

**Department of State Health Services  
Agenda Item for State Health Services Council  
October 10-11, 2007**

**Agenda Item Title:** Amend 25 TAC, §§37.531 - 37.538, Rules Relating to School-Based Health Centers

**Agenda Number:** 4-g

**Recommended Council Action:**

For Discussion Only

For Discussion and Action by the Council

**Background:**

The rules for school-based health centers establish guidelines for awarding grants to assist school districts with the costs of operating school-based health centers and establish standards for the funded centers.

The rules comply with the mandatory four-year review of rules in Government Code, §2001.039.

**Summary:**

The rules add a definition and update other definitions. The rules clarify guidelines for requests for proposals specifically the number of staff members required for the primary review of proposals and the process for selecting and training evaluators to score proposals. The rules also update the standards for school-based health centers.

**Summary of Stakeholder Input to Date (including advisory committees):**

The School Health Program received input relating to the request for proposal application process for awarding grants from the Texas Association of School-Based Health Centers (TASBHC) in February 2006 at their annual conference. A second meeting of TASBHC board members convened on March 31, 2006 at DSHS to further discuss the barriers related to the application process for awarding grants.

The School Health Program plans to present these rules at the Texas School Health Advisory Committee on September 17, 2007 for review.

The School Health Program plans to have additional input from the Texas Association of School-Based Health Centers and other stakeholders once the rules have been posted to the *Texas Register*. Notification about the posting of the rules will be through email distribution lists and the School Health Program web site. Comments are not expected to be excessive or controversial.

**Proposed Motion:** Motion to recommend HHSC approval for publication of rules contained in agenda item # 4-g.

**Agenda Item Approved by:** Debra Stabeno, Assistant Commissioner, Prevention and Preparedness

**Presented by:** Anita Wheeler, R.N. **Title:** School Health Program Coordinator

**Program/Division:** Chronic Disease Prevention Branch

**Contact Name/Phone:** Evelyn Shewmaker **Extension:** 6116

**Date Submitted**  
August 29, 2007

Title 25. HEALTH SERVICES  
Part 1. DEPARTMENT OF STATE HEALTH SERVICES  
Chapter 37. Maternal and Infant Health Services  
Subchapter T. School-Based Health Centers  
Amendments §§37.531 – 37.538

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission on behalf of the Department of State Health Services (department) proposes amendments to §§37.531 – 37.538, concerning school-based health centers.

BACKGROUND AND PURPOSE

The amendments establish procedures for awarding grants to assist school districts with the costs of operating school-based health centers and to establish standards for the funded centers. School-based health centers are established by a school district or by a school district jointly with a public health agency at one or more campuses in the school district to deliver cooperative health care programs, prevention of emerging health threats that are specific to the district, and conventional (primary) health services for students and their families. The department, formerly the Texas Department of Health, started voluntary funding for school-based health centers in 1993 and in 1999 as authorized by the appropriations act of the 76th Regular Legislative Session, and subsequent appropriations acts, created a competitive grant program, and provided start-up funding for two school-based health centers per fiscal year, as required by the appropriations act. These provisions are now in Education Code, Chapter 38.

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 37.531 - 37.538 have been reviewed and the department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed.

SECTION-BY-SECTION SUMMARY

Amendments to §37.531 and §37.535 clarify the rules by minor word changes. Amendments to §37.352 add a new definition and clarify other definitions. An amendment to §37.533 was made based on changes in appropriations and to allow greater flexibility in awarding grants. An amendment was made to §37.534 to change the title of the rule. Amendments were made to §37.536 to change the title of the rule and to clarify the competitive Request for Proposals process. Amendments were made to §37.537 to change the title of the rule and to clarify the procedures for reviewing proposals. Amendments were made to §37.538 to update the standards for school-based health centers. These updates clarify the use of a local school health advisory council, modify how parents are notified of a child's appointment allowing for different communication methods, clarify the use of funds received through billing for services, and update the age group receiving services. Amendments to the standards also add that outcomes

focusing on student absenteeism will target students with chronic conditions and revised the components to be included in the annual report.

