governmental body.

(2) Frequency. The IPAG will meet at least every two years and no more than once annually.

(3) Quorum. A majority of all voting members constitutes a quorum for the purpose of transacting official business.

(f) Membership.

(1) The IPAG is composed of 12 members appointed by the executive commissioner. In selecting voting members to serve on the IPAG, HHSC considers the applicants' qualifications, background, interest in serving, and geographic location.

(A) Eleven voting members representing the following categories. The categories in clauses (i) through (iii) of this subparagraph must have at least one voting member each on the IPAG.

(i) Direct care workers.

(ii) Medicaid beneficiaries.

(iii) Medicaid beneficiaries' authorized representatives.

(iv) Other interested parties impacted by the service rates in question outlined in subsection (c)(1) of this section which may consist of:

(I) a rural Medicaid contracted provider who is contracted to provide HCBS services outlined in subsection (c)(1) of this section and who employs direct care workers;

(II) an urban Medicaid contracted provider who is contracted to provide HCBS services outlined in subsection (c)(1) of this section and who employs direct care workers;

(III) a provider who provides 1915(c) waiver services;

(IV) a provider who provides HCBS state plan services;

(V) an association or associations representing Medicaid providers who provide services outlined in subsection (c)(1) of this section;

(VI) an association or associations representing Medicaid beneficiaries who receive services outlined in subsection (c)(1) of this section; and

(VII) other disciplines with expertise in Medicaid finance, delivery, or access to care.

(B) One non-voting, ex officio member representing HHSC, who serves at the pleasure of the executive commissioner.

(2) Voting members are appointed for staggered terms so the terms of an equal or almost equal number of members expire on December 31 of each even-numbered year. Regardless of the term limit, a member serves until their replacement is appointed. This ensures there is membership representation to conduct IPAG business.

(A) If a vacancy occurs, the executive commissioner appoints a person to serve the unexpired portion of that term.

(B) Except as may be necessary to stagger terms, the term of each member is four years. A member may not serve more than two full terms.

(g) Officers. The IPAG selects a chair and a vice chair from among its members.

(1) The chair serves until January 1 of each even-numbered year. The vice chair serves until January 1 of each odd-numbered year.

(2) A member may serve as chair or vice chair for up to two terms in a row.

(h) Required training. Each member must complete training on relevant laws and rules, including this section and §351.801 of this division and Social Security Act §§1902, 1905, and 1915, 42 CFR §§440.1-440.395 and §§441.300-441.595; Texas Government Code Chapters 551, 552, and 2110; the HHS Ethics Policy; the Advisory Committee Member Code of Conduct; and other relevant HHS policies. Training will be provided by HHSC.

(i) Travel reimbursement. Unless allowed by the current General Appropriations Act, members are not paid to participate in the IPAG or reimbursed for travel to and from meetings.

(j) Abolishment date. The IPAG is required by federal regulation and will continue if the federal law requiring it remains in effect.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 14, 2025.

TRD-202503701

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: November 30, 2025

For further information, please call: (512) 730-7475

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 102. EDUCATIONAL PROGRAMS

SUBCHAPTER MM. COMMISSIONER'S

RULES CONCERNING SUPPLEMENTAL

SPECIAL EDUCATION SERVICES PROGRAM

19 TAC §102.1601

The Texas Education Agency (TEA) proposes an amendment to §102.1601, concerning the supplemental special education services program. The proposed amendment would clarify criteria for parent-directed services for students receiving special education services to align with the passage of House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 102.1601 establishes criteria for supplemental special education services. HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, changed the name of the program to Parent-Directed Services for Students Receiving Special Education Services (PDSES), so the section title would be updated to align with the new program name.

Proposed changes throughout the rule would add clarity to supplemental instructional materials and services.

The proposed amendment to subsection (a) would align with terminology updated by legislation.

The proposed amendment to subsection (c) would clarify eligibility criteria by adding that eligible students must be currently attending a public school and by repealing specifications about special education programs.

Proposed new subsection (e)(2)(C) would add that service providers must maintain their eligibility to offer services through the PDSES program and that they must complete an annual agreement. Additionally, the proposed new language would add that if they do not complete this process, they will be removed from the marketplace and must notify the program if they are no longer eligible to provide services.

The proposed amendment to subsection (f)(6) would add that parents can only appeal a PDSES eligibility decision during the annual appeal window and that failure to do so means they must reapply during a subsequent application window.

FISCAL IMPACT: Jennifer Alexander, associate commissioner and chief program officer for special population programs, reporting, and student support, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation to clarify criteria for parent-directed services for students receiving special education services to align with the passage of HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Alexander has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to clarify eligibility criteria for parents and service providers regarding PDSes. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins October 31, 2025, and ends December 1, 2025. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/). Public hearings will be conducted to solicit testimony and input on the proposed amendment at 9:30 a.m. on November 13 and 14, 2025. The public may participate in either hearing virtually by linking to the hearing <https://us02web.zoom.us/j/85888269023>. Anyone wishing to testify must be present at 9:30 a.m. and indicate to TEA staff their intent to comment and are encouraged to also send written testimony to sped@tea.texas.gov. Each hearing will conclude once all who have signed in have been given the opportunity to comment. Questions about the hearing should be directed to Derek Hollingsworth, Special Populations Policy and Compliance, Derek.Hollingsworth@tea.texas.gov.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §29.041, as amended by House Bill (HB) 2, HB 6, and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025, which establishes requirements for providing a supplemental special education services (SSES) and instructional materials program for certain public school students receiving special education services and requires the commissioner by rule to determine, in accordance with TEC, Chapter 29, Subchapter A-1, the criteria for providing a program to provide supplemental special education services and instructional materials for eligible public school students; TEC, §29.042, as amended by HB 1926, 88th Texas Legislature, Regular Session, 2023, and HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine requirements related to the establishment and administration of the SSES program; TEC, §29.043, which requires the commissioner to establish an application process for the SSES program; TEC, §29.044, which requires the commissioner to determine eligibility criteria for the approval of an application submitted under TEC, §29.043; TEC, §29.045, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine requirements for students meeting eligibility criteria and requirements for assigning and maintaining accounts under TEC, §29.042(b); TEC, §29.046, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine requirements and restrictions related to account use for accounts assigned to students under TEC, §29.045; TEC, §29.047, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine requirements related to criteria and application for agency-approved providers and vendors; TEC, §29.0475, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine requirements for a program participant, provider, and vendor autonomy of supplemental instructional materials; TEC, §29.048, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to determine responsibilities for the admission, review, and dismissal committee; TEC, §29.0485, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes that the determination of the commissioner is final, notwithstanding TEC, §7.057; and TEC, §29.049, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires that the commissioner adopt rules as necessary to establish and administer the SSES and instructional materials program.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code (TEC), §29.041, as amended by House Bill (HB) 2, HB 6, and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025; §29.042, as amended by HB 1926, 88th Texas Legislature, Regular Session, 2023, and HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.043; §29.044; §29.045, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.046, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.047, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.0475, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.048, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; §29.0485, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; and §29.049, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025.

