

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 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 67. STATE REVIEW AND APPROVAL OF INSTRUCTIONAL MATERIALS SUBCHAPTER AA. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT

19 TAC §67.1001

The Texas Education Agency (TEA) proposes an amendment to §67.1001, concerning the instructional materials and technology allotment. The proposed amendment would implement Senate Bill (SB) 13, 89th Texas Legislature, Regular Session, 2025, and codify a tacit allowable expense by updating the allowable expenditures from a district's instructional materials and technology allotment.

BACKGROUND INFORMATION AND JUSTIFICATION: SB 13, 89th Texas Legislature, Regular Session, 2025, added TEC, §33.023(d), which requires school districts to adopt procedures for parental access to a school district's library catalog and access by the parent's child to certain library materials. The statute allows a school district to use funds from its instructional materials and technology allotment to comply with the requirement.

To implement SB 13, new §67.1001(e)(6) would specify that allotment funds may be used to pay for costs connected to parents' ability to access the library or for access by their child to certain materials.

New §67.1001(e)(5) would specify that allotment funds may be used to pay for software relating to analyzing content for its appropriateness to Texas Essential Knowledge and Skills content under TEC, §28.002. This addition would codify into rule a tacit allowable expense already in practice.

FISCAL IMPACT: Todd Davis, associate commissioner of instructional strategy, 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 clarifying additional guidance regarding allowable uses of the Instructional Materials and Technology Allotment.

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: Mr. Davis 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 provide school districts with clarifications on the allowable uses of the instructional materials and technology allotment. 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: The public comment period on the proposal begins September 12, 2025, and ends October 13, 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 September 12, 2025. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Com-

missioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §31.003(b), which authorizes the commissioner of education to adopt rules consistent with TEC, Chapter 31, as necessary to implement a provision of the chapter that the commissioner or the agency is responsible for implementing; TEC, §31.0211, which permits the commissioner to adopt rules regarding the instructional materials and technology allotment, including the amount of the per-student allotment, the authorization of juvenile justice alternative education program allotments, allowed expenditures, required priorities, and adjustments to the number of students for which a district's allotment is calculated; TEC, §31.0212, which addresses the documentation required for requisitions and disbursements to be approved, districts' online instructional materials ordering system accounts, and school district submissions to the commissioner of the title and publication information for any materials the districts purchase with their allotments; TEC, §31.0215, which addresses allotment purchases, including announcing to districts the amount of their allotments and delayed payment options; TEC, §31.029, which requires the commissioner to adopt rules regarding instructional materials for use in bilingual education classes; TEC, §31.031, which requires the commissioner to adopt rules regarding the purchase of college preparatory instructional materials with the allotment; TEC, §31.071, which addresses state-developed open-source instructional materials; TEC, §31.076, which permits the commissioner to adopt rules necessary to implement TEC, Chapter 31, Subchapter B-1, and states that a decision made by the commissioner under the subchapter is final and may not be appealed; TEC, §31.104, which requires the commissioner to adopt rules that include criteria for determining whether instructional materials and technological equipment are returned in an acceptable condition; TEC, §33.023(d), as added by SB 13, 89th Texas Legislature, Regular Session, 2025, which authorizes school districts and open-enrollment charter schools to use funds from the district's or school's instructional materials and technology allotment under TEC, §31.0211, for costs associated with complying with statutes relating to parental access to library catalog and access by the parent's child to certain library materials; TEC, §48.004, which requires the commissioner to adopt rules, act, and require reports consistent with TEC, Chapter 48, as necessary to implement and administer the Foundation School Program.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§31.003(b); 31.0211; 31.0212; 31.0215; 31.029; 31.031; 31.071; 31.076; 31.104; 33.023(d), as added by Senate Bill 13, 89th Texas Legislature, Regular Session, 2025; and 48.004.

§67.1001. Instructional Materials and Technology Allotment.

(a) The commissioner of education shall determine the amount of the Instructional Materials and Technology Allotment for a school district or an open-enrollment charter school based on Texas Student Data System Public Education Information Management System (TSDS PEIMS) student enrollment data from the fall snapshot collection of the school year preceding the first year of each biennium.

(b) The commissioner shall determine the amount of the allotment for Texas Juvenile Justice Department facilities.

(c) The commissioner shall determine the amount of the allotment for bilingual education based on TSDS PEIMS bilingual enrollment data from the fall collection of the school year preceding the first year of each biennium.

(d) The amount of the allotments determined by the commissioner in this section is final and may not be appealed.