#### FISCAL NOTE

Casey Blass, Section Director, Disease Prevention and Intervention Section, has determined that for each year of the first five-year period that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

#### MICRO-BUSINESS AND SMALL BUSINESS IMPACT ANALYSIS

Mr. Blass has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

#### PUBLIC BENEFIT

In addition, Mr. Blass has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is to provide health care to children through school-based health centers.

#### REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

#### TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

#### PUBLIC COMMENT

Comments on the proposal may be submitted to Nancy Eichner, Program Specialist, Child and Health Safety Group, Department of State Health Services, 1100 West 49th Street, Austin, Texas

78756, 512/458-7111, Extension 2782 or by email to [nancy.eichner@dshs.state.tx.us](mailto:nancy.eichner@dshs.state.tx.us). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

#### LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

#### STATUTORY AUTHORITY

The proposed amendments are required by the Texas Education Code, §38.063, which requires rules establishing standards for health care centers funded through grants; Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

The proposed amendments affect the Education Code, Chapter 38; Health and Safety Code, Chapter 1001; and Government Code, Chapter 531. Review of the rules implements Government Code, §2001.039.

Legend: (Proposed Amendment(s))

Single Underline = Proposed new language

**[Bold, Print, and Brackets]** = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§37.531. Purpose.

The purpose of these sections is to establish procedures **[rules]** for awarding grants to assist school districts with the costs of operating school-based health centers and to establish standards for the funded centers.

§37.532. Definitions.

The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Applicant--A school district applying for a grant from the Texas Department of State Health Services to assist with the costs of operating a school-based health center.

(2) Conventional (primary) health services--Family and home support; health care, including immunizations; dental health care; health education; and preventive health strategies.

(3) Department--**[The Texas]** Department of State Health Services.

(4) Funded applicant--A school district **[that applies for a grant from the Texas Department of Health to assist with the costs of operating a school-based health center and]** with which the Texas Department of State Health Services **[subsequently]** executes a contract to operate a school-based health center.

(5) (No change.)

(6) Local School Health Advisory Council or Health Education and Health Care Advisory Council **[health education and health care advisory council]**--Persons appointed by the board of trustees of a school district to make recommendations to the district concerning the establishment of school-based health centers and to assist the district in ensuring that local community values are reflected in the operation of each center. In addition to the majority of appointees who shall be parents of students, the board of trustees shall also appoint at least one person from each of the following groups:

(A) - (H) (No change.)

(7) Low property wealth per student--As defined by the Texas Education Agency, wealth is defined as total taxable property value divided by the total number of students, and is used as an indicator of a district's ability to raise local funds on a per pupil basis. **[An assessed**

**valuation per student in the applicant school district of no more than 25% of the state average assessed valuation per student.]**

(8) - (9) (No change.)

(10) Rural area--A county with a population not greater than 50,000, or an area that has been designated under state or federal law as:

(A) - (B) (No change.)

(C) a medically underserved community as defined by the Office of Rural Community Affairs [**Center for Rural Health Initiatives**].

(11) School-based health center--An entity established by a school district or by a school district jointly with a public health agency at one or more campuses in the school district to deliver cooperative health care programs, prevention of emerging health threats that are specific to the district, and conventional (primary) health services for students and their families.

(12) Family and home support--Case management or the coordination of health services such as assisting families with obtaining health insurance.

§37.533. Number of Awards.

The department shall award [**grants to**] at least one [**two applicants**] grant each state Fiscal Year.

§37.534. Dollar Amount of Awards Per Biennium.

(No change.)

§37.535. Matching Funds.

Funded applicants shall assure the department that matching funds obtained from nonfederal sources, including in-kind contributions, community or foundation grants, individual contributions, and operating funds from local government agencies [**agency**], shall be available to the school-based health center project.