§102.1601. Parent-Directed Services for [Supplemental Special Education Services and Instructional Materials Program for Certain Public Schools] Students Receiving Special Education Services.

(a) The Texas Education Agency (TEA) will administer the Parent-Directed Special Education Services (PDSSES) grant program in accordance with [Supplemental Special Education Services Program described in] Texas Education Code (TEC), Chapter 29, Subchapter A-1 ~~under the name Parent-Directed Special Education Services (PDSSES). Any reference to the Supplemental Special Education Services Program; supplemental special education services; supplemental special education instructional materials; or SSES in state law and TEA materials is to be considered synonymous with the PDSSES program].~~

(b) Definitions. For the purposes of this section, the following definitions apply.

(1) Eligible student--A student who meets all program eligibility criteria under TEC, §29.044, and this section.

(2) Management system--The online system provided by the marketplace vendor to allow for account creation, management of funds, and access to the marketplace.

(3) Marketplace--The virtual platform where parents and guardians with program funds may purchase goods and services.

(4) Marketplace vendor--The vendor chosen by TEA to create an online marketplace for the use of program funds.

(5) Supplemental [Parent-directed special education] instructional materials (materials)--This term has the meaning defined in TEC, §29.041, and specifically excludes materials that are provided as compensatory services or as a means of providing a student with a free appropriate public education.

(6) Supplemental [Parent-directed special education] services (services)--This term has the meaning defined in TEC, §29.041, and specifically excludes services that are provided as compensatory services or as part of [a means of providing a student with] a free appropriate public education, as well as payment for [or] an independent educational evaluation (IEE) if the parent has asked for an IEE at public expense.

(7) Program--The PDSSES grant program described by [This term has the meaning in] TEC, Chapter 29, Subchapter A-1 ~~as well as the PDSSES program].~~

(c) Eligibility criteria. All students currently enrolled in and attending a Texas public school district or open-enrollment charter school who are served under an individualized education program (IEP) in a special education program ~~including, but not limited to, students in early childhood special education, prekindergarten, Kindergarten-Grade 12, and 18-and-over transition programs;~~ are eligible for the program with the following exclusions:

(1) students who do not reside in Texas or move out of the state, not including military-connected students entitled to enroll or remain enrolled while outside the state; or

(2) students who previously received a program grant, beginning with the program's launch in the 2020-2021 school year.

(d) Awards.

(1) Parents and guardians of eligible students will receive grants of \$1,500 as long as funds are available for use in the purchasing of supplemental materials and services through the curated marketplace of educational goods and services. Parents and guardians may receive only one grant for each eligible student.

(2) Grants will be prioritized for a [A] student enrolled in a school district or open-enrollment charter school that is eligible for a compensatory education allotment under TEC, §48.104 ~~will be prioritized to receive a grant award].~~

(3) ~~[(2)]~~ TEA will use Public Education Information Management System (PEIMS) codes submitted by school districts and open-enrollment charter schools by each school year's TEA-established fall data submission deadline to verify eligibility in order to award accounts for the program.

(e) Establishment of the marketplace.

(1) In accordance with TEC, §29.042(d), TEA shall award an education service center (ESC) with an operational and school district support grant, which may include, but is not limited to, the following operational requirements:

(A) writing and administering a contract for a vendor for the program marketplace that curates the content in its marketplace for educational relevancy. In accordance with the Family Educational Rights and Privacy Act, the contract must require the vendor for the marketplace to protect and keep confidential students' personally identifiable information, which may not be sold or monetized;

(B) providing technical assistance to parents and guardians throughout the program process;

(C) serving as the main point of contact for the selected marketplace vendor to ensure eligible student accounts are appropriately spent down;

(D) approving or denying all purchases from the program marketplace, including communication with parents and guardians about purchase order requests; and

(E) approving or denying all potential service providers.

(2) Providers of supplemental materials and services may apply to be listed in the marketplace. To become an approved marketplace service provider, an applicant must sign a service provider agreement and comply with licensing, safety, and employee background checks.

(A) Organization service providers are required to provide their Texas Tax ID for TEA to verify the validity of the organization.

(B) Individual service providers are required to provide proof of credentials and licensing in accordance with the individual service provider categories established by TEA.

(C) Service providers must maintain their eligibility to offer services under the PDSSES service provider agreement and must complete an eligibility confirmation process annually. Failure to complete this process will result in removal from the marketplace. If a provider becomes ineligible, they must notify the program so they can be removed from the marketplace.

(3) TEA shall provide a process for the application and approval of vendors to the marketplace.

(4) TEA and the marketplace vendor shall provide a curated list of vendors through which parents and guardians can purchase educationally relevant materials. The established marketplace vendor shall be responsible for ensuring the vendors comply with program parameters as they relate to the marketplace and be responsible for all communications with marketplace vendors.

(f) Application process for grant on behalf of a student.

(1) TEA is responsible for the application process and the determination of which applicants are approved for program grants.

(2) Parents and guardians who would like to apply on behalf of their eligible students must complete the online application.

(3) TEA will establish an annual application window. If applications are submitted during the window for students who would not show as eligible under the fall PEIMS data collection used by TEA under subsection (d)(3) [(d)(2)] of this section, a parent may [must] submit evidence of eligibility when submitting the application.

(4) Upon approval of the application:

(A) TEA shall send contact information for parents and guardians of eligible students in a secure manner to the online marketplace vendor for account creation and distribution;

(B) parents and guardians of eligible students will receive an email to the same email address provided during application from the marketplace vendor with information on how to access their accounts; and

(C) parents and guardians will be awarded an account of \$1,500, depending on availability of funds, per eligible student to be used to purchase supplemental services and materials.

(5) Parents and guardians of students who [are deemed not eligible or who] are determined to have violated account use restrictions under subsection (i) of this section will receive notification from TEA and be provided an opportunity to appeal the [denial or] account use determination. TEA shall exercise its discretion to determine the validity of any such appeal.

(6) A parent or guardian of a student who is deemed not eligible because the student cannot be verified through the PEIMS process described under subsection (d)(3) [(d)(2)] of this section or because the parent or guardian did not submit the necessary documentation during the designated application window for a student who became eligible after the timeline described in subsection (d)(3) [(d)(2)] of this section may choose to appeal this decision during the annual appeal window. If a parent or guardian does not appeal, they must reapply during a subsequent [but before the end of the application window must wait until the following] school year's application window [to reapply].

(7) If necessary, eligible students will be placed on a waitlist and parents and guardians will be notified. When additional funds become available, priority will be [given in the order established by the waitlist and] in accordance with subsection (d) of this section.

(8) TEA shall maintain confidentiality of students' personally identifiable information in accordance with the Family Educational Rights and Privacy Act and, to the extent applicable, the Health Insurance Portability and Accountability Act.

(g) Approval of application; assignment of account.

(1) TEA shall set aside funds for a pre-determined number of accounts of \$1,500 to be awarded to parents and guardians of eligible students.