(e) Allotment funds may be used to pay for:

(1) any approved uses outlined in Texas Education Code (TEC), §31.0211(c);

(2) formats of instructional materials that are fully accessible to students with disabilities;

(3) activities related to the local review and adoption of instructional materials; [and]

(4) software for analyzing the use and effectiveness of instructional materials;[-]

(5) software for analyzing the appropriateness of instructional materials necessary for the teaching of, instruction in, or demonstration of knowledge of the essential knowledge and skills adopted under TEC, §28.002; and

(6) costs associated with complying with TEC, §33.023, relating to parental access to library catalog and access by the parent's child to certain library materials.

(f) Allotment funds may not be used to pay for:

(1) services for installation;

(2) the physical conduit that transmits data, such as cabling and wiring, or electricity;

(3) office and school supplies;

(4) items that are not directly related to student instruction, such as furniture, athletic equipment, extension cords, temporary contractors, or video surveillance equipment;

(5) travel expenses;

(6) equipment used for moving or storing instructional materials;

(7) instructional material that contains obscene or harmful content or would otherwise cause the school district to which the funds were allotted to be unable to submit the certification required under TEC, §31.11011(a)(1)(B); or

(8) instructional material that incorporates three-cueing in the phonics curriculum required under TEC, Chapter 28.

(g) The allotments for each biennium will be made available for school district and open-enrollment charter school use through the state's online instructional materials ordering system as early as possible in the fiscal year preceding the beginning of the biennium for which the funds have been appropriated.

(h) A school district or an open-enrollment charter school may access its allotment funds for an upcoming school year after submitting to the commissioner:

(1) certification that the school district or open-enrollment charter school has instructional materials that cover all the required Texas Essential Knowledge and Skills (TEKS), except those for physical education, as required by TEC, §31.1011;

(2) certification that the school district or open-enrollment charter school has used its allotment for only the allowable expenditures provided in subsection (e) of this section; and

(3) information regarding the instructional materials used by the district during the previous school year, including the cost of each material as required by TEC, §31.1012.

(i) Upon completion of the requirements listed in subsection (h) of this section, school districts and open-enrollment charter schools may access their allotment funds by correctly providing all the information required in the state ordering system.

(j) Information required in the state ordering system may include verification of TEKS coverage for certain disbursement requests.

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 August 29, 2025.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: October 12, 2025

For further information, please call: (512) 463-9526



TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 103. DENTAL HYGIENE LICENSURE

22 TAC §103.2

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §103.2, pertaining to dental hygiene licensure by examination. The proposed amendment changes the remediation requirements by (1) allowing applicants to take a remediation course before or after passing an examination to give applicants flexibility on when to take the course, and (2) allowing Board staff to approve the remediation course.

FISCAL NOTE: Casey Nichols, Executive Director, has determined that for the first five-year period the proposed rule is in effect, the proposed rule does not have foreseeable implications relating to cost or revenues of the state or local governments.

PUBLIC BENEFIT-COST NOTE: Casey Nichols has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of this rule will be the protection of public safety and welfare.

LOCAL EMPLOYMENT IMPACT STATEMENT: Casey Nichols has also determined that the proposed rule does not affect local economies and employment.

SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT: Casey Nichols has determined that no economic impact statement and regulatory flexibility analysis for small businesses, micro-businesses, and rural communities is necessary for this proposed rule.

GOVERNMENT GROWTH IMPACT STATEMENT: The Board has determined that for the first five-year period the proposed rule is in effect, the following government growth effects apply: (1) the proposed rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation or elimination of employee positions; (3) the implementation of the proposed rule does not require an in-

crease or decrease in future appropriations; (4) the proposed rule does not require an increase in fees paid to the agency; (5) the proposed rule does not create a new regulation; (6) the proposed rule does not expand an existing regulation; (7) the proposed rule does not increase or decrease the number of individuals subject to it; and (8) the proposed rule does not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Casey Nichols, Executive Director, 1801 Congress Avenue, Suite 8.600, Austin, Texas 78701, by fax to (512) 649-2482, or by email to official_rules_comments@tsbde.texas.gov for 30 days following the date that the proposed rule is published in the *Texas Register*. To be considered for purposes of this rulemaking, comments must be: (1) postmarked or shipped by the last day of the comment period; or (2) faxed or e-mailed by midnight on the last day of the comment period.

This rule is proposed under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

No statutes are affected by this proposed rule.

§103.2. Licensure by Examination.