§37.536. Competitive Request for Proposals Process.

The department shall award grants to applicants annually through a competitive Request for Proposals (RFP) process administered in accord with all applicable policies and procedures of the department [, **including the RFP guidelines that appear in §37.537 of this title (related to Guidelines for Requests for Proposals)**].

§37.537. Procedures [**Guidelines**] for Requests for Proposals.

The department shall complete at least one Request for Proposals (RFP) process for school-based health centers per state fiscal year [**according to the following guidelines**].

**[(1) Proposals submitted in response to the RFP for school-based health centers shall be screened, reviewed, and evaluated according to a competitive process described in full in the RFP.]**

**[(2) The department's School Health Program shall utilize a standard evaluation instrument for scoring applicants' proposals. A copy of the instrument shall be included in the RFP.]**

(1) **[(3) A primary review of all applicants' proposals shall be performed by a member of the School Health Program staff.]** The reviewer shall give preference [**award the same number of bonus points**] to each applicant located in a rural area and/or that has low property wealth per student.

**[(4) The School Health Program shall select and train evaluators to score proposals after primary review.]**

(2) **[(5)]** Proposals shall be evaluated based on the applicant's ability and stated willingness to comply with the department's standards for school-based health centers described in §37.538 of this title (relating to Standards for School-Based Health Centers).

§37.538. Standards for School-Based Health Centers.

(a) Funded applicants shall comply with the following standards for school-based health [**care**] centers.

(1) Community-based solutions. The funded applicant shall facilitate collaboration among families, schools, and members of the community to assess and meet the health needs of the community's children and families. The funded applicant shall utilize all the following strategies for facilitating community-based solutions:

(A) Establish or utilize a local school health [**education and health care**] advisory council per Education Code, Title 2, Chapter 28, §28.004 or a local health education and health care advisory council per Education Code, Title 2, Chapter 38, §38.058 to make recommendations to the district on the establishment of school-based health centers and to assist the district in ensuring that local community values are reflected in the operation of each center and in the provision of health education.

(B) Establish and/or enhance links between school personnel, school-based health center personnel, other health/social services providers and agencies in the community, and other supportive community sectors.

(C) Enable students and families to be responsible decision-makers in promoting their own health and well-being, making connections with community systems that

help to prevent the social isolation and alienation of individuals and families, and using the health care system wisely.

(D) Require parental involvement in and management of the health care of children receiving services from the center; encourage parental accompaniment of any child younger than 18 years of age at visits to the center; notify the child's parent **[in writing]** at least one week in advance or as early as possible of the scheduled appointment; and encourage the parent to attend the appointment.

(2) Administration. The funded applicant shall plan and administer a school-based health center that meets the health needs of the community's children and families by use of the following strategies:

(A) Deliver primary and preventive health services to children and families in a school-based setting.

(B) Establish efficient, client-friendly procedures for utilizing all available sources of funding to compensate the district for services provided by the school-based health center, including reimbursement from [money available under] the state Medicaid program, a state children's health plan program, private health insurance or health benefit plans. Funds received through billing for services shall be used for current and future operations of the school-based health center. [, and the ability of those using a school-based health center to pay for the services.]

(C) Contract for provision of services at the school-based health center if necessary and appropriate. A school-based health center shall operate under the guidance of a medical director who is licensed by the Texas Medical Board. The medical director shall direct medical services of the school-based health center and be available for consultation, to see referrals, and to review charts.

(D) Develop and present a specific, detailed plan for future funding of the school-based health center that demonstrates how the center will continue to operate when grant funding is no longer available.

