FIRST FOCUS ON CHILDREN

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Rulemaking Unit
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

Submitted electronically via rules@tea.texas.gov and the TEA proposed commissioner rules public comment form

Re: Comments in Opposition, in Part, to Proposed New 19 TAC §103.1105, Procedure Related to Notification to a Student's Parent Regarding the Student's Mental, Emotional, or Physical Health or Well-Being (Texas Register, June 26, 2026)

Dear Members of the Rulemaking Unit:

First Focus on Children is a nonpartisan child advocacy organization dedicated exclusively to making children and their well-being a priority in policy and budget decisions. We appreciate the opportunity to comment on proposed new 19 TAC §103.1105, which would implement Senate Bill 12's parental notification and consent requirements for school health-related and health-care services.

While we recognize the Texas Education Agency's obligation to implement SB 12 and support parents' rightful role in their children's upbringing, we write to flag several provisions where the proposed rule, as drafted, creates serious risks to student safety, health, and well-being that we believe TEA has discretion to address without departing from the statute's requirements.

Our concerns center on one consistent theme: the rule treats parental notification and consent as values that must always prevail, and treats the student almost entirely as the object of parental decision-making rather than as a person with independent interests and fundamental rights of their own – in their education, health, development, safety, privacy, well-being, and dignity – that the rule must also protect.

A student's welfare is not simply a function of maximizing parental authority. It depends on the rule recognizing that in a real set of cases, parental access or control is itself the risk, and that a student's own life, including who they are and what they choose to share about themselves with other adults, is not solely the parent's to manage.

Children are not merely extensions of their parents or subjects of state regulation. They are individual people whose interests deserve consideration whenever government adopts rules that directly affect their lives.

Throughout American law, parental authority has never been absolute. Child abuse laws, compulsory education laws, mandatory reporting statutes, juvenile justice protections, child labor laws, medical neglect standards, and custody determinations all recognize that government has an independent obligation to safeguard children's welfare. Rules implementing SB 12 should be interpreted in that same tradition.

That obligation is not abstract for the personnel this rule governs. Teachers, counselors, principals, and school nurses are themselves mandatory reporters of child abuse and neglect under Texas Family Code Chapter 261. A rule that discourages the ordinary conversations through which abuse, neglect, trafficking, coercion, depression, and suicidal ideation are first revealed makes it harder, not easier, for school personnel to fulfill that existing legal duty.

The practical effect of an overly broad notification requirement is not merely additional paperwork. It is institutional silence. Teachers, counselors, coaches, nurses, and other trusted adults will naturally avoid conversations that create legal uncertainty or expose them to discipline, and students, recognizing those limits, will stop seeking help in turn. That loss of trust is itself a significant educational and child-welfare cost that TEA should weigh in this rulemaking.

Schools do not exist merely to transmit academic content. They educate whole children. Students who are fearful, isolated, traumatized, abused, anxious, or struggling with their physical or mental health cannot fully participate in learning. Trusted relationships between students and caring adults are therefore not peripheral to a school's educational mission—they are essential to it. Rules that unnecessarily discourage those relationships risk undermining both student well-being and educational success.

We urge TEA to revise the rule as follows, so that it protects not only parents' rights, but also the education, health, development, safety, privacy, well-being, and dignity of the students whose interests the rule is intended to protect.

1. The definition of "psychological or psychiatric examination or test" in subsection (b)(10) is so broad it will chill the ordinary, healthy human interactions that adults in a school building are supposed to have with kids.

Texas has already lived through a version of this problem once. Within weeks of SB 12 taking effect on September 1, 2025, school nurses across the state were reportedly unsure whether they could hand out a Band-Aid or an ice pack without written parental consent, prompting the bill's own authors to write to Commissioner Morath asking TEA to "provide clear and consistent guidance" so that educators would not "suspend common sense when it comes to providing basic care." TEA issued

emergency guidance later that September clarifying that first aid did not require active consent.

Subsection (q) of this proposed rule is, in effect, the permanent codification of that fix. We raise this history because the same dynamic is about to repeat itself with a different service. Just as a school nurse read "health-care service" broadly enough to hesitate over a Band-Aid, a teacher, coach, or counselor reading subsection (b)(10) has every reason to hesitate even asking a student how they are doing, since the definition covers any method "presented or characterized as a survey, check-in, or screening or is embedded in an academic lesson" that touches on a student's attitudes, feelings, or beliefs.

Idaho offers a cautionary tale of what happens when this kind of gap is left for a legislature to fix later rather than closed at the rule-drafting stage. Idaho's 2024 parental consent law produced the same Band-Aid confusion Texas just experienced, and it took a second bill and two legislative sessions to begin correcting course, after Idaho teenagers testified that the law's broad reach had also disrupted access to crisis counseling, including students who called Idaho's 988 crisis line and were turned away because a hotline responder could not confirm parental consent in the moment.

