October 12, 2020

Via electronic submission (https://form.jotform.com/81206305801142)

Mike Morath
Commissioner of Education
Texas Education Agency
1701 North Congress Avenue
Austin, TX 78701-1494

RE: Public Comments on Proposed Rule – Title 19, Texas Administrative Code, Chapter 103, Health and Safety, Subchapter EE, Safe and Supportive School Program and Trauma-Informed Care Policy and Training

Dear Commissioner Morath:

Thank you for the opportunity to comment on the new rules regarding the Safe and Supportive Schools Program (SSSP) and Trauma-Informed Care Policy Training of the Senate Bill (SB) 11. The Education Trust in Texas is part of a national non-profit advocacy organization, with a mission to promote educational equity for all students - particularly those of color or living in poverty.

We value the Texas Education Agency's (TEA's) proposal to implement new rules to advance positive policies and systems for school safety and student mental health. In particular, we recognize and affirm the multi-disciplinary approach, desire for improved capacity and student supports, and inclusion of data tools that enable district and school teams to continuously improve. Our comments seek to enhance the TEA's proposed regulatory language, in order better serve all students and families. Specific suggested modifications generally follow these overall themes:

1. We affirm the positive intent of legislation and the agency's effort to provide clear guidance and capacity for districts to implement effectively and equitably.
2. As directly impacted stakeholders, students, families and community members possess uniquely valuable expertise necessary to advancing safe and supportive schools and should therefore be represented and included as full partners.
3. Schools are unique public institutions which bring together diverse stakeholders and therefore require the training necessary, including but not limited to cultural competency and implicit bias training, to establish inclusive environments that are foundational to fostering safety and support for all students.
4. We applaud the agency's recognition that data, including school climate survey data, are needed to continuously improve school climate and measure the effectiveness of SSSP teams. We urge the agency to require transparent, disaggregated reporting to identify and reduce disproportionalities and to support schools with additional tools and training needed to analyze and respond to these data.

Please note that our modification of TEA's proposed rule language is indicated by <u>underscoring of additions</u> and ~~strike out of removed wording~~.

§103.1401. Definitions.

Rationale

Some of the proposed definitions require more detailed description in order to be interpreted and applied equitably and in a culturally competent manner. For physical safety measures, "monitored entrances and exits" should be removed because these have not been proven to improve school climate and are more likely to exist in schools serving students of color. For psychological safety, "absence of discrimination" is an important addition to acknowledge these experiences as sources of harm. For behavioral threat assessment, this language focuses attention on students as potential physical threats rather than as individuals who may have unmet wellness needs. Furthermore, this term is likely to be interpreted in ways that may reinforce unconscious or implicit bias already evidenced by disproportionalities in student discipline referrals. A definition of "culturally competent" is needed as the term is referenced elsewhere in the rules and is foundational to ensuring all students, including historically marginalized students, will be adequately served through the SSSP. For that same reason, multi-tiered system of supports should include a "culturally competent" framework to acknowledge the need for and encourage practices and approaches that support historically marginalized students.

Recommended Language

(3) Physical safety -- The absence of bodily harm, injury, or the threat of harm. It may include providing a secure learning environment through school design and security measures such as, but not limited to, ~~monitored entrances and exits~~, locked doors, appropriate exterior and interior lighting, and visitor check-in systems.

(4) Psychological safety -- The absence of mental or emotional injury or the threat of harm. It may include, but is not limited to, the perception of a safe, supportive, and positive school climate; an environment where students feel <u>respected and </u>empowered to report any safety concerns; <u>the responsiveness of school personnel to address the valid concerns of students;</u> the quality of interpersonal interactions among students, school personnel, and peers; relationships that reflect care, high standards, and positive regard for others; <u>absence of discrimination based on race or, ethnicity, religion, gender, sexual orientation, and ability;</u> ensuring equitable access to support services and connection to needed resources or treatment; and a sense of belonging and connectedness to a school community that promotes emotional well-being.

INSERT <u>(6) Culturally competent - Practices, policies, procedures and programs that acknowledge and continually examine how culture, race, power, and privilege inhibit access and opportunity for historically marginalized students. These policies and practices work to align resources to eradicate inequity in the school community and create participatory, collaborative partnerships with stakeholders to ensure equitable access and opportunities for all.</u>

(~~6~~7) ~~Behavioral threat~~ Wellness assessment -- A proactive, evidence-based, and legally compliant approach that relies upon a team for identifying individuals who may pose a threat and for providing appropriate, culturally competent interventions before a violent incident occurs that supports the individual avoiding disciplinary and law enforcement referrals.