(2) Parents and guardians with more than one eligible student may apply and receive a grant for each eligible student.

(3) Approved parents and guardians will receive an award notification email from the marketplace vendor and may begin spending account funds upon completion of account setup.

(4) Parents and guardians who receive an award notification but whose student no longer qualifies under subsection (c) of this section shall notify TEA of their student's change in eligibility status.

(5) Within 30 calendar days from receiving an award notification email, parents and guardians must:

(A) access or log in to their account or the account may be subject to reclamation; and

(B) agree to and sign the parental agreement.

(h) Use of funds. Use of program funds provided to parents and guardians are limited as follows.

(1) Only supplemental materials and services available through the marketplace of approved providers and vendors may be purchased with program funds.

(2) Supplemental materials [Materials] and services must directly benefit the eligible student's educational needs.

(3) Supplemental materials [Materials] shall be used in compliance with TEA purchasing guidelines.

(4) If TEA approves vendors for a category of material under subsection (e) of this section, materials must be purchased from the TEA-approved vendor for that category of material. If TEA does not establish criteria for a category of materials, funds in a student's account may be used to purchase the materials from any vendor.

(5) The contracted ESC has full authority to reject or deny any purchase.

(6) Parents and guardians may not use program funds for reimbursement of goods or services obtained outside of the marketplace. Program funds shall not be paid directly to parents or guardians of eligible students.

(i) Account use restrictions. TEA may, subject to the appeal process referenced in subsection (f)(5) of this section, close or suspend accounts and reclaim a portion or all of the funds from accounts in the marketplace if:

(1) the supplemental materials or services that parents or guardians attempt to purchase are not educational in nature or are deemed to be in violation of the purchasing guidelines set forth by TEA;

(2) it is determined that the supplemental materials or services purchased do not meet the definitions in subsection (b)(5) and (6) of this section;

(3) the program parental agreement is not signed within 30 calendar days of receipt of account email from the marketplace vendor; or

(4) a student no longer meets the eligibility criteria set out in subsection (c) of this section.

(j) Requirements to provide information. School districts and open-enrollment charter schools shall notify families of the program and, unless the school district or charter school has verified that a parent has already received or applied for a program grant, shall provide the following at the student's admission, review, and dismissal (ARD) committee meeting:

(1) instructions and resources on accessing the online accounts, including the application window established by TEA; and

(2) information about the types of supplemental goods and services that are available through the program grant.

(k) Restrictions. A student's ARD committee may not consider a student's current or anticipated eligibility for any materials or services that may be provided under this section when developing or

revising a student's IEP, when determining a student's educational setting, or in the provision of a free appropriate public education.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 20, 2025.

TRD-202503760

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: November 30, 2025

For further information, please call: (512) 475-1497



CHAPTER 103. HEALTH AND SAFETY

SUBCHAPTER DD. COMMISSIONER'S RULES CONCERNING VIDEO SURVEILLANCE OF CERTAIN SPECIAL EDUCATION SETTINGS

19 TAC §103.1301

The Texas Education Agency (TEA) proposes an amendment to §103.1301, concerning video surveillance of certain special education settings. The proposed amendment would replace the term "self-contained classroom" with "special education classroom" and clarify the definitions for classroom settings in accordance with House Bill (HB) 2, 89th Texas Legislature, Regular Session, 2025.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 103.1301 establishes criteria for video surveillance of special education settings.

HB 2, 89th Texas Legislature, Regular Session, 2025, updated Texas Education Code (TEC), §29.022, to replace the term "self-contained classroom" with "special education classroom" and added a definition for "special education classroom or other special education setting."

The proposed amendment would implement HB 2 by aligning terminology and clarifying in subsection (b)(4) the definition of a special education classroom or other special education setting.

In addition, a cross reference to 19 TAC §89.1053, Procedures for Use of Restraint and Time-Out, would be added, and the reference to another administrative rule would be updated.

FISCAL IMPACT: Jennifer Alexander, associate commissioner and chief program officer for special population programs, reporting, and student support, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural commu-

nities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by aligning terminology and updating terminology and definitions to align with legislation.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Alexander has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to clarify video surveillance requirements for special education settings. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins October 31, 2025, and ends December 1, 2025. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on October 31, 2025. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §29.022, as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025, which establishes criteria for video surveillance of special education settings. TEC, §29.022(k), allows the commissioner to adopt rules to implement and administer the section, including rules regard-

ing the special education classrooms and other special education settings to which the section applies.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §29.022, as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025.

§103.1301. *Video Surveillance of [Certain] Special Education Settings.*

(a) Requirement to implement. In order to promote student safety, on written request by a parent, school district board of trustees, governing body of an open-enrollment charter school, principal, assistant principal, or staff member, as authorized by Texas Education Code (TEC) §29.022(a-1), a school district or an open-enrollment charter school must provide video equipment to campuses in accordance with TEC, §29.022, and this section. Campuses that receive video equipment must place, operate, and maintain video cameras in special education [self-contained] classrooms or other special education settings in accordance with TEC, §29.022, and this section.

(b) Definitions. For purposes of TEC, §29.022, and this subchapter, the following terms have the following meanings.

(1) "Parent" [Parent] means a person described in TEC, §26.002, whose child receives special education and related services in one or more special education [self-contained] classrooms or other special education settings. Parent also means a student who receives special education and related services in one or more special education [self-contained] classrooms or other special education settings and who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Texas Family Code, Chapter 31, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order.

(2) "Staff member" [Staff member] means a teacher, a related service provider, a paraprofessional, a counselor, or an educational aide assigned to work in a special education [self-contained] classroom or other special education setting.

(3) "Open-enrollment charter school" [Open-enrollment charter school] means a charter granted to a charter holder under TEC, §12.101 or §12.152, identified with its own county district number.

(4) "Special education classroom" or "other special education setting" [Self-contained classroom] means a classroom or other setting on a regular school campus (i.e., a campus that serves students in general education and students receiving [in] special education services) or on a separate campus (i.e., a campus that serves only students receiving special education services) of a school district or an open-enrollment charter school; including a room attached to the classroom used for time-out, but not including a classroom that is a resource room instructional arrangement under TEC, §42.151; in which a majority of the students in regular attendance spend on average less than 50% of their instructional day in a general education classroom or setting. [are provided special education and related services for at least 50 percent of the instructional day and have one of the following instructional arrangements/settings described in the student attendance accounting handbook adopted under §129.1025 of this title (relating to Adoption by Reference: Student Attendance Accounting Handbook):]

[(A) self-contained (mild/moderate/severe) regular campus;]

[(B) full-time early childhood (preschool program for children with disabilities) special education setting;]

[(C) residential care and treatment facility--self-contained (mild/moderate/severe) regular campus;]

[(D) residential care and treatment facility--full-time early childhood special education setting;]

[(E) off home campus--self-contained (mild/moderate/severe) regular campus; or]

[(F) off home campus--full-time early childhood special education setting.]