(a) In addition to the general qualifications for licensure contained in §103.1 of this chapter (relating to General Qualifications for Licensure), an applicant for dental hygienist licensure by examination must present proof that the applicant has taken and passed the appropriate live patient or hands-on simulation clinical examination administered by a regional examining board designated by the Board.

(b) Designated regional examining boards.

(1) The following regional examining boards have been designated as acceptable by the Board as of the effective dates shown:

(A) The Commission on Dental Competency Assessments-The Western Regional Examining Board-The Council of Interstate Testing Agencies (CDCA-WREB-CITA), August 1, 2022; and

(B) Central Regional Dental Testing Service-States Resources for Testing and Assessments (CRDTS-SRTA), January 6, 2025.

(2) Examination results will be accepted for seven years from the date of the examination.

(c) Remediation.

(1) If an applicant for Texas dental hygienist licensure fails three dental hygiene live patient or hands-on simulation clinical examination attempts, the applicant must complete 40 hours of a clinical remediation course through a CODA-accredited dental hygiene program approved by Board staff [before approval will be issued to take another live patient or hands-on simulation clinical examination].

(2) If an applicant fails four or more dental hygiene live patient or hands-on simulation clinical examination attempts, the applicant must complete 150 hours of a clinical remediation course through a CODA-accredited dental hygiene program approved by Board staff [before approval will be issued to take another live patient or hands-on simulation clinical examination].

(3) All programs of clinical remediation require prior approval by [the] Board staff. Applicants will be responsible for locating, identifying and obtaining approval from [the] Board staff prior to registration for any program.

(4) Re-examination must be accomplished within 18 months of [following] the date [the] Board staff approves a remediation program for the applicant.

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 August 29, 2025.

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Lauren Studdard

General Counsel

State Board of Dental Examiners

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For further information, please call: (737) 363-2333



CHAPTER 108. PROFESSIONAL CONDUCT

SUBCHAPTER A. PROFESSIONAL RESPONSIBILITY

22 TAC §108.16

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §108.16, pertaining to teledentistry. The proposed rule specifies the informed consent documentation that is required when licensees perform teledentistry dental services. The Board proposes this rule in accordance with House Bill 1700 of the 89th Texas Legislature, Regular Session (2025), and Chapter 111, Texas Occupations Code.

FISCAL NOTE: Casey Nichols, Executive Director, has determined that for the first five-year period the proposed rule is in effect, the proposed rule does not have foreseeable implications relating to cost or revenues of the state or local governments.

PUBLIC BENEFIT-COST NOTE: Casey Nichols has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of this rule will be the protection of public safety and welfare.

LOCAL EMPLOYMENT IMPACT STATEMENT: Casey Nichols has also determined that the proposed rule does not affect local economies and employment.

SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT: Casey Nichols has determined that no economic impact statement and regulatory flexibility analysis for small businesses, micro-businesses, and rural communities is necessary for this proposed rule.

GOVERNMENT GROWTH IMPACT STATEMENT: The Board has determined that for the first five-year period the proposed rule is in effect, the following government growth effects apply: (1) the proposed rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation or elimination of employee positions; (3) the implementation of the proposed rule does not require an increase or decrease in future appropriations; (4) the proposed rule does not require an increase in fees paid to the agency; (5) the proposed rule does not create a new regulation; (6) the proposed rule expands an existing regulation; (7) the proposed rule does not increase or decrease the number of individuals subject to it; and (8) the proposed rule does not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Casey Nichols, Executive Director, 1801 Congress Avenue, Suite 8.600, Austin, Texas 78701, by fax to (512) 649-2482, or by email to official_rules_comments@tsbde.texas.gov for 30 days following the date that the proposed rule is published in the *Texas Register*. To be considered for purposes of this rulemaking, comments must be: (1) postmarked or shipped by the last day of the comment period; or (2) faxed or e-mailed by midnight on the last day of the comment period.

This rule is proposed under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

This proposed rule implements Chapter 111, Texas Occupations Code.

§108.16. *Teledentistry.*

(a) **Purpose.** Pursuant to Texas Occupations Code Chapter 111, and Texas Occupations Code §254.001(a), the Board is authorized to adopt rules relating to the practice of dentistry, including teledentistry dental services. This section establishes the standards of practice for teledentistry.

(b) **Definition.** "Teledentistry dental service" is defined in Texas Occupations Code §111.001(2-a).

(c) **Prevention of Fraud and Abuse.** Dentists who utilize teledentistry dental services must adopt protocols to prevent fraud and abuse through the use of teledentistry dental services.

