



Texas Classroom  
Teachers Association

PO Box 1489 | Austin, Texas 78767 | tcta.org  
888-879-8282 | 512-477-9415 | Fax: 512-469-9527

To Whom It May concern: The Texas Classroom Teachers Association, representing approximately 50,000 classroom teachers and instructional personnel statewide, has the following comments regarding [Proposed Revisions to 19 TAC Chapter 61, School Districts, Subchapter CC, Commissioner's Rules Concerning School Facilities.](#)

First, we have strong concerns about the proposed language providing school districts with a more flexible option regarding compliance with the instructional facility space standards provided by the proposed rules.

Specifically, **proposed Section §61.1040(b)(1)(B)** provides that “A project for new construction or major renovation at an instructional facility must comply with the requirements established in subsections (d), (e), (f), (g), (j), and (k) of this section **and one of the methods required to demonstrate compliance with minimum space requirements established in subsections (h) and (i) of this section.**” (*emphasis added*).

**Proposed subsection (i)** provides for a “Qualitative method of compliance for instructional facility space standards”, including that “A school district may use the qualitative method of compliance for a capital improvement project only if the board of trustees has prior documented approval of **one or more instructional or operational practices for the proposed project that distributes or manages student capacity in an innovative or non-traditional manner.**” (*emphasis added*)

Additionally, **subsection (i)(1)** specifies that to satisfy this method of compliance, the project shall meet...the adjusted maximum instructional capacity of the campus.”

**Proposed Section 61.1040, subsection (a)(1) and (16)** provide that “For the qualitative method of compliance, maximum student enrollment is allowed to be higher than the maximum instructional capacity (i.e. “Adjusted maximum instructional capacity”)

**Proposed Section 61.1040(f)(1)** provides “A school district, design professional, contractor, and prime subcontractors, if applicable, shall certify compliance with all applicable standards required in subsections (d) and (g)-(k) of this section as follows...”

(i)Certifications related to standards for space for instructional facilities under subsection (g) of this section and standards associated with the method of compliance for instructional facility space approved by the school district board of trustees under the quantitative method of compliance in subsection (h) of this section or the qualitative method of compliance in subsection (i) of this section.

As far as we can ascertain, there are no requirements/guidelines in the proposed rules regarding how much adjustment can be made to the maximum instructional capacity under the Qualitative method of compliance. Additionally, the “trigger” for pursuing this method of compliance is “prior documented approval of one or more instructional or operational practices for the proposed project that distributes or manages student capacity in an

innovative or non-traditional manner.” We find this a deeply concerning potential loophole for complying with the instructional facilities space standards set out in the proposed rules. **Accordingly, we strongly recommend, rather than providing a wholesale alternative method of compliance as an option for accommodating instructional or operational practices that manage student capacity in an innovation/non-traditional manner, the Agency provide a narrowly tailored exception process for districts to pursue with the Agency when certifying compliance with instructional facilities space standards.**

We also have strong concerns with the change in the proposed rules from delineating instructional space standards by **type of instructional space**, including general classrooms, specialized classrooms etc. to “minimum square footage per student by **campus type** and the selected flexibility level.” (**Proposed Section 61.1040(h)(3) and (i)(1)**).

For example, under current rules, the facilities space standards require that “Classrooms for prekindergarten-Grade 1 shall have a minimum of 800 square feet per room. School districts with small class sizes may have classrooms that provide a minimum of 36 square feet per student” and “Classrooms at the elementary school level for Grades 2 and up shall have a minimum of 700 square feet per room. School districts with small class sizes may have classrooms that provide a minimum of 32 square feet per student.” (19 TAC §61.1036(d)(5)(B))

However, the proposed rules provide: “Elementary schools (prekindergarten-Grade 5):  
(i) L1 36 SF per pupil (pp);  
(ii) L2 36 SF pp;  
(iii) L3 42 SF pp; and  
(iv) L4 42 SF pp.”  
(Section 61.1040(h)(3)(A)).

Although we appreciate that the square footage per pupil at elementary **schools** in the proposed rules is the same as, or more square footage per student per elementary **classroom** in the current rules, the problem is that the proposed rules’ change from “classroom” to “school” when setting square footage per student standards means that classroom space will no longer be protected from overcrowding. This also holds true at the secondary level under the proposed rules. This is of particular concern given the need for classrooms to accommodate social distancing requirements due to the COVID-19 pandemic, and the fact that it and other pathogens will continue to be an ongoing issue.

**Accordingly, we strongly recommend that the proposed rules set standards for types of instructional spaces, including general and specialized classrooms rather than setting those standards at the school level.**

Additionally, we note that, although the proposed rules provide that, with either method of compliance, districts must meet minimum aggregate space requirements in **proposed Section 61.1040(h)(1) and (i)(1)**, both of these subsections are permissive in terms of what may or may not be included in minimum aggregate space requirements. This appears to provide another loophole regarding the instructional facility space standards provided in the rules, providing further reason to recommend that the proposed rules set standards for types of instructional spaces, including general and specialized classrooms.

Otherwise, we do appreciate that proposed rules' definition of "Instructional space" includes provision that "Outdoor instructional space may be provided at an instructional facility but may not be used to meet minimum aggregate space requirements in either method of compliance in subsections (h) and (i) of this section." (**Section 61.1040(a)(13)**).

