



Texas Association of School Boards

Legal Services

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Serving Texas Schools Since 1949

Considerations in Response to School Violence

In the days since the mass shooting at Stoneman Douglas High School in Parkland, Florida, we at TASB have joined the nation in mourning the loss of life and questioning why such events happen. With the benefit of hindsight, many are probing the events leading up to the shooting in hope of finding ways to prevent another tragedy. Every school official and peace officer, every student and school employee, every mother and father are all asking the same question: Is there more we can do to protect schools?

Below are eight considerations for Texas public school officials searching for answers to that difficult question.

1. Confirm that your district has an updated emergency operations plan and has completed its required safety and security audit.

Every Texas public school district is required to have a multihazard emergency operations plan (EOP) that addresses mitigation, preparedness, response, and recovery as defined by the commissioner of education in conjunction with Texas Division of Emergency Management. The plan must provide for training, drills, coordination with emergency services, and a safety and security audit at least every three years. Tex. Educ. Code § 37.108; TASB Policies CK, CKC.

In addition, each school district is required to have a safety committee to advise on the local EOP and related matters. *Tex. Educ. Code § 37.109; TASB Policy CK*. To the extent possible, districts must follow the safety and security audit procedures developed by the [Texas School Safety Center](#) (TxSSC) or a comparable public or private entity. School districts are required to report the results of their safety and security audits to the school board and the TxSSC. *Tex. Educ. Code § 37.108; TASB Policy CK*.

On February 21, 2018, Governor Greg Abbott sent a [letter](#) to TEA Commissioner Mike Morath. The letter directs Commissioner Morath to gather and share TxSSC resources and make recommendations to the legislature about school security. The letter also directs the commissioner to publish online and in a press release the names of any school districts that are not in compliance with the requirements of having an EOP and conducting timely audits within 45 days (approximately April 7, 2018).

The commissioner of education responded on March 2, 2018, with a [To the Administrator Addressed Letter](#). The letter lists school districts' options for employing commissioned peace officers and other security personnel. The letter advises school districts to work closely with first responders and local law enforcement in making critical decisions about how best to provide for local security.

The letter also encourages the use of available funds to enhance security and safety measures at school premises by adding features such as security cameras or fortified doors and windows. Finally the letter reminds districts about a law passed in 2015 (Senate Bill 788, known as "Kari's Law"), which requires all multi-line telephone systems that permit outbound calling to allow for direct dialing of 9-1-1 without requiring an initial digit to get an outside line.

2. Review your local practices and planning in light of recommendations by the Texas School Safety Center.

The TxSSC has its [resources on school violence](#) and [emergency management](#) front and center on its website. In his letter, the Commissioner advises districts to consult the TxSSC Website for additional information on school safety measures and emergency operations planning.

3. Work with your Risk Management team to update the security of your school facilities and improve training.

For more specific analysis of your local risks and facilities, consider reaching out to your insurer for risk management support. For example, the TASB Risk Management Fund (RMF) provides members of the Workers' Compensation, Property, Liability and Auto programs emergency management support and training at no additional charge. The TASB RMF has numerous resources online for members with log-in credentials. In addition, the Fund shares resources online for all school districts on the following topics:

[Emergency Management and School Security Program](#)

[Emergency Operations Plans and Campus Safety](#)

[Standard Response Protocol](#)

[Standard Reunification Method](#)

[Tips on Emergency Operations Plans](#)

[Polling Place Security](#)

4. Renew your relationship with local law enforcement and other first responders.

Events in the news are a reminder that emergencies arise without warning, and districts cannot wait for an event to occur to establish clear lines of communication with first responders across the local area. School districts have multiple options under Texas law for providing security and law enforcement protection at schools. Each of these arrangements calls for unique protocols for emergency response and MOUs to establish clarity regarding the jurisdiction and expectations of each entity responding in a crisis. Districts are required to meet regularly with local first responders to keep communications open and clear. Consider meeting more frequently if questions arise or staff positions change. See TASB Policy CKE.

The events in Parkland, as well as changes in Texas laws regarding [cyberbullying](#) and online harassment, may provide a platform for revising your school district's approach to coordinating with local law enforcement and mental health resources in response to students' social media posts that suggest the potential for harm to others or self.

5. Understand your community's position on arming school employees other than peace officers.

Some have suggested that permitting or requiring trained school employees to carry firearms would be a way to increase security in school buildings. Several Texas school districts already have policies to permit the confidential identification of individual school employees who will commit to specified training and engage in concealed carry on school campuses. For the most part, these are rural school districts where the response time by law enforcement would be more than a few minutes. If questions arise in your community about the risks or benefits of this option, please review TASB Legal Services' memo [School Marshals and Other Personnel Carrying Firearms](#).

6. Monitor and offer guidance on social media use by employees and board members.

Much of the national attention and dialogue about the events in Parkland have unfolded on social media. Many school officials and school employees have gone online not only to express condolences, but also to search for answers and share ideas about how to prevent future tragedies. Most of these communications about the news and national conversations around school safety would be categorized as "matters of public concern," meaning that school officials and school employees have a First Amendment right to express their views and be a part of the dialogue without fearing retaliation. That said, if online communications harm the district by threatening the district, revealing confidential school district information, criticizing individual schools officials with personal attacks, or otherwise interfering with district operations, the school district may have a governmental interest in stopping the harmful communications and punishing the speech.

For more information on employee use of social media, see TASB Legal Services' article [Employee Free Speech Rights](#). For more information on trustees' use of social media, see TASB Legal Services' article [Social Media Guidelines for School Board Members](#).

7. Be prepared and proactive regarding protests by students.

The student-led #neveragain movement has captured the attention of Americans of all ages, as young people speak out about the impact of school violence on their generation. TASB Legal Services' article [Student Protests](#) addresses issues that schools may encounter when dealing with student protests.

From a legal standpoint, state and federal law permit school districts to treat absences as unexcused and impose discipline on disruptive conduct, even if the absences or disruptions are related to a matter of public concern. Only non-disruptive student speech carries the protection of the First Amendment, and walk-outs, for example, are inherently disruptive to school operations. On the other hand, state and federal law do not *require* school districts to respond by imposing discipline. While some districts will choose to discipline for a walk-out or other disruption, others may attempt to accommodate free speech by working with school leaders to schedule a "walk-in," where students remain safely on school grounds with adult supervision, but have an appropriate period of time to express their views. This is truly a matter of local control. To assist school officials with their decision-making, NSBA has shared a [process document](#) with questions for consideration before responding to protest speech.

8. Demonstrate care and consideration for your employees during this stressful time.

Understandably, school officials are focused on the needs of students first. Realize, however, that the pressure on your staff to bravely answer students' questions, conduct drills, and discuss the news may be overwhelming at times. Consider creating private forums for employees to debrief, ask questions, share ideas and concerns, and simply comfort each other, out of the view of parents and students.

We realize there are more questions than answers on this topic, but if TASB can be of any help to your school district, please do not hesitate to contact us.

For more information on this and other school law topics,
visit TASB School Law eSource online at schoolawesource.tasb.org.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.

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