[(5) Other special education setting means a classroom on a separate campus (i.e., a campus that serves only students who receive special education and related services) of a school district or open-enrollment charter school, including a room attached to the classroom or setting used for time-out, in which a majority of the students in regular attendance are provided special education and related services; are assigned to the setting for at least 50 percent of the instructional day, and have one of the following instructional arrangements/settings described in the student attendance accounting handbook adopted under §129.1025 of this title:]

[(A) residential care and treatment facility--separate campus; or]

[(B) off home campus--separate campus.]

(5) [(6)] "Video camera" [Video camera] means a video surveillance camera with audio recording capabilities.

(6) [(7)] "Video equipment" [Video equipment] means one or more video cameras and any technology and equipment needed to place, operate, and maintain video cameras as required by TEC, §29.022, and this section. Video equipment also means any technology and equipment needed to store and access video recordings as required by TEC, §29.022, and this section.

(7) [(8)] "Incident" [Incident] means an event or circumstance that:

(A) involves alleged "abuse" or "neglect," as those terms are described in Texas Family Code, §261.001, of a student by a staff member of the school district or charter school or alleged "physical abuse" or "sexual abuse," as those terms are described in Texas Family Code, §261.410, of a student by another student; and

(B) allegedly occurred in a special education [self-contained] classroom or other special education setting in which video surveillance under TEC, §29.022, and this section is conducted.

(8) [(9)] "School business day" [School business day] means a day that campus, school district, or open-enrollment charter school administrative offices are open.

(9) [(10)] "Time-out" [Time-out] has the meaning assigned by TEC, §37.0021.

(c) Exclusions. A school district or an open-enrollment charter school is not required to provide video equipment to a campus of another district or charter school or to a nonpublic school. In addition, the Texas School for the Deaf, the Texas School for the Blind and Visually Impaired, the Texas Juvenile Justice Department, and any other state agency that provides special education and related services to students are not subject to the requirements in TEC, §29.022, and this section.

(d) Use of funds. A school district or an open-enrollment charter school may solicit and accept gifts, grants, and donations from any person to implement the requirements in TEC, §29.022, and this section. A district or charter school is not permitted to use Individuals with Disabilities Education Act, Part B, funds or state special education funds to implement the requirements of TEC, §29.022, and this section.

(e) Dispute resolution. The special education dispute resolution procedures in 34 Code of Federal Regulations, §§300.151-300.153 and 300.504-300.515, do not apply to complaints alleging that a school district or an open-enrollment charter school has failed to comply with TEC, §29.022, and/or this section. Complaints alleging violations of TEC, §29.022, and/or this section must be addressed through the district's or charter school's local grievance procedures or other dispute resolution channels.

(f) Regular school year and extended school year services. TEC, §29.022, and this section apply to video surveillance during the regular school year and during extended school year services.

(g) Policies and procedures. Each school district board of trustees and open-enrollment charter school governing body must adopt written policies relating to the placement, operation, and maintenance of video cameras under TEC, §29.022, and this section. At a minimum, the policies must include:

(1) a statement that video surveillance is for the purpose of promoting student safety in special education [certain self-contained] classrooms and other special education settings;

(2) information on how a person may appeal an action by the school district or open-enrollment charter school that the person believes to be in violation of this section or a policy adopted in accordance with this section, including the appeal and expedited review processes under §103.1303 of this title (relating to Commissioner's Review of Actions Concerning Video Cameras in Special Education Settings) and the appeals process under TEC, §7.057;

(3) a requirement that the school district or open-enrollment charter school provide a response to a request made under this section not later than the seventh school business day after receipt of the request by the person to whom it must be submitted under TEC, §29.022(a-3), that authorizes the request or states the reason for denying the request;

(4) except as provided by paragraph (6) of this subsection, a requirement that a school or campus begin operation of a video camera in compliance with this section not later than the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the request is authorized unless the Texas Education Agency (TEA) grants an extension of time;

(5) a provision permitting the parent of a student whose admission, review, and dismissal committee has determined that the student's placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed under this section to make a request for the video camera by the later of:

(A) the date on which the current school year ends; or

(B) the 10th school business day after the date of the placement determination by the admission, review, and dismissal committee;

(6) a requirement that, if a request is made by a parent in compliance with paragraph (5) of this subsection, unless [the] TEA grants an extension of time, a school or campus begin operation of a video camera in compliance with this section not later than the later of:

(A) the 10th school day of the fall semester; or

(B) the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the date the request is made;

(7) the procedures for requesting video surveillance and the procedures for responding to a request for video surveillance;

(8) the procedures for providing advanced written notice to the campus staff and the parents of the students assigned to a special education [self-contained] classroom or other special education setting that video and audio surveillance will be conducted or cease in the classroom or setting, including procedures for notice, in compliance with TEC, §29.022(b), of the opportunity to request continued video and audio surveillance if video and audio surveillance will otherwise cease;

(9) a requirement that video cameras be operated at all times during the instructional day when one or more students are present in a special education [self-contained] classroom or other special education setting in which video cameras are placed;

(10) a statement regarding the personnel who will have access to video equipment or video recordings for purposes of operating and maintaining the equipment or recordings;

(11) a requirement that a campus continue to operate and maintain any video camera placed in a special education [self-contained] classroom or other special education setting for as long as the classroom or setting continues to satisfy the requirements in TEC, §29.022(a), for the remainder of the school year in which the school or campus received the request, unless the requestor withdraws the request in writing;

(12) a requirement that video cameras placed in a special education [self-contained] classroom or other special education setting be capable of recording video and audio of all areas of the classroom or setting, except that no visual monitoring of bathrooms and areas in which a student's clothes are changed may occur. Incidental visual coverage of the inside of a bathroom or any area of the classroom or other special education setting in which a student's clothes are changed is permitted only to the extent that such coverage is the result of the layout of the classroom or setting. Audio recording of the inside of a bathroom or any area of the classroom or other special education setting in which a student's clothes are changed is required;

(13) a statement that video recordings must be retained for at least three months after the date the video was recorded and that video recordings will be maintained in accordance with the requirements of TEC, §29.022(e-1), when applicable;

(14) a statement that the regular or continual monitoring of video is prohibited and that video recordings must not be used for teacher evaluation or monitoring or for any purpose other than the promotion of student safety;

(15) at the school district's or open-enrollment charter school's discretion, a requirement that campuses post a notice at the entrance of any special education [self-contained] classroom or other special education setting in which video cameras are placed stating that video and audio surveillance are conducted in the classroom or setting;

(16) the procedures for reporting an allegation to the school district, charter school, or school that an incident occurred in a special education [self-contained] classroom or other special education setting in which video surveillance under TEC, §29.022, and this section is conducted;

(17) the local grievance procedures for filing a complaint alleging violations of TEC, §29.022, and/or this section; and

(18) a statement that video recordings made under TEC, §29.022, and this section are confidential and a description of the limited circumstances under which the recordings may be viewed.

