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Note: For information regarding construction of school facilities, see CV series.

In addition to the facility standards contained in this policy, additional requirements are set out in 19 Administrative Code 61.1036 and 61.1040.

**State Standards for
Construction on or
After November 1,
2021**

Applicability

All new facilities must meet the commissioner's standards for adequacy of school facilities to be eligible to be financed with state or local tax funds. *Education Code 46.008*

The school facilities standards established in 19 Administrative Code 61.1040 ("section 61.1040") shall apply to all district capital improvement projects as follows, regardless of the type of school facility or the type of construction delivery method used by the district.

1. A district capital improvement project of any type or size relating to a school facility subject to section 61.1040 must comply with applicable requirements established in section 61.1040(d), (e), (f), (j), and (k).
2. A project for new construction or major renovation at an instructional facility must comply with the requirements established in section 61.1040(d), (e), (f), (g), (j), and (k) and one of the methods required to demonstrate compliance with minimum space requirements established in section 61.1040(h) and (i).
3. A project for minor renovation at an instructional facility must comply with applicable requirements established in section 61.1040(d)(1), (e), (f), (j), and (k).
4. A project for new construction, major renovation, or minor renovation at a specialized instructional facility, noninstructional facility, or noninstructional specialized assembly facility must comply with applicable requirements established in section 61.1040(d)(1), (e), (f), (j), and (k).
5. 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 in section 61.1040(g), (h), or (i) if:
 - a. The minor scopes of work would not, on a stand-alone basis, be considered a major renovation project; and

- b. The cost of the minor scopes of work is included in the total cost of the project construction budget to determine the appropriate scope of work to be included in the project, as specified in section 61.1040(k)(1)(B).

19 TAC 61.1040(b)(1)

Definitions

The words and terms used in section 61.1040 shall have the meanings set out in section 61.1040(a).

*Capital
Improvement
Project*

Any school facility project consisting of new construction, major renovation, or minor renovation for which construction services are procured under Government Code Chapter 2269, in accordance with Education Code 44.031(a)(5). *19 TAC 61.1040(a)(4)* [See CV]

Implementation

The school facilities standards established in section 61.1040 shall apply to a capital improvement project for which at least one of the following has occurred on or after November 1, 2021:

1. A board adopts a fiscal year maintenance and operations budget where a capital improvement project title and a design or design and construction budget are delineated;
2. A board calls a bond election where one or more capital improvement project titles and design or design and construction budgets are delineated; or
3. A new contract or amendment to an existing contract for architectural services for new construction or a major renovation project or a contract for engineering services for a major renovation or minor renovation has been agreed to and signed and dated by both parties to the agreement.

19 TAC 61.1040(c)(1)

A district shall consider implementing the safety and security standards under section 61.1040(k) for any safety and security upgrades to an existing instructional facility that does not require compliance with section 61.1040. *19 TAC 61.1040(c)(4)*

*Option for
Actions Taken
Before
November 1,
2021*

A board may elect to treat a capital improvement project, for which an action listed above was taken prior to November 1, 2021, under standards established in 19 Administrative Code 61.1036, below, or under the standards established in section 61.1040. If an election to comply with section 61.1040 is made by a board, the district and architect may mutually agree that the contract for design services may be adjusted and then must signify in writing that the project will become subject to the facilities standards established in section 61.1040 through an affirmative indication on the required certification form for the project or through some other written doc-

ument or addendum to the contract signifying election under section 61.1040 and any modifications to the contract terms agreed to by the parties.

If a board makes an election to comply with section 61.1036, it may still elect to comply with section 61.1040(k) (safety and security standards).

19 TAC 61.1040(c)(2)-(3)

Educational
Adequacy
*Long-Range
Facility Plan*
Elements

A district shall ensure that a capital improvement project subject to section 61.1040 complies with the requirements and standards as follows.