**Regarding subsection (g) of the proposed rules**, "Standards for space for instructional facilities", we note that subdivision (3) of that subsection provides for a waiver to increase the class size above the maximums established in the proposed rules for combination science classrooms/laboratories and science laboratories. We have strong concerns about the proposed rules' provision for waiver ability from space standards for these potentially high-risk environments, when the current rules provide none. **Accordingly, we strongly recommend eliminating the ability for districts to seek waivers from these important safety standards.**

**Regarding subsection (g)(1)(A)(i)**, the proposed rules provide that "A school district may consider the School Library Standards and Guidelines as adopted under TEC, §33.021, when developing, implementing, or expanding library services."

We find this troubling, given that TEC Section 33.021 provides that "A school district *shall* consider the standards in developing, implementing, or expanding library services."

**Accordingly, we strongly recommend revising the proposed rule to provide that school districts shall consider the School Library Standards and Guidelines adopted under TEC, Section 33.021.**

**Regarding subsection (g)(2)(A)(i) and (ii)**, we strongly support the proposed rules' minimum standards for Combination science classrooms/laboratories for grades K-8, as they improve upon current rules by requiring increased square feet per student, as well as setting a maximum number of students.

Additionally, **regarding subsection (g)(2)(A)(iii)**, we strongly support the proposed rules' minimum standards for Combination science classrooms/laboratories for grades 9-12, as they improve upon current rules by setting square footage per student standards as well as a maximum number of students.

**Regarding subsection (g)(2)(B)(ii)**, we strongly support the proposed rules' minimum standards for science laboratories in grades 6-8, as they improve upon current rules by requiring increased square feet per students, as well as setting a maximum number of students.

**Regarding subsection (g)(2)(B)(iii)**, we strongly support the proposed rules' minimum standards for science laboratories in grades 9-12 as they improve upon current rules by setting square footage per student standards as well as a maximum number of students.

**Regarding subsection (b)(1)(E)**, we object to the proposed rules' provision that "A project for major renovation that includes minor scopes of work in an area of a school facility that is separate and distinct from the project scope of the major renovation may be performed as a part of a construction services contract for the major renovation without the

minor scope of work becoming subject to” (the standards for space for instructional facilities, or the quantitative or qualitative methods of compliance) if “the minor scopes of work would not, on a stand-alone basis, be considered a major renovation project.” **Again, our objection is based on the potential for this provision to be a major loophole for districts not to have to comply with the instructional facilities space standards provided in rule, and we strongly recommend that this provision be eliminated from the proposed rules.**

**Regarding subsection (d)(1)(B)**, the proposed rules provide that “The process of developing the long-range facility plan **shall consider the inclusion of** input from teachers, students, parents, taxpayers, and other school district stakeholders.” (*emphasis added*)

Although we appreciate the inclusion of this provision, we note that it is weaker than current rules because it only requires the process to “consider the inclusion of input” rather than “shall allow for input... in developing the educational specifications.” 19 TAC §61.1036 (a)(3)).

**Accordingly, we recommend that the language be revised to strike the phrase “the inclusion of” so that it reads:**

“The process of developing the long-range facility plan shall consider ~~the inclusion of~~ input from teachers, students, parents, taxpayers, and other school district stakeholders.”  
than requiring consideration of the input.”

**Regarding subsection (j)(3)(C)**, we support the proposed rules’ provision that “A school district shall consider as part of a capital improvement project the use of designs, methods, and materials that will reduce the potential for indoor air quality problems.” This improves upon current rule.

**Regarding subsection (j)(3)(D)**, we support the proposed rules’ provision that “A school district shall consider as part of a capital improvement project the use of sustainable school designs”, as this improves upon current rule as well.

Finally, **regarding subsection (k)**, the proposed rules provide that “A capital improvement project of a school district or an open-enrollment charter school must include campus-wide implementation of” the safety and security standards provided by the proposed rules, including those related to communications infrastructure and access control.

TCTA strongly supports these provisions, particularly those related to ensuring that every classroom and portable classroom provides district employees, including substitute teachers, access to a telephone, cellular telephone, or other electronic communications device to allow immediate contact with district emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments.

Regarding **subsection (k)(4)**, the proposed rules provide for exceptions to additional safety and security standards based on cost, including that “A school district may opt out of the requirements ... if: (A) the facility is scheduled to, according to the long-range facilities plan, cease operations as an instructional facility within three years of the project; and (B) the five-year long-range facility plan clearly states that, **prior to the end date of the plan**, the facility

will be compliant with at least two additional safety and security standards ... if ceasing operation does not occur or operation resumes. The long-range facility plan must specify which two additional safety and security standards will be implemented.” (*emphasis added*)

Although we understand taking into account situations in which a building may cease operations as an instructional facility within the near future, we don’t believe that the provisions in subsection(k)(4)(B), which allow for a building to go for five years without meeting any additional safety/security standards is reasonable. Accordingly, we recommend that the proposed rules provide that the five-year long-range facility plan clearly states that, **if ceasing operation does not occur by the end of the third year**, the facility will be compliant with at least two additional safety and security standards **by the end of the following year**.

We appreciate this opportunity for, and your consideration of, our input.

Holly Eaton

Holly Eaton  
Director of Professional Development and Advocacy  
Texas Classroom Teachers Association  
PO Box 1489, Austin, TX 78767  
[tcta.org](http://tcta.org) · 888.879.8282 · 512.469.9527(f)