(h) Confidentiality of video recordings. A video recording made under TEC, §29.022, and this section is confidential and may only

be released and/or viewed by the following individuals, to the extent permitted or required by TEC, §29.022(i), and to the extent not limited by the Family Educational Rights and Privacy Act of 1974 (FERPA) or other law:

(1) a staff member or a parent of a student involved in an incident described in subsection (b)(7) [(b)(8)] of this section that is documented by a video recording for which an incident has been reported to the district, charter school, or school;

(2) appropriate Texas Department of Family and Protective Services personnel as part of an investigation under Texas Family Code, §261.406;

(3) a peace officer, school nurse, or administrator of a school district, charter school, or school trained in de-escalation and restraint techniques as provided by §89.1053 of this title (relating to Procedures for Use of Restraint and Time-Out) [commissioner rule], or a human resources staff member designated by the school district's board of trustees or open-enrollment charter school's governing body in response to a report or an investigation of an incident described in subsection (b)(7) [(b)(8)] of this section; or

(4) appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation.

(i) Exception to restrictions on viewing. A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording does not violate subsection (h) of this section.

(j) Child abuse and neglect reporting. If a person described in subsection (h)(3) or (4) of this section views a video recording and has cause to believe that the recording documents possible abuse or neglect of a child under Texas Family Code, Chapter 261, the person must submit a report to the Texas Department of Family and Protective Services or other authority in accordance with the local policy adopted under §103.1401 [§61.1051] of this title (relating to Reporting Child Abuse or [and] Neglect, Including Trafficking of a Child) and Texas Family Code, Chapter 261.

(k) Disciplinary actions and legal proceedings. If a person described in subsection (h)(2), (3), or (4) of this section views a video recording and believes that it documents a possible violation of school district, open-enrollment charter school, or campus policy, the person may allow access to the recording to appropriate legal and human resources personnel of the district or charter school to the extent not limited by FERPA or other law. A recording believed to document a possible violation of school district, open-enrollment charter school, or campus policy relating to the neglect or abuse of a student may be used in a disciplinary action against district or charter school personnel and must be released in a legal proceeding at the request of a parent of the student involved in the incident documented by the recording. A recording believed to document a possible violation of school district, open-enrollment charter school, or campus policy relating to the neglect or abuse of a student must be released for viewing by the district or charter school employee who is the subject of the disciplinary action at the request of the employee.

(l) Access rights. Subsections (j) and (k) of this section do not limit the access of a student's parent to an educational record of the student under FERPA or other law. To the extent any provisions in TEC, §29.022, and this section conflict with FERPA or other federal law, federal law prevails.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 20, 2025.

TRD-202503759

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Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: November 30, 2025

For further information, please call: (512) 475-1497

TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 321. SUBSTANCE USE SERVICES SUBCHAPTER A. PREVENTION

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes the repeal of §321.1, concerning Purpose; §321.3, concerning Application; §321.5, concerning Definitions; and §321.7, concerning Program Description, and new §321.1, concerning Purpose; §321.3, concerning Application; §321.5, concerning Definitions; §321.7, concerning General Program Requirements; §321.9, concerning Program Staffing; and §321.11, concerning Program Service Delivery.

BACKGROUND AND PURPOSE

The purpose of the proposal is to replace the current rules in Title 26, Texas Administrative Code Chapter 321, Subchapter A relating to Substance Use Prevention, with new rules that clarify provider requirements related to training, staffing, written policies and procedures, screening tools, and other requirements that inform substance use prevention service delivery.

SECTION-BY-SECTION SUMMARY

The proposed repeal of §321.1 deletes the rule as no longer necessary, because the content of the rule is outdated.

Proposed new §321.1 describes the requirements for substance use prevention services providers to implement the primary prevention strategies.

The proposed repeal of §321.3 deletes the rule as no longer necessary, because the content of the rule is outdated.

Proposed new §321.3 clarifies that the rules apply to HHSC providers delivering substance use prevention services.

The proposed repeal of §321.5 deletes the rule as no longer necessary, because proposed new §321.5 contains the definitions used in the proposed new rules.

Proposed new §321.5 contains key terms and their definitions needed to align with the proposed new rules.

The proposed repeal of §321.7 deletes the rule because the content of the rule has been added to proposed new rule §321.11.

Proposed new §321.7 describes provider requirements and the prevention strategies that providers must implement. The proposed new rules clarify provider responsibilities when implementing substance use services including the need for formal

agreements, operating in accordance with required policies and procedures, and the ability to screen for additional services.

Proposed new §321.9 sets standards for providers regarding sufficient staffing levels and certification requirements for staff.

Proposed new §321.11 describes prevention program service delivery requirements for each of the five prevention program types: universal prevention programs, selective prevention programs, indicated prevention programs, community coalition partnership programs, and prevention resource centers.

FISCAL NOTE

Trey Wood, HHSC Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will create new regulations;
- (6) the proposed rules will repeal existing regulations;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities because the rules do not apply to small or micro-businesses, or rural communities.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas and do not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Trina Ita, Deputy Executive Commissioner of Behavioral Health Services, has determined that for each year of the first five years the rules are in effect, the public benefit will be clarification of HHSC-funded provider requirements. Additionally, program recipients may experience an increase in quality and consistency of services.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to

persons who are required to comply with the proposed rules because the new rules incorporate and clarify existing program requirements.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rules, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSCRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 24R089" in the subject line.

26 TAC §§321.1, 321.3, 321.5, 321.7

STATUTORY AUTHORITY

The repeals sections are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, Texas Health and Safety Code §1001.073, which provides that HHSC the responsibility for administering, coordinating, and contracting for the delivery of substance use prevention services, §1001.075, which provides that the executive commissioner of HHSC may adopt rules reasonably necessary for the administration of substance use prevention services, §461A.052, which provides that HHSC shall plan, develop, coordinate, evaluate, and implement programs for the prevention of substance use, and §461A.051, which provides that the executive commissioner of HHSC shall adopt rules governing the functions of the agency in relation to substance use services.

The new sections and repeals affect Texas Government Code §524.0151 and Texas Health and Safety Code §1001.073, §1001.75, §461A.051, and §461A.052.

§321.1. *Purpose.*

§321.3. *Application.*

§321.5. *Definitions.*

§321.7. *Program Description.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 15, 2025.

**26 TAC §§321.1, 321.3, 321.5, 321.7, 321.9, 321.11****STATUTORY AUTHORITY**

The new sections are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, Texas Health and Safety Code §1001.073, which provides that HHSC the responsibility for administering, coordinating, and contracting for the delivery of substance use prevention services, §1001.075, which provides that the executive commissioner of HHSC may adopt rules reasonably necessary for the administration of substance use prevention services, §461A.052, which provides that HHSC shall plan, develop, coordinate, evaluate, and implement programs for the prevention of substance use, and §461A.051, which provides that the executive commissioner of HHSC shall adopt rules governing the functions of the agency in relation to substance use services.