The long-range facility plan shall include all of the following elements that apply to the facility and project and must also be updated prior to commencement of construction to include the access control document required in section 61.1040(k)(1)(B):

1. Existing and proposed instructional programs at the project campus, including special education, dual language, course offerings, and partnerships;
2. The age and condition of all buildings and systems at the project campus;
3. History of completed capital improvement projects at the facility;
4. Site evaluation of the project campus, including, but not limited to, overall site; shape; useable land; suitability for intended use as well as planned improvements; adequate vehicular, pedestrian, and emergency access; queueing; parking; and site amenities;
5. The district's educational specifications;
6. The district's enrollment projections, maximum student enrollment of the facility, and the facility's maximum instructional capacity, if applicable; and
7. The noncompliance, partial compliance, or full compliance with each of the safety and security standards required in section 61.1040(k).

Process

The process of developing the long-range facility plan shall consider input from teachers, students, parents, taxpayers, and other district stakeholders.

Compliance

The requirement for a long-range facility plan is met when a district completes the long-range facility plan, presents it to the board, and

makes it available to the prime design professional for a capital improvement project. The long-range facility plan expires after five years from the date of the final plan presented to the board and must be updated prior to commencement of a subsequent capital improvement project. A long-range facility plan developed as part of a district-wide long-range facilities plan may be used to satisfy this requirement.

19 TAC 61.1040(d)(1)

*Educational
Specifications*

A district shall ensure that a project for new construction and major renovation subject to section 61.1040 complies with the requirements and standards as follows.

Elements

Educational specifications are a written document prepared by the district and approved by the board and shall include all of the following:

1. The district mission, vision, goals, and pedagogy;
2. Preliminary details related to facility type, grades served, and maximum student enrollment;
3. Pertinent provisions of the multi-hazard emergency operations plan that may inform the functionality of the built environment, including how the district complies with Education Code 37.108 [see CKC];
4. A written statement that includes:
 - a. Inclusive design goals and considerations supported by the district; and
 - b. How inclusive design should be addressed in new and renovated facility designs;
5. Minimum total square footage required to comply with the quantitative method of compliance; and
6. Innovative teaching or operational practices intended for implementation at the instructional facility that may lead to the use of the qualitative method of compliance.

Schedule

An educational specification shall be created for each campus type. If the design and construction of a new campus or major renovation of an existing campus differs substantially from an educational specification that exists for the same campus type, a separate educational specification must be developed. Educational specifications shall be initiated upon the first proposed project of its type and must be completed prior to initiating the planning or pro-

	<p>gramming phase of a project. Each educational specification must be updated after five years from the date of approval.</p>
Compliance	<p>The requirement for educational specifications is met when a district delivers the approved document to the architect.</p> <p><i>19 TAC 61.1040(d)(2)</i></p>
Exceptions	<p>A district is exempt from the requirements of section 61.1040(d) (Educational Adequacy):</p> <ol style="list-style-type: none">1. If a school facility experiences catastrophic damage and the board approves a capital improvement project in accordance with Education Code 44.0312(c) (delegation of contracting authority); or2. In a situation deemed urgent by action of the board that warrants immediate action because, if left unresolved, it would impair the conduct of classes. <p><i>19 TAC 61.1040(d)(3)</i></p>
Administration	<p>Section 61.1040(e) establishes standards for the administration and procurements of design professional services and other professional services and for the administration of competitive bids and contracting requirements for construction services. A district shall comply with requirements in section 61.1040(e) and with all applicable requirements, restrictions, and responsibilities established in state law, administrative code, or by a local authority having jurisdiction.</p> <p>A district shall comply with the administrative and procedural requirements established in section 61.1040(e) and with the standards established in section 61.1040(j) to promote construction quality and best value for a capital improvement project subject to section 61.1040.</p> <p>A standard in section 61.1040 that incorporates by reference a key statutory provision or administrative rule is established as a compliance requirement for a district seeking to procure, obtain a competitive bid, or administer a contract for construction services, construction-related services, design professional services, or any other professional service required for a capital improvement project. The requirements establish a method by which a district shall demonstrate compliance with the requirements in section 61.1040(e) and with the construction quality standards and construction code requirements in section 61.1040(j). Any express reference to, or omission of, an applicable statutory provision in section 61.1040(e) may not be construed to diminish, alter, or abate a</p>

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provision of law applicable to a district or to a district capital improvement project subject to section 61.1040.