(~~7~~8) Multi-tiered system of supports (MTSS) -- A research-based, culturally competent framework for the systemic alignment of initiatives, resources, staff development, prevention, intervention, services, and supports that integrate research-based practices and best-practice-based programs to support physical and psychological safety and learning in a school that addresses mental and behavioral health and the social-emotional domain for a safe and supportive school pursuant to TEC, §37.115. An MTSS that supports the SSSP includes addressing each of the statutory components under TEC, §38.351, with procedures and practices for each topic, including prevention and intervention for mental and behavioral health, which encompasses substance use; suicide prevention, intervention, and postvention; grief and trauma-informed practices; building skills related to managing emotions; establishing and maintaining positive relationships and positive decision making; positive behavior interventions and supports; positive youth development; positive, safe, and supportive school climates; and practices that include coordinated services and supports for physical and psychological safety. It is informed by a campus needs assessment and a quality self-assessment that addresses each of these components as well as behavioral threat assessment data, staff development, and academic and behavior data. It is guided by SSSP training for the MTSS and a comprehensive service delivery plan that includes staff development, restorative justice practices, procedures and practices, universal prevention, and tiered interventions that are equitably available to all students in collaboration with their parents or guardians. It is compliant with federal and state law for special education for students with disabilities, including Child Find and disciplinary procedure requirements.

§103.1403. School District and Open-Enrollment Charter School Responsibilities for the Safe and Supportive School Program.

Rationale

SSSP team members should not only have adequate duty time to fulfil their work, but they should have continued training to fully and effectively implement the functions required by the SSSP.

Recommended Language

(b)(6) ensure that SSSP team members employed by the school district or open-enrollment charter school have adequate duty time and continued training, particularly the team member assigned facilitation responsibilities, allocated to fully and effectively implement the functions required by the SSSP; and

§103.1405. Safe and Supportive School Program Team Roles and Capacity for Executing Functions.

Rationale

The comments made in this section primarily regard ensuring diversity and cultural competency among SSSP teams, including the need for student expertise and representation. Students are best positioned to provide insight into the student experience and can therefore provide valuable insight into school climate and safety, as well as serve as liaison between the team and student peers. The expertise of board certified behavior analysts (BCBSs) should also be included given their ability to recognize and understand the behaviors of students, especially those who have a disability. Further, "juvenile justice expert" lacks specificity and the inclusion of "law enforcement" is duplicative of "school safety and security" expertise; both should therefore be removed.

Recommended Language

(a) The following expertise categories must be represented on each safe and supportive school program (SSSP) team to ensure that the team is multi-disciplinary in accordance with Texas Education Code (TEC), §37.115, culturally competent, generally reflective of the district's student demographics, and includes student representation:

(a)(2) special education – an individual who must be a current school employee, an employee of a community organization, or a contracted service provider such as, but not limited to, a special education teacher, licensed specialist in school psychology (LSSP), diagnostician, special education counselor, board certified behavior analyst, behavior specialist, school health and related services professional, school social worker, or director of special education;

(a)(5) behavior management – an individual who must be a current school employee, an employee of a community organization, or a contracted service provider such as, but not limited to, a board certified behavior analyst, a behavior specialist; a school social worker; an LSSP; a non-physician mental health professional; a trained teacher-behavior interventionist; a community organization youth development specialist; a social-emotional development specialist; a restorative discipline practices coordinator; a community organization behavioral health worker; a licensed chemical dependency counselor (LCDC); a recovery coach; a juvenile justice expert; or a community expert with research-based knowledge of effective behavior and school discipline practices, child and adolescent development, the needs of students with disabilities, or juvenile and education law;

(a)(9) law enforcement an individual who must be a current school employee, an employee of a law enforcement agency, or a contracted service provider such as, but not limited to, a school resource officer, a school district or an open-enrollment charter school law enforcement officer, or any active or retired peace officer who meets the needs of the organization; and

a(9) student experience - an individual enrolled in fifth through twelfth grade at the school/school district designing a safe and supportive school program (SSSP) team.

(b)(3) appoint a single representative to serve in more than one expertise category on the team, while ensuring that the resulting SSSP team composition is multi-disciplinary, generally reflective of the district's student demographics, and includes student representation.

(j)(2) engaging with parents, guardians, and students to receive ~~provide~~ input; and

§103.1407. Requirements for the Six Primary Functions of the Safe and Supportive School Program.

SSSP Function 1: Promoting a positive school climate.

Rationale

For school climate to accurately and consistently reflect climate across schools and districts, there should be one state school climate survey that can be augmented with local items. If this is not feasible, students and personnel should be represented or otherwise participate in selecting the survey used to reflect their experiences of school climate. Resulting survey data should be disaggregated by demographic groups whenever possible without sacrificing the anonymity of respondents and reported publicly. Requiring the disaggregation of data will illuminate discrepancies between student and personnel groups and support the continuous improvement needed to improve positive school climate and target interventions for impacted groups.

Recommended Language

(b)(1) Each school district or open-enrollment charter school shall ~~select a~~ utilize the school climate survey ~~from a list~~ provided by the Texas Education Agency (TEA) and annually implement the survey for school personnel, students, and parents.