(d) **Complaints to the Board.** Dentists who utilize teledentistry dental services must provide notice of how patients may file a complaint with the Board. Content and method of the notice must contain the same information as set out in §108.3(a)(2)-(3) of this title (relating to Consumer Information).

(e) **Practice of Teledentistry.**

(1) A dentist, dental hygienist, or dental assistant who delivers teledentistry services to a patient located in Texas must hold an active Texas license or registration issued by the Board.

(2) A dental health professional providing a dental health care service or procedure as a teledentistry dental service:

(A) is subject to the same standard of care that would apply to the provision of the same dental health care service or procedure in an in-person setting as established in §108.7 of this title (relating to Minimum Standard of Care, General);

(B) must establish a practitioner-patient relationship; and

(C) must maintain complete and accurate dental records as set out in §108.8 of this title (relating to Records of the Dentist).

(3) A dentist may simultaneously delegate to and supervise through a teledentistry dental service not more than five health professionals who are not dentists.

(4) Adequate measures must be implemented to ensure that patient communications, recordings and records are protected consistent with federal and state privacy laws.

(5) Any individual may provide any photography or digital imaging to a Texas licensed dentist or Texas licensed dental hygienist for the sole and limited purpose of screening, assessment, or examination.

(f) Informed Consent. In addition to the informed consent requirements in §108.7 of this title, and §108.8 of this title, informed consent must include the following:

(1) the delegating dentist's name, Texas license number, credentials, qualifications, contact information, and practice location involved in the patient's care. Additionally, the name, Texas license number, credentials, and qualifications of all dental hygienists and dental assistants involved in the patient's care. This information must be publicly displayed and provided in writing to the patient; ~~and~~

(2) a dentist who delegates a teledentistry dental service must ensure that the informed consent of the patient includes disclosure to the patient that the dentist delegated the service; ~~and~~[-]

(3) a licensee must, to the extent possible:

(A) confirm the identity of the patient;

(B) verify and authenticate the patient's health history;

(C) obtain an informed consent from the patient after disclosures have been made regarding the delivery models and treatment methods and limitations, to include any special informed consents regarding the use of teledentistry dental services. At a minimum, the informed consent must inform the patient and document acknowledgment of the risk and limitations of:

(i) the use of electronic and digital communications in the provision of care;

(ii) the potential for breach of confidentiality, or inadvertent access, of protected health information using electronic and digital communication in the provision of care;

(iii) the potential disruption of electronic and digital communication in the use of teledentistry; and

(iv) the types of activities permitted using teledentistry dental services;

(D) inform the patient that it is the role of the licensee to determine whether the condition being diagnosed or treated is appropriate for a teledentistry encounter; and

(E) state the requirement for explicit patient consent to forward patient identifiable information to a third party.

(g) Issuance of Prescriptions.

(1) The validity of a prescription issued as a result of a teledentistry dental service is determined by the same standards that would apply to the issuance of the prescription in an in-person setting.

(2) This rule does not limit the professional judgment, discretion or decision-making authority of a licensed practitioner. A licensed practitioner is expected to meet the standard of care and demonstrate professional practice standards and judgment, consistent with all applicable statutes and rules when issuing, dispensing, delivering, or administering a prescription medication as a result of a teledentistry dental service.

(3) A valid prescription must be:

(A) issued for a legitimate dental purpose by a practitioner as part of patient-practitioner relationship as set out in Texas Occupations Code §111.005; and

(B) meet all other applicable laws and rules before prescribing, dispensing, delivering or administering a dangerous drug or controlled substance.

(4) Any prescription drug orders issued as the result of a teledentistry dental service, are subject to all regulations, limitations, and prohibitions set out in the federal and Texas Controlled Substances Act, Texas Dangerous Drug Act and any other applicable federal and state law.

(h) Limitation on Certain Prescriptions.

(1) In this subsection, the following definitions apply:

(A) "Controlled substance", "opiate", and "prescribe" have the meanings assigned by Texas Health and Safety Code §481.002.

(B) "National holiday" means a day described by Texas Government Code §662.003(a).

(2) When prescribing a controlled substance to a patient as a teledentistry dental service, a dentist must not prescribe more than is necessary to supply a patient for:

(A) if the prescription is for an opiate, a two-day period; or

(B) if the prescription is for a controlled substance other than an opiate, a five-day period.

(3) For each day in a period described by paragraph (2) of this subsection that is a Saturday, Sunday, or national holiday, the period is extended to include the next day that is not a Saturday, Sunday, or national holiday.

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

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State Board of Dental Examiners

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For further information, please call: (737) 363-2333

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