19 TAC 61.1040(e)(1)

*District
Requirements
and
Responsibilities*

In addition to the provisions below, district requirements and responsibilities are set out in section 61.1040(e)(2).

*Procurement
Transparency*

In accordance with Education Code 46.003(g), the board and voters of a district shall determine district needs concerning construction, acquisition, renovation, or improvement to instructional facilities. District funding is entrusted to the district by the taxpayers, and a district must ensure procurement processes and procedures are transparent and provide the best value to the district by complying with applicable laws governing procurement of professional design services and construction services [see CV] and with the standards established in section 61.1040(e) to promote construction quality. *19 TAC 61.1040(e)(2)(A)*

*Superintendent's
Duties*

In accordance with Education Code 11.201, a superintendent shall oversee and ensure compliance with the standards for school facilities established in section 61.1040 and shall ensure board consideration for any action specified as being required to be made by the board, whether by statute, board rule, or other applicable requirement. *19 TAC 61.1040(e)(2)(B)*

*Requirements for
Other Services*

Requirements for construction services, design professional services, and third-party consultants are set out in section 61.1040(e)(3)-(5).

*Contract
Compliance and
Quality Control*

A district shall ensure that services sought by or provided to the district for a school facility capital improvement project, including, but not limited to, professional design services, construction services, construction administration services, third-party inspection services, third-party testing services, or third-party code compliance services, are provided through a project-specific written agreement that meets the requirements of section 61.1040(e)(6). *19 TAC 61.1040(e)(6)*

*Certification of
Compliance with
Standards*

A district, design professional, contractor, and prime subcontractors, if applicable, shall certify compliance with all applicable standards required in section 61.1040(d), (g)-(k) as required by section 61.1040(f). *19 TAC 61.1040(f)(1)*

*Instructional Facility
Space Standards*

Standards for space for instructional facilities are set out in section 61.1040(g).

*Board Approval
of Compliance*

A board shall approve compliance with the quantitative method of compliance for instructional facility space requirements under section 61.1040(h) or the qualitative method of compliance for instruc-

tional facility space requirements under section 61.1040(i) before the commencement of design development for a capital improvement project for an instructional facility. *19 TAC 61.1040(h), (i)*

A district may use the qualitative method of compliance for a capital improvement project only if the board 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 nontraditional manner. Prior to approving the qualitative method of compliance, all instructional and operational practices applicable to the proposed project must have been documented and approved by the board to demonstrate compliance with the requirements in section 61.1040(i). *19 TAC 61.1040(i)*

Construction Quality
Standards

A capital improvement project for a school facility must reasonably comply with the following construction code requirements.

*Construction
Code
Requirements*

Projects located outside of a municipal jurisdiction in the unincorporated area of a county must reasonably comply with the requirements of section 61.1040(j)(1)(A).

Projects located inside of a municipal jurisdiction must reasonably comply with the requirements of section 61.1040(j)(1)(B).

19 TAC 61.1040(j)(1)

*Third-Party Code
Compliance
Requirement*

District responsibilities and other requirements related to third-party code compliance are set out in section 61.1040(j)(2).

Safety and Security
Standards

A capital improvement project of a district must include campus-wide implementation of the provisions of section 61.1040(k)(1) related to communications infrastructure and access control. *19 TAC 61.1040(k)(1)*

*Requirements for
All Instructional
Facilities*

A district shall develop a document that designates each exterior door of each instructional facility campus-wide as either primary, secondary, or nondesignated entrances and shall ensure that the documented designation of all exterior doors becomes part of the long-range facility plan prior to commencement of construction of a capital improvement project. *19 TAC 61.1040(k)(1)(B)*

*Additional
Standards Based
on Budget*

A district shall approve a project construction budget for a capital improvement project at completion of the design development phase of the project and prior to commencement of the construction documents phase. The project construction budget approved by the district shall determine how many of the additional safety and security standards established in section 61.1040(k)(3) are required for the project. A district shall designate in writing which of the additional safety and security standards in section

61.1040(k)(3) have been approved by the board for a capital improvement project and shall provide to the prime design professional and each design professional of record written documentation of the approved safety and security standards for the proposed facility prior to commencement of the construction documents phase of a capital improvement project. The following standards shall apply to a capital improvement project for an instructional facility until all instructional facilities campus-wide fully comply with all of the additional safety and security standards specified in section 61.1040(k).