Idaho lawmakers openly admitted the first law was "a mess," and a fix for the crisis-line problem alone was still pending a year later. Texas should not need a repeat legislative correction, or a Band-Aid-style scramble for emergency guidance, to protect something as basic as a teacher, coach, or counselor checking in on a student. We recommend TEA build the fix into the rule now, at the definition stage in (b)(10), rather than waiting for the same predictable confusion to surface in schools this fall.

A teacher who notices a student seems withdrawn and asks, "How are you doing today?" A coach who checks in with a player who has been quiet at practice. A counselor who stops a student in the hallway to ask how they are handling a hard week. These are not clinical acts. They are what a caring adult does, and schools should want more of this kind of attention paid to kids, not less. Combined with the opt-in requirement in subsection (n)(1), the current language in (b)(10) could be read to require prior written parental consent before a teacher, coach, or counselor asks a student how they are doing, an English teacher asking how they feel about a reading passage, or before a class discussion touches on how students are coping with a stressful current event. Read literally, the rule would require a permission slip for basic acts of human decency.

Adults who work with kids all day are often the first to notice that something is wrong, precisely because they ask these small, routine questions and pay attention to the answers. A rule that makes staff second-guess whether a caring check-in requires paperwork will not protect parental rights; it will simply teach school staff to stop asking, and kids will be made to feel more isolated and less engaged than ever. Silence is not neutrality: when trusted adults stop asking, the students who most need to be noticed become invisible.

As a society, we should encourage more, not less, interaction between caring adults and children.

We recommend TEA clarify that (b)(10) does not reach informal, non-diagnostic interactions of the kind already carved out as "general caretaking" in subsection (u), and that routine expressions of concern by teachers, coaches, and counselors, the everyday work of paying attention to a child, are affirmatively excluded from the definition rather than left to staff to guess about.

2. Subsection (i)'s blanket "sexual behaviors" disclosure trigger does not distinguish between a student's own identity and evidence that a student is at risk of harm, and it should.

Subsection (i) requires personnel to notify a parent within one school day of any student disclosure involving "sexual behaviors," with no qualification and no distinction among fundamentally different kinds of disclosures.

A student who tells a counselor they are gay, or that they have a boyfriend or girlfriend, has disclosed something about who they are.

A student who discloses that an adult has touched them inappropriately, or that they are being pressured into something they do not want, has disclosed something that puts their safety at risk.

Subsection (i) treats both the same. The effect is that the safety disclosure gets exactly the urgency it needs, while the identity disclosure gets an urgency it does not need and that can do real harm, up to and including a student losing their home.

Cross-referencing the exception in subsection (y)(1) alone is not a sufficient fix, because that exception only applies when disclosure is "likely to result in" abuse or neglect, a high bar that requires a school employee to affirmatively predict and document a specific harm before they may decline to notify.

A student who is not at risk of physical abuse, but who reasonably fears rejection, isolation, or being pushed out of the home, does not meet the proposed standard, even though the harm to that student is real and the loss of trust in the adult they confided in is permanent.

The same over-breadth undermines the rule's own safety goals. A student who knows that any personal disclosure, including their sexual orientation or a relationship, will be reported home may reasonably choose to disclose nothing at all to school personnel, including disclosures of abuse. A rule intended to protect students should not give them a reason to say less.

We recommend TEA go further than cross-referencing (y)(1). Subsection (i) should distinguish between disclosures that indicate a risk of harm to the student, which merit

prompt notification, and disclosures that simply reveal who a student is, including their sexual orientation, gender identity, or consensual relationships, which should not trigger mandatory notification at all absent an independent, identifiable safety concern.

A student's control over their own personal information is not a problem for the rule to manage around; it is the student's own interest, and the rule should protect it directly rather than treat it as an exception to be earned.

3. The abuse-and-neglect exception in subsection (y)(1) needs a clear standard and a firm timeline to be workable.

As the only safety valve in the rule, subsection (y)(1) is doing a great deal of work, yet it provides no timeline for the principal's or superintendent's decision and no substantive standard beyond "reasonably prudent person." A student who requests confidentiality or a campus employee who reasonably fears for a student's safety needs a clear, predictable process, not an open-ended referral up the chain of command.

We recommend TEA provide additional student protections and illustrative examples, embedded directly in the rule or accompanying guidance, of when disclosure is "likely to result in" abuse or neglect, so that campus staff can apply the standard consistently rather than guessing at it case by case.

4. The opt-in default for health-care services in subsection (n) will disproportionately cut off the students who most need support.

Requiring affirmative opt-in before a student can receive health-care services, including counseling that rises to the level of therapy, will predictably work against students whose parents are disengaged, unreachable, or simply do not return a form, including foster youth and youth aging out of foster care, students experiencing homelessness, migrant students, students in military families, students being raised by grandparents or other relatives, and students in unstable households generally. These are often the students most in need of school-based support.

We recommend TEA include a mechanism for campus personnel to refer such cases for individualized follow-up, rather than allowing a student's access to services to lapse by default when a form goes unanswered.