INSERT (b)(3). Climate survey results from students and families shall be disaggregated by race, gender, income status (FRLP), English-learner status, and special needs designations.

INSERT (b)(4) Climate survey results from school personnel shall be disaggregated by race, gender and ability.

(b)(4~~6~~) Climate survey results shall be reviewed by the SSSP team serving each school to help inform planning for the SSSP, including the behavioral threat assessment process, the multi-tiered system of supports (MTSS), and staff training. School climate survey results shall be publicly reported for each school in a way that is disaggregated by race, gender, income status (FRPL), English-learner status and special needs designations.

SSSP Function 2: Establishing an MTSS.

Rationale

The MTSS rules reflect a comprehensive approach to supporting schools that would benefit students most with the incorporation of non-exclusionary and culturally competent practices when engaging with students and families.

Recommended Language

(c)(6)(E) procedures to support the return of a student to school following hospitalization or residential treatment for a mental health condition or substance abuse that do not further exclude or prevent from receiving services or supports while they are not physically in school; and

(c)(10)(E) includes culturally competent practices for integrating student, community, and family engagement into developing and implementing the MTSS comprehensive service delivery plan, including but not limited to language translation services, implicit bias training, and home visits;

(c)(10)(G) provides equitable access for teachers, parents and guardians, and students through transparent referral pathways for accessing available services and supports, including but not limited to language translation services, implicit bias training, and home visits;

(c)(10)(I) uses data to evaluate the impact of the SSSP, prevention, intervention, services, and supports on students and the school climate, making appropriate adjustments based on data, utilizing the dashboard and ongoing training to effectively analyze data and make appropriate adjustments;

(c)(10)(M) provides students and families annual written notice of what the policies and practices are, and the resources available to them.

(11) An MTSS must comply with TEC, §26.0081(d).

(12) An MTSS must comply with federal and state law for special education for students with disabilities, including Child Find, educational placement, and disciplinary procedure requirements.

SSSP Function 3: Conducting Behavioral Threat Assessments.

Rationale

Behavior threat assessments need to ensure that SSSP teams conduct appropriate assessments of students and that the collected data reflects the efficacy of SSSP teams. A recommendation of a multidisciplinary approach, non-exclusionary practices, cultural competency, and disaggregation of data will ensure that students are equitably served via the behavior threat assessment.

Recommended Language

(d) SSSP Function 3. Conducting behavioral threat assessments. The SSSP team shall conduct behavioral threat assessments on harmful, threatening, or violent behaviors, including assessing behaviors identified in TEC, §37.115~;.~

(1) The SSSP team shall not rely on a list of generalizable characteristics which can unfairly label and over-identify a student as violent or potentially dangerous;

(2) The SSSP team shall use a multi-step intervention model to analyze the context, type, and severity of potential violent acts;

(3) The SSSP team shall limit referral to law enforcement;

(4) The SSSP team shall refer a student for a full and individual initial evaluation if a member of the SSSP team suspects that the student might have a disability and a need for special education; and

(5) The SSSP team shall coordinate with the student's admission, review, and dismissal committee for review or consideration of a behavioral intervention plan based on a current functional behavioral assessment.

(6) The SSSP team shall ensure compliance with disciplinary and placement requirements for a student with a disability.

(7) Data collected via the behavior threat assessments shall be disaggregated by student groups

SSSP Function 5: Collecting data to continuously improve.

Rationale
Data collection strategies could be improved by disaggregating collected data and creating a school climate dashboard that allows districts and schools to assess the degree to which SSSP teams are effectively implementing student supports.

Recommended Language

INSERT (f)(4) To support SSSP teams in completing their annual review, TEA will create a school climate dashboard that consolidates relevant, available and disaggregated data from districts and schools and provide training in research-based best practices in program evaluation and continuous quality improvement. The dashboard will include data from behavior threat assessments, school climate surveys, and other evidence-based indicators, including but not limited to discipline rates, chronic absenteeism, police interactions, and mental health incidences.

§103.1409 Trauma-Informed Care Policy and Training.

Rationale

A proactive approach in preventing trauma and bringing attention to systemic causes of trauma should be adopted in trauma-informed care policy and training. A proactive approach aims to adequately address the mental health needs of students to prevent impacts on students' academic success. Focusing on systemic causes of trauma is a culturally competent approach to address the diverse needs of students.

Recommended Language

(a)(2)(A) increasing staff and parent or guardian awareness of how grief and trauma affect mental health, student learning, and behavior and how evidence-based, grief informed, and trauma-informed strategies support the academic success of students affected by grief and trauma. The resources identified or developed by TEA will include training on protective factors such as prevention of trauma and addressing systemic causes of trauma like racism; and

On behalf of The Education Trust in Texas, thank you for the opportunity to provide input in service of improving implementation of the Safe and Supportive School Program. We welcome continued conversation regarding these recommendations and how we can support the needs of all Texas students.

Sincerely,

The Education Trust in Texas
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