1. If a project construction budget is \$1 million to \$5 million, the facility is required to comply with at least one additional safety and security standard specified in section 61.1040(k)(3).
2. If a project construction budget is \$5 million to \$10 million, the facility is required to comply with at least two additional safety and security standards specified in section 61.1040(k)(3).
3. If a project construction budget is over \$10 million, the facility is required to comply with all of the additional safety and security standards specified in section 61.1040(k)(3).
4. For a capital improvement project that includes new construction, the new construction of an instructional facility is required to comply with all three of the additional safety and security standards specified in section 61.1040(k)(3).

19 TAC 61.1040(k)(2)

Exceptions

A district may opt out of the requirements specified in section 61.1040(k)(2) if:

1. 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
2. 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.

19 TAC 61.1040(k)(4)

Public Disclosure

A board shall ensure information or documents collected, developed, or produced by the district as part of a capital improvement project are reviewed to ensure that any project-specific safety and security information is adjusted for disclosure if necessary to ac-

commodate the requirement for a district to use protections provided in Education Code 37.108, which directs the district to protect sensitive information, while also providing general information to the public indicating district compliance commitments made in accordance with section 61.1040(k). *19 TAC 61.1040(k)(5)* [See CKC]

**State Standards for
Construction Before
November 1, 2021**

The requirements for school facility standards set out in 19 Administrative Code 61.1036 ("section 61.1036") shall apply to projects for new construction or major space renovations if:

1. A board adopts a fiscal year maintenance and operations budget where a capital improvement project title and a design or design and construction budget are delineated;
2. A board calls a bond election where one or more capital improvement project titles as well as design or design and construction budgets are delineated; or
3. A new contract or amendment to an existing contract for architectural services for new construction or a major renovation for a school facility project has been agreed to, and signed and dated by both parties to the agreement after January 1, 2004, and before November 1, 2021.

19 TAC 61.1036(b)

Definitions and
Procedures

The words, terms, and procedures used in section 61.1036 shall have the meanings set out in section 61.1036(a) unless the context clearly indicates otherwise.

Certification of
Design and
Construction

In section 61.1036, "certify" indicates that the architect or engineer has reviewed the standards contained in 19 Administrative Code Chapter 61 and used the best professional judgment and reasonable care consistent with the practice of architecture or engineering in the state of Texas in executing the construction documents. The architect or engineer also certifies that these documents conform to the provisions of section 61.1036, except as indicated on the certification.

The district shall notify and obligate the architect or engineer to provide the required certification. The architect's or engineer's signature and seal on the construction documents shall certify compliance. To ensure that facilities have been designed and constructed according to the provisions of section 61.1036, each involved party shall execute responsibilities as set forth in section 61.1036(c)(3).