The new sections and repeals affect Texas Government Code §524.0151 and Texas Health and Safety Code §1001.073, §1001.75, §461A.051, and §461A.052.

§321.1. Purpose.

This subchapter explains to HHSC-funded providers which substance use prevention approaches to use. It sets requirements for provider staff. It also explains policies and procedures for the program.

§321.3. Application.

This subchapter applies to a provider who receives funding from HHSC to deliver substance use prevention services.

§321.5. Definitions.

The words and terms below have the assigned meanings when used in this subchapter, unless the context indicates otherwise.

(1) ACE--Adverse childhood experiences. Childhood events that may be traumatic.

(2) Alternatives--A primary prevention strategy that is defined in 45 CFR §96.125(b)(3).

(3) Behavioral health--Refers to the topics of mental health and substance use disorders, life stressors and crises, and stress-related physical symptoms.

(4) Behavioral health promotion--The advancement of mental health, resilience, and well-being.

(5) CFR--Code of Federal Regulations.

(6) CLAS--Culturally and linguistically appropriate services. National standards for a set of 15 action steps. These standards aim to improve behavioral health quality and outcomes.

(7) Community-based process--A primary prevention strategy that is defined in 45 CFR §96.125(b)(5).

(8) CSAP--Center for Substance Abuse Prevention. A center under the Substance Abuse Mental Health Services Administration (SAMHSA).

(9) CSAP strategies--The evidence-based primary prevention strategies that are used by SAMHSA and defined in 45 CFR §96.125(b).

(10) Education--A primary prevention strategy that is defined in 45 CFR §96.125(b)(2).

(11) Environmental--A primary prevention strategy that is defined in 45 CFR §96.125(b)(6).

(12) Evidence-based--Models, curricula, and other interventions proven to be effective through research.

(13) HHSC--Texas Health and Human Services Commission or its designee.

(14) Individual--A person who receives services under this subchapter.

(15) Information dissemination--A primary prevention strategy that is defined in 45 CFR §96.125(b)(1).

(16) NMDOH--Non-medical drivers of health. The conditions where people live, learn, work, and play that affect a wide range of health outcomes. NMDOH can be divided into five domains:

(A) economic stability;

(B) education access and quality;

(C) healthcare access and quality;

(D) neighborhood and built environment; and

(E) social and community context.

(17) Prevention strategies--Proactive approaches that help individuals and communities promote healthy behaviors and lifestyles, including strategies defined in 45 CFR §96.125(b).

(18) Primary prevention--Activities that target individuals who do not need treatment for substance use disorder, which is defined in 45 CFR §96.121. These activities may include education, mentoring, and other activities that reduce the risk of substance use.

(19) Problem identification and referral--A primary prevention strategy that is defined in 45 CFR §96.125(b)(4).

(20) Protective factors--Elements that reduce the impact of risk factors. These elements build resilience and decrease the likelihood of developing behaviors that could lead to substance use and misuse.

(21) Provider--A person or entity that contracts with HHSC to provide substance use prevention services.

(22) Risk factors--Biological, psychological, family, community, or cultural influences that precede and are associated with a higher likelihood of negative outcomes.

(23) SAMHSA--Substance Abuse and Mental Health Services Administration. An agency within the U.S. Department of Health and Human Services.

(24) Socio-ecological model--A framework that explains the different factors that affect health behavior and how to organize health intervention strategies.

(25) Strategic prevention framework--A framework created by SAMHSA used in prevention planning to address substance use and mental health issues.

§321.7. General Program Requirements.

(a) A provider must:

(1) promote behavioral health;

(2) attempt to reduce substance use and misuse;

(3) focus on preventing:

(A) for all ages, prescription drug misuse, marijuana, cannabinoids, tobacco, and other nicotine product use; and

(B) underage alcohol use;

(4) provide services using the socio-ecological model and SAMHSA's Strategic Prevention Framework;

(5) incorporate CSAP strategies that apply to the program, including Alternatives, Community-based Process, Information Dissemination, Education, Environmental, and Problem Identification, and Referral;

(6) follow CLAS; and

(7) offer services that help fill gaps in line with the current Statewide Behavioral Health Coordinating Council's Behavioral Health Strategic Plan required by Texas Government Code §547.0156.

(b) A provider must use prevention strategies that:

(1) focus on risk factors that lead to substance use and misuse, including:

(A) ACEs;

(B) NMDOH;

(C) unequal access to healthcare and behavioral health services;

and

(D) other youth, family, and community risk factors;

(2) promote behavioral health and help build protective factors.

(c) Before providing substance use prevention education services, the provider must complete memorandums of understanding or community agreements with public schools and agencies, businesses, or community partners to ensure programs operate efficiently.

(d) A provider must operate a program according to written policies and procedures to support implementation.

(e) The policies and procedures must:

(1) follow the rules in this subchapter;

(2) meet any of HHSC's contractual and financial requirements; and

(3) follow all relevant state and federal laws or rules.

(f) The provider must:

(1) keep a copy of the policies and procedures;

(2) provide a copy of the policies and procedures to staff; and

(3) provide a copy of the policies and procedures to HHSC, if requested.

(g) A screening tool is not required for referral to services. If a tool is used, it must be HHSC-approved and not be used for purposes of diagnosis or treatment.

§321.9. Program Staffing.

(a) A provider must keep sufficient staff to effectively operate the prevention program and provide services as required by §321.11 of this subchapter (relating to Program Service Delivery).

(b) A provider must ensure that every staff member providing primary prevention services obtains a prevention designation.

(c) The designations must:

(1) be a certified prevention specialist or associate prevention specialist; and

(2) come from an organization that is a member of the International Certification and Reciprocity Consortium.

§321.11. Program Service Delivery.

(a) A provider must deliver a prevention program that:

(1) directs prevention activities at individuals that are not in treatment for substance use;

(2) carries out activities appropriate for individuals that are not in treatment for substance use; and

(3) provides services:

(A) in different settings for the general population;

(B) to populations at high risk for substance use; and

(C) to communities with less access to services.

(b) A provider who delivers a universal prevention program must:

(1) use a proactive process that addresses the health and wellness of the general population;

(2) build protective factors;

(3) deter the onset of alcohol, tobacco, and other drug misuse;

(4) create places in the community that promote healthy living; and

(5) target populations not based on risk level of substance misuse.

(c) A provider who delivers a selective prevention program must:

(1) use a process that addresses and promotes the health and wellness of individuals, families, and communities by enhancing protective factors;

(2) use relevant CSAP strategies to prevent risk factors;

(3) focus on individuals or groups who are determined to be at risk for misusing substances; and

(4) focus on individuals who are determined to be at a higher-than-average risk of developing a substance use disorder.

(d) A provider who delivers an indicated prevention program must:

(1) focus on individuals who show early signs of and behaviors related to substance use;

(2) serve individuals who are not in substance use treatment; and

(3) focus on youth who show early warning signs of substance use.

(e) A provider who delivers a community coalition partnership program must:

(1) recruit partners involved in the community; and

(2) implement evidence-based strategies that:

(A) focus on changing community policies and social norms; and

(B) increase protective factors in the community.