5. The "no additional costs" fiscal determination understates the compliance burden and should be revisited.

Tracking opt-in and opt-out status on an individual-student, individual-service basis, retaining written consent in education records under subsection (s), and retraining personnel on the new notification timelines in subsections (e), (g), and (i) will require real administrative capacity.

Compliance is also likely to require costs the current fiscal note does not capture, including new consent-tracking systems, staff training, records retention, modifications to student information systems, and auditing to confirm compliance. TEA should

reconsider the fiscal impact analysis, so that the rule's implementation is adequately resourced rather than treated as cost-free.

6. The list of examples under "adverse change" in subsection (i) treats a student's ordinary exploration of identity and body autonomy as a reportable problem, and it should not.

Subsection (i) lists disclosures related to tattoos or permanent body modifications in the same sentence, and under the same mandatory one-school-day notification and reporting requirement, as disclosures related to violence or suicidal ideation.

Grouping them together sends an unmistakable message: that a student getting a tattoo belongs to the same category of institutional concern as a student who may be in danger. It does not.

A rule that requires school staff to treat a student's choice to get a piercing with the same urgency as a disclosure of suicidal ideation does not protect students; it turns adolescent behavior and growing up into something the state monitors, documents, and reports on.

We recommend TEA remove non-safety-related examples, such as tattoos and permanent body modifications, from subsection (i) entirely, and limit the mandatory notification and reporting requirement to disclosures that reflect a genuine, identifiable risk to a student's safety or health.

7. Subsection (c)'s unqualified parent access provision creates risk well beyond the narrow case of a parent currently under investigation for abusing this specific student.

Subsection (c) states that parent rights and access to information "may not be restricted," and the definition of "parent" in subsection (b)(8) excludes only a parent whose rights have been fully terminated or modified by court order. That leaves a wide gap. Consider situations school staff encounter regularly:

- A parent who a child fears for a variety of reasons that should all be respected, such as fear of physical or emotional abuse and rejection.
- A parent who has a family violence protective order against them, sought by the other parent or by the student's other guardian, but whose parental rights have not been terminated.
- A parent who is incarcerated for an offense involving violence, and whose custodial rights have not been formally modified simply because they are in prison.
- A parent with a documented history of family violence in the home, known to the district through a custody dispute or a prior finding, but who retains full legal parental status.

- A parent who has had little or no relationship with the student for years and reappears to assert access rights under this rule, in a manner that can itself signal risk to the student.
- A student and custodial parent living in a family violence shelter, or a family operating under an active CPS safety plan that limits or supervises the other parent's contact with the student.
- A student or family enrolled in Texas's confidential address program for survivors of family violence, sexual assault, stalking, or trafficking, where disclosing location-identifying information to the other parent could endanger the family.

In each of these situations, the rule as drafted lets an unqualified parent invoke subsection (c) to access a child's records, or to block a counseling or nursing visit that might otherwise document abuse or protect the student.

We recommend TEA add an explicit exception to subsection (c), consistent with the safety logic already reflected in subsection (y)(1), covering any parent who a child fears or is the subject of an active family violence protective order, a pending abuse or neglect investigation, a documented history of family violence involving the household, an active CPS safety plan restricting contact, the family's participation in the state's confidential address program, or incarceration for an offense involving violence against a family or household member, regardless of whether the investigation, order, safety plan, or offense specifically names the student.

8. Subsection (n)(2)'s opt-in requirement for health-care services should not be allowed to interrupt medication and care for students with chronic conditions.

Subsection (q) rightly bars school districts from imposing an opt-in requirement for first aid and routine health-related services. But subsection (n)(2) requires opt-in consent for "health-care services, except in the case of emergencies," and daily administration of medication such as insulin, use of a rescue inhaler, or rescue medication for a seizure disorder for a student with a chronic condition may fall under "health-care services" as defined in subsection (b)(3) rather than the narrower "health-related services" exempted in subsection (q). If a parent's opt-in consent form is delayed, lost, or simply not returned before the school year begins, a student with diabetes, asthma, or epilepsy could be cut off from medication administration that is neither first aid nor a true emergency until it becomes one.

We recommend TEA clarify that routine administration of medication under an existing, parent-authorized health care plan (such as a diabetes management plan, asthma action plan, or seizure action plan) is treated as a health-related service under subsection (q), not subject to opt-in, once the underlying care plan itself has been authorized by the parent.

The Legislature directed TEA to implement SB 12 – not to maximize parental authority at the expense of every other interest the education system exists to protect, including

those of students themselves. We urge TEA to engage in a listening tour to hear from students across the Lone Star State about the proposed rule before implementing it. After all, this is about their education and schools.

We appreciate TEA's willingness to consider these comments. Children deserve schools where trusted adults can notice when something is wrong, ask caring questions, provide appropriate support, and protect students from harm while respecting parents' legitimate role in their upbringing. We urge TEA to revise the proposed rule so that it advances – not undermines – that shared objective.

Children need a rule that gets the balance between parental rights and student rights and safety.

Sincerely,

Bruce Lesley
President, First Focus on Children