19 TAC 61.1036(c)

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Construction Quality <i>Districts with Building Codes</i>	A district located in an area that has adopted local construction codes shall comply with section 61.1036(f)(1).
<i>Districts without Building Codes</i>	A district located in an area that has not adopted local building codes shall comply with section 61.1036(f)(2).
<i>International Energy Conservation Code</i>	<p>The International Energy Conservation Code as it existed on May 1, 2015, is adopted as the energy code for use in this state for all commercial construction. <i>Health and Safety Code 388.003(b); 34 TAC 19.53(b)</i></p> <p>Because a public school building is not a residential building, it falls within the scope of “commercial” construction for purposes of the International Energy Conservation Code and likely for purposes of Health and Safety Code Chapter 388. <i>Atty. Gen. Op. KP-148 (2017)</i></p>
<i>Portable, Modular Buildings</i>	Any portable, modular building capable of being relocated that is purchased or leased for use as a school facility by a district, whether that building is manufactured off-site or constructed on-site, must comply with all provisions of section 61.1036. <i>19 TAC 61.1036(a)(11), (f)(3)</i>
Fire Escapes	School buildings of at least two stories shall be equipped with fire escapes as required by law. <i>Health and Safety Code 791.002, .035, .036</i>
Accessibility	<p>No qualified individual with a disability shall, because a district’s facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in or be denied the benefits of the services, programs, and activities of a district or be subject to discrimination. <i>42 U.S.C. 12132; 28 C.F.R. 35.149; 29 U.S.C. 794; 34 C.F.R. 104.21</i></p> <p>A district shall operate each program, service, or activity so that when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. A district is not required to make each existing facility or every part of a facility accessible to and usable by individuals with disabilities.</p> <p>A district may comply with these requirements by:</p> <ol style="list-style-type: none">1. Redesigning or acquisitioning equipment.2. Reassigning classes or other services to accessible buildings.3. Assigning aides to qualified individuals with disabilities.4. Home visits.5. Delivery of services at alternate accessible sites.

6. Alteration of existing facilities.
7. Constructing new facilities that comply with 34 C.F.R. 104.23 and 28 C.F.R. 35.151.
8. Any other methods that result in making services, programs, and activities accessible to individuals with disabilities.

A district is not required to make structural changes in existing facilities when other methods will achieve compliance with Title II of the Americans with Disabilities Act and its implementing regulation. In choosing among available alternatives for meeting these requirements, a district shall give priority to methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

28 C.F.R. 35.150; 34 C.F.R. 104.22

Review of Plans

All plans and specifications for construction or for the substantial renovation or modification of a building or facility must be submitted to the Department of Licensing and Regulation for review and approval if the estimated construction cost is at least \$50,000. The architect, interior designer, landscape architect, or engineer who has overall responsibility for the design of a constructed or reconstructed building or facility shall submit the plans and specifications required. A district as owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, or modification of the building or facility to begin before the date the plans and specifications are submitted to the Department. On application to a local governmental entity for a building construction permit, the district as owner shall submit to the entity proof that the plans and specifications have been submitted to the Department under Government Code Chapter 469 (Elimination of Architectural Barriers).

A district, as owner of a building or facility described above is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the Commission of Licensing and Regulation under Government Code Chapter 469 not later than the first anniversary of the date that the construction or substantial renovation or modification of the building or facility is completed. The inspection must be performed by the Department, an entity with which the Commission contracts, or a person who holds a certificate of registration under Government Code Chapter 469, Subchapter E.

Gov't Code 469.101, .102(a), (c), .105

Notice	<p>A district shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities. <i>34 C.F.R. 104.22(f)</i></p>
Relocatable Educational Facility	<p>In this section, “relocatable educational facility” means a portable, modular building capable of being relocated, regardless of whether the facility is built at the installation site, that is used primarily as an educational facility for teaching the curriculum required under Education Code 28.002.</p> <p>A relocatable educational facility that is purchased or leased on or after January 1, 2010, must comply with all provisions applicable to industrialized buildings under Occupations Code Chapter 1202.</p> <p><i>Occupations Code 1202.004</i></p>
Outdoor Lighting	<p>An outdoor lighting fixture may be installed, replaced, maintained, or operated using state funds only if it meets standards for state-funded outdoor lighting fixtures in Health and Safety Code Chapter 425.</p>
Exceptions	<p>The standards for state-funded outdoor lighting fixtures do not apply if:</p> <ol style="list-style-type: none">1. A federal law, rule, or regulation preempts state law;2. The fixture is used on a temporary basis;3. Because emergency personnel temporarily require additional illumination for emergency procedures;4. For nighttime work;5. Special events or circumstances require additional illumination;6. The fixture is used solely to enhance the aesthetic beauty of an object; or7. A compelling safety interest cannot be addressed by another method. <p>Special events or situations that may require additional illumination include sporting events and illumination of monuments, historic structures, or flags. Illumination for special events or situations must be installed to shield the outdoor lighting fixtures from direct view and to minimize upward lighting and light pollution.</p> <p><i>Health and Safety Code 425.002</i></p>