(f) Prevention resource centers must:

(1) provide information about substance use to the general community within the HHSC service region where the Prevention Resource Center is located;

(2) educate the community on how to promote behavioral health to prevent substance use;

(3) support programs in the community that focus on substance use and tobacco prevention and control, including HHSC-funded organizations;

(4) connect people to resources related to substance use; and

(5) conduct tobacco-specific prevention and compliance strategies as required under 42 United States Code §300x-26 and 45 CFR §96.130.

(g) A provider must use and follow an evidence-based curriculum approved by HHSC.

(h) HHSC must approve any changes a provider wants to make to the approved evidence-based curriculum.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 15, 2025.

TRD-202503729

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: November 30, 2025

For further information, please call: (512) 902-8075



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 151. GENERAL PROVISIONS

37 TAC §151.58

The Texas Board of Criminal Justice (board) proposes new rule §151.58, concerning Legislative Leave Pool. The purpose of the new rule is to establish a legislative leave pool in compliance with HB 1828, 89th Leg., R.S.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice (TDCJ), has determined that for each year of the first five years the proposed rule will be in effect, enforcing or administering the proposed rule will not have foreseeable implications related to costs or revenues for state or local government because the proposed rule will be administered using existing staffing and processes.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rule because the proposed rule does not require compliance by any persons. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required.

The anticipated public benefit, as a result of enforcing the proposed rule, will be to provide TDCJ employees with paid leave for legislative purposes on behalf of an association. No cost will be imposed on regulated persons.

The proposed rule will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed rule will not constitute a taking.

Comments and information such as applicable data, research, or analysis related to the cost, benefit, or effect of the proposed amendments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogccomments@tdcj.texas.gov. Written comments and informational submissions from the general public must be received within 30 days of the publication of this rule in the *Texas Register*.

The new rule is proposed under Texas Government Code §492.013, which authorizes the board to adopt rules; and §493.0075, which establishes the donation of accrued compensatory time or accrued annual leave for legislative purposes for TDCJ employees.

Cross Reference to Statutes: None.

§151.58. Legislative Leave Pool.

(a) Definitions. "Legislative Leave Pool Administrator" is the Human Resources Division director or designee.

(b) Procedures.

(1) All contributions to the Texas Department of Criminal Justice (TDCJ) legislative leave pool are voluntary. A correctional employee within the Correctional Career Path series may voluntarily transfer up to eight hours of compensatory time or vacation leave per year earned by the correctional employee to the legislative leave pool.

(2) A correctional employee may use time contributed to the legislative leave pool if the correctional employee uses the time for legislative leave on behalf of an association:

(A) related to the correctional officer's employment with the TDCJ;

(B) that has at least 5,000 active or retired members; and

(C) that is governed by a board of directors.

(3) A correctional employee may only withdraw time from the legislative leave pool in coordination with and with the consent of the president or designee of the association described in subsection (2) of this section. A correctional employee may not withdraw more than:

(A) 80 hours from the pool in a 160-hour work cycle;

or

(B) 480 hours from the pool in a fiscal year.

(4) Correctional employees who contribute accrued compensatory or vacation leave hours to the TDCJ legislative leave pool may not:

(A) designate the contributed hours for use by a specific employee; or

(B) retract the decision to contribute once processed.

(5) The legislative leave pool administrator shall determine the amount of time that a correctional employee may withdraw from the legislative leave pool.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 20, 2025.

TRD-202503751

Stephanie Greger

General Counsel

Texas Department of Criminal Justice

Earliest possible date of adoption: November 30, 2025

For further information, please call: (936) 437-6700



CHAPTER 152. CORRECTIONAL INSTITUTIONS DIVISION

SUBCHAPTER A. MISSION AND ADMISSIONS

37 TAC §152.3

The Texas Board of Criminal Justice (board) proposes amendments to §152.3, concerning Admissions. The proposed amendments add language to include the verification process of a county's request for reimbursement; remove requirements mandated by §152.5, "Designation of State Jail Regions," which is proposed for repeal; and make grammatical and formatting updates.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice (TDCJ), has determined that for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendments will not have foreseeable implications related to costs or revenues for state or local government because the proposed amendments merely clarify existing procedures.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rules because the proposed amendments merely clarify existing procedures. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required.

The anticipated public benefit, as a result of enforcing the proposed amendments, will be to enhance clarity and public understanding. No cost will be imposed on regulated persons.

The proposed amendments will have no impact on government growth; no impact on local employment; no creation or elimi-

nation of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed amendments will not constitute a taking.

Comments and information such as applicable data, research, or analysis related to the cost, benefit, or effect of the proposed amendments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogccomments@tdcj.texas.gov. Written comments and informational submissions from the general public must be received within 30 days of the publication of this rule in the *Texas Register*.

The amendments are proposed under Texas Government Code §492.013, which authorizes the board to adopt rules; §499.1215, which establishes guidelines for compensation to counties for inmates awaiting transfer to the TDCJ; and §507.024, which addresses the safe transfer of defendants from counties to state jail felony facilities.

Cross Reference to Statutes: None.

§152.3. Admissions.

(a) Counties will send commitment papers on inmates sentenced to the Texas Department of Criminal Justice (TDCJ) to the TDCJ Classification and Records Office (CRO) immediately following completion of the commitment papers. Those counties equipped to do so may send paperwork electronically.

(b) The TDCJ shall accept inmates sentenced to prison within 45 days of the date the commitment papers are certified by the CRO. If TDCJ does not take custody of an inmate within 45 days after the commitment papers are certified, TDCJ shall reimburse the county for each day of confinement within the county over 45 days at the most recent systemwide cost per day published by the Legislative Budget Board on the date the CRO receives and verifies the county's request for reimbursement.

(c) No later than the fifth business day after the date the CRO receives commitment papers from the county, the CRO shall:

(1) review and certify the commitment papers if the CRO determines there are no errors or deficiencies requiring corrective action by the county; or

(2) notify the county that the CRO has determined the commitment papers require corrective action by the county and identify the errors needing correction.

(d) Inmates shall be scheduled for admission based on:

(1) their length of confinement in relation to the 45 days from the date the commitment papers are certified; and

(2) transportation routes.

(e) Counties will inform the TDCJ State Ready Office when inmates for whom commitment papers have been sent are transferred to another facility by bench warrants.

(f) The TDCJ shall notify counties via electronic transmission, such as facsimile or email when applicable, of inmates scheduled for intake, the date of intake, the respective reception unit, and transportation arrangements. Inmates shall be sorted by name and State Identification (SID) number, as identified by the court judgment.

(g) Counties will notify the TDCJ admissions coordinator of any inmates who are not available for transfer and the reason they are not available for transfer.

(h) Counties may identify inmates with medical or security issues that may be scheduled for intake out of sequence on a case-by-case basis by contacting the TDCJ admissions coordinator.