(E) Research, develop, and implement the forms and administrative procedures necessary to remain in compliance with all applicable and relevant legislation and regulations. Required procedures contained in applicable legislation for operation of school-based health centers include but are not limited to the following:

(i) provision of services to a student only if the school district or the provider with whom the district contracts has obtained written consent to the services from the student's parent within the one-year period preceding the date on which the services are provided, and the consent has not been revoked;

(ii) joint identification by school-based health center staff and the student's parent of any health-related concerns of the student that may affect the student's health and/or success in school;

(iii) provision of neither reproductive services, counseling, nor referrals through the school-based health center receiving grant funds awarded under this subchapter;

(iv) provision of all services by only appropriately licensed, certified, or credentialed professionals as required by law;

(v) referral of a student for mental health services only upon notification of and with the written consent of the student's parent, which must be followed by written consent by the student's parent for each treatment occasion(s) authorized by the provider, including informed consent when required for specific services;

(vi) a good faith effort by staff of a school-based health center located in a rural area described by §37.532(8) of this title (relating to Definitions) to identify and coordinate with existing health care providers;

(vii) provision of notice by the staff of the school-based health center to the primary care physician of a student who has received services;

(viii) coordination by the staff of the school-based health center with the primary care physician concerning the clinical treatment of any person who has a primary care physician under the state Medicaid program or another health plan and obtaining authorization before delivering a service;

(ix) utilization of all available sources of funding to compensate the school district or provider with whom the district contracts for services provided by a school-based health center;

(x) conduct or facilitation of the conduct of client surveys in school-based health centers by funded applicants; and

(xi) documentation in the student's medical record of the school-based health center's efforts to involve the student's parent in identification of the student's health-related concerns; notification of the student's parent of scheduled appointments and proposed services; coordination with the student's primary care physician; and maintenance of written consent for treatment by the student's parent, including informed consent when required for specific services.

(3) Emphasis on prevention. A funded applicant shall provide for primary emphasis on the delivery of conventional (primary) health services and secondary emphasis on the implementation of population-based models that prevent emerging health threats by use of the following strategies:

(A) increasing substantially the number of children in the community with health-care (medical) homes;

(B) facilitating access to appropriate primary and preventive care for children **[and families]**;

(C) educating, enabling, and empowering individuals for healthier lifestyles;

(D) involving the community in identifying priorities and developing health promotion strategies; and

(E) relying on the evidence of effective prevention to develop interventions that can demonstrate impact.

(4) Focus on outcomes. A funded applicant shall focus on the achievement of outcomes that can be documented, using the following strategies:

(A) delivering conventional (primary) health services and disease prevention of emerging health threats through access to appropriate primary and preventive care for children **[and families]** through a program designed to achieve the following goals:

(i) a reduction in student absenteeism with an emphasis on students with chronic conditions that use the school-based health center and drop-out rates;

(ii) an increase in each student's ability to meet his or her academic potential; and

(iii) stabilization of each student's physical well-being.

(B) A funded applicant shall research, document, analyze, and evaluate outcomes, including the goals listed in subparagraph (A) of this paragraph, by activities that include but are not limited to the following:

(i) gathering data and statistics, monitoring outcomes, and producing data by use of quantitative measurement systems to report on project impact as required by the Request For Proposals;

(ii) providing quarterly reports as required by the department;

(iii) conducting client surveys and other qualitative measures of client satisfaction; and

(iv) producing an annual written report that includes but is not limited to a narrative description of goals accomplished, numbers of students served, summary

and outcomes of performance measures, results **[a project evaluation with baseline data; data and analysis]** from client satisfaction surveys, [;] any available statistics related to increased academic success, at least one story from consumers describing the impact of the school-based health center, and plan for sustaining the center after the final year of grant funding. **[improved student health, and improved performance on student assessment instruments under Education Code, Chapter 39, Subchapter B; and other information as specified by the department.]**

(b) [(5)] Compliance. A funded applicant shall comply with standards required by Education Code, Chapter 38, Subchapter B. and provide to the department annually a statement signed by a representative of the school district stating that the district has made a good faith effort to meet all requirements of the department.