(i) After the receipt of an order by a judge for admission of an inmate to a state jail, the placement determination shall be made by the TDCJ Admissions Office. [Placement shall be made in the state jail designated as serving the county in which the inmate resides unless:]

[(1) the inmate has no residence or was a resident of another state at the time of committing an offense;]

[(2) alternative placement would protect the life or safety of any person;]

[(3) alternative placement would increase the likelihood of the inmate's successful completion of confinement or supervision;]

[(4) alternative placement is necessary to efficiently use available state jail capacity, including alternative placement because of gender; or]

[(5) alternative placement is necessary to provide medical or psychiatric care to the inmate.]

[(j) If the inmate is described by subsection (h)(1) of this rule, placement shall be made in the state jail designated as serving the county in which the offense was committed, unless a circumstance in subsection (i)(2)-(5) of this rule applies.]

[(k) The TDCJ Admissions Office shall attempt to have placement determinations made at a regional level that may include one or more regions as designated in 37 Texas Administrative Code § 152.5 relating to the designation of state jail regions.]

(j) [(h)] If a county believes reimbursement is due, the county shall complete and submit the authorized form to the CRO. Upon receipt of the authorized form, TDCJ shall:

(1) review each request for reimbursement received from a county;

(2) verify:

(A) the certification date for all documents required to be submitted under Article 42.09, Code of Criminal Procedure; and

(B) the date the inmate was received into TDCJ custody; and

(3) process all required payments for reimbursement in accordance with the Prompt Payment Act or notify the county and explain why no reimbursement is required.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 20, 2025.

TRD-202503750

Stephanie Greger

General Counsel

Texas Department of Criminal Justice

Earliest possible date of adoption: November 30, 2025

For further information, please call: (936) 437-6700

37 TAC §152.5

The Texas Board of Criminal Justice (board) files this notice of intent to repeal 37 Texas Administrative Code, Part 6 §152.5, concerning Designation of State Jail Regions. The repeal eliminates a rule whose governing statutes, Government Code §§507.003-.004 were repealed by SB 2405, 89th Regular Legislative Session. The proposed repeal has been reviewed by legal counsel and found to be within the board's authority to repeal.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice, has determined that for each year of the first five years the repeal will be in effect, the rule will not have foreseeable implications related to costs or revenues for state or local government.

Mr. Steffa has also determined that for each year of the first five-year period the repeal will be in effect, there will not be an economic impact on persons as a result of the repeal. There will not be an adverse economic impact on small or micro businesses or on rural communities as a result of the repeal. Therefore, no regulatory flexibility analysis is required.

The anticipated public benefit, as a result of the repeal, will be to eliminate a rule whose governing statute has been repealed. No cost will be imposed on regulated persons.

The repeal will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The repeal will not constitute a taking.

Comments and information such as applicable data, research, or analysis related to the cost, benefit, or effect of the proposed amendments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogccomments@tdcj.texas.gov. Written comments and informational submissions from the general public must be received within 30 days of the publication of this rule in the *Texas Register*.

The repeal is proposed under Texas Government Code §492.013, which authorizes the board to adopt rules as necessary for its own procedures and for operation of the department and the independent reporting entities.

Cross Reference to Statutes: None.

§152.5. *Designation of State Jail Regions.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 20, 2025.

TRD-202503758

Stephanie Greger

General Counsel

Texas Department of Criminal Justice

Earliest possible date of adoption: November 30, 2025

For further information, please call: (936) 437-6700

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CHAPTER 159. SPECIAL PROGRAMS

37 TAC §159.19

The Texas Board of Criminal Justice (board) proposes amendments to §159.19, concerning Continuity of Care and Services Program for Offenders who are Elderly, Terminally Ill, Significantly Ill or with a Physical Disability or Having a Mental Illness. The proposed amendments add the Texas Workforce Commission to the Memorandum of Understanding; revise "mental illness" to "mental impairment" and "terminally ill" to "terminal illness" throughout, including the title; and make other edits and grammatical updates for clarity.

Ron Steffa, Chief Financial Officer for the Texas Department of Criminal Justice (TDCJ), has determined that for each year of the first five years the proposed amendments will be in effect, enforcing or administering the proposed amendments will not have foreseeable implications related to costs or revenues for state or local government because the proposed amendments merely clarify existing procedures.

Mr. Steffa has also determined that for each year of the first five-year period, there will not be an economic impact on persons required to comply with the rules because the proposed amendments merely clarify existing procedures. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required.

The anticipated public benefit, as a result of enforcing the proposed amendments, will be to enhance clarity and public understanding. No cost will be imposed on regulated persons.

The proposed amendments will have no impact on government growth; no impact on local employment; no creation or elimination of a government program; no creation or elimination of employee positions; no increase or decrease in future legislative appropriations to the TDCJ; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy. The proposed amendments will not constitute a taking.

Comments and information such as applicable data, research, or analysis related to the cost, benefit, or effect of the proposed amendments should be directed to the Office of the General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, ogccomments@tdcj.texas.gov. Written comments and informational submissions from the general public must be received within 30 days of the publication of this rule in the *Texas Register*.

The amendments are proposed under Texas Government Code §492.001, which establishes the board's authority over the de-

partment; §492.013, which authorizes the board to adopt rules; Texas Health and Safety Code §614.003, which establishes the Texas Correctional Office on Offenders with Medical or Mental Impairments; §§614.007-.008, which establishes the powers and duties of TCOOMMI and the community-based diversion program; and §§614.013-.015, which mandates a memorandum of understanding be established for the continuity of care for offenders with mental impairments, elderly offenders, and offenders with physical disabilities, terminal illnesses, or significant illnesses.

Cross Reference to Statutes: None.

§159.19. Continuity of Care and Services Program for Offenders who are Elderly, have a Mental Impairment or Physical Disability, or have Significant or Terminal Illness [Terminally Ill, Significantly Ill or with a Physical Disability or Having a Mental Illness].

(a) The Texas Department of Criminal Justice (TDCJ) adopts a ~~[the following]~~ memorandum of understanding (MOU) with the Texas Health and Human Services Commission (HHSC), the Texas Workforce Commission, and the Texas Department of State Health Services (DSHS) for the purpose of establishing ~~[concerning]~~ a continuity of care and services program for offenders who are elderly, have a mental impairment or physical disability, or have significant or terminal illness ~~[terminally ill, significantly ill or with a physical disability or having a mental illness]~~.

Figure: 37 TAC §159.19(a)

~~[Figure: 37 TAC §159.19(a)]~~

(b) This MOU is required by the Texas Health and Safety Code §§ 614.013 - 614.015.

(c) Copies of the MOU are filed in the Texas Correctional Office on Offenders with Medical or Mental Impairments, 4616 W. Howard Lane, Suite 200, Austin, Texas 78728 and may be reviewed during regular business hours.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 20, 2025.

TRD-202503754

Stephanie Greger

General Counsel

Texas Department of Criminal Justice

Earliest possible date of adoption: November 30, 2025

For further information, please call: (936) 437-6700

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