



North East Independent School District

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Sean Maika, Ed.D.
Superintendent

October 1, 2025

Via Electronic Mail

Vanessa.Diaz@tea.texas.gov

Ms. Vanessa Diaz
Investigator
Texas Education Agency
Division of Special Investigations
Governance & Accountability

Re: Response to TEA Notice of Compliance Review; TEA Ref. No. 2026-09-0149

Dear Ms. Diaz:

On September 24, 2025, I received a “Notice of Alleged Violation” contending that the North East Independent School District had failed to comply with newly enacted Texas Education Code Section 37.082 regarding student use of personal communication devices.¹ As explained below, the District has complied with the law and your Agency’s guidance which, through the first two months, has served students and parents/guardians very well, to include ensuring that students remain focused on classroom instruction without distraction. What this appears to be is, in reality, an effort to deprive our District of its ability to partner with parents and guardians to meet their needs while also complying with all applicable law.

Section 37.082(a) provides, in relevant part, that a school board “shall adopt, implement, and ensure the district or school complies with a written policy prohibiting a student from using a personal communication device while on school property during the school day.” Nowhere in the statute did the Legislature define the terms “school property” or “school day,” which it has the authority to do when it wants specific meanings attached to terms used therein, and which it has done countless times throughout the Education Code. Significantly, however, the Legislature has never defined the term “school day” in the Education Code and it is well known that school systems throughout the state have the ability to set calendars and hours for their respective school days. Indeed, some districts have gone to a four-day school week with adjustments to their daily schedules to ensure they still meet the law’s requirement to provide the required amount of instructional minutes per school year.

Key to this is that the Legislature did not override or change other applicable provisions of the Education Code where it gives school boards authority to decide matters that are best left to districts and the parents and students they serve to work together in making. Specifically, Section 7.003 of the Education Code, which has been in effect for thirty years, states that, “An educational function not

¹ Your notice gave two different deadlines for the District’s response: September 26 and October 1, 2025, the former of which would have afforded us less than 48 hours to respond. Once the conflicting deadlines were pointed out, you confirmed that October 1 was the correct deadline.

specifically delegated to the agency or the [State Board of Education] under this code *is reserved to and shall be performed by school districts or open-enrollment charter schools.*” Similarly, Section 11.151(b) of the Education Code, which has also been in effect for decades, sets forth that “All powers and duties *not specifically delegated by statute to the agency or to the State Board of Education are reserved for the trustees*, and the agency may not substitute its judgment for the lawful exercise of those powers and duties by the trustees.” Nowhere in Section 37.082 did the Legislature specifically delegate any authority having to do with the definition of policy terms to your Agency or the State Board. As such, under existing law, the North East ISD Board of Trustees, retains the legal authority to make such decisions while also complying with the clear spirit of Section 37.082, which is to eliminate cell phone use by students as a distraction from instructional time.

It is clear that the Agency recognized this in its July 30, 2025 guidance issued related to the implementation of Section 37.082, a copy of which is attached hereto at **Exhibit 1**. At the top of page 2 of the document, the Agency wrote, “**To provide students, families, and staff with necessary clarity, it is important for each school system to define the terms “school property” and “school day”**”. A school may find the need to define “use” and “possession” for purposes of the policy as well.” Even where the Agency provided some model policy language, as it does on page 2, the guidance invites school systems to “revise as necessary.” The guidance does NOT mandate or require that any specific model language be adopted by a board of trustees.

The North East ISD Board of Trustees considered all of the above information, to include Sections 7.003 and 11.151(b) as well as the Agency’s guidance, in crafting its policy related to personal communication devices. A copy of the policy, which was adopted on August 7, is attached as **Exhibit 2**. I want to make it very clear, however, that the policy was not the product of a knee-jerk reaction nor any desire to avoid compliance with the law. The reality is that my administration had begun work on addressing student cell phone use in schools even before the opening of the 89th regular Legislative session.

Beginning in the 2024-25 school year, I sought feedback from students, parents/guardians, and school administrators in various forums. This included my meetings with a cross-section of students as part of our District’s Student Voice group, where current students from across the North East ISD meet with me to discuss issues of concern. From all of the meetings and discussions held with our District community, the overwhelming feedback received was that while all stakeholders agreed that students should not use cell phones and other similar devices during classroom instruction at any time, parents/guardians in particular still expressed strong desire that their children have access to a cell phone at some point during the day. They explained that students may have to communicate with parents about schedule changes related to extracurricular activities, of which North East ISD offers many in which students are heavily involved, or family situations involving medical emergencies or similar issues. Many students at the high school level expressed that they have jobs outside of school through which they may have to communicate with their employer at some point during school hours. Other stakeholders explained a need to remain responsive to college recruiters or admissions officials, who often communicate with students during the day through text message or phone calls. Students and parents/guardians expressed concern about not being able to respond to those kinds of contacts swiftly enough such that children could lose out on college opportunities. Finally, one of the most overriding concerns from parents/guardians expressed about their child not being able to have access to a cell phone had to do with emergency situations. Unfortunately, events such as the mass shooting in Uvalde ISD have emphasized the need for school safety on campuses. Parents/guardians expressed that they want their children to be able to access a cell phone to communicate in the event of such an emergency situation and did not support an outright ban against students being able to access their cell phone for these purposes.

It is with this feedback from the North East ISD community in mind that the Board of Trustees exercised their legislatively delegated authority under Sections 7.003 and 11.151 of the Education Code, as well as the Agency's guidance, to craft the policy at **Exhibit B** defining "school day" to include all instructional time. I cannot emphasize strongly enough that since the implementation of the policy, our campuses have reported that students have overwhelmingly complied with the prohibition and there has been no material increase in discipline incidents resulting from violations. Further, teachers have anecdotally relayed that students have been more attentive in class, which is and should be the primary intent of the new law, and they appreciate not having to spend valuable classroom time policing the issue. We have also not seen any appreciable increase in tardiness, even with students being able to check their cell phone during the short passing periods between class periods. Perhaps nothing shows the success we have seen with the policy than the fact that neither I nor the Board received a single complaint from any parent or guardian about the policy. To the contrary, campus principals continue to report how their parents/guardians are pleased with the policy.

The irony here is that the very process detailed above is *exactly* what the Legislature requires, as emphasized in the comprehensive Senate Bill 12 codifying parents' rights. The bill revised Education Code Section 26.001(a), which makes it clear that "a parent has the right to ... make decisions concerning the child's education ... without obstruction or interference from the state, any political subdivision of the state, a school district, ... or any other governmental entity." Section 26.001(a-1) is most instructive here, providing that "Parents are partners with educators, administrators, and school district boards of trustees in their children's education. **Parents shall be encouraged to actively participate in creating and implementing educational programs for their children.**" In addition, Section 4.001(a) of the Education Code further explains that the state's public education system "... is grounded on the conviction that a successful public education system is directly related to a strong, dedicated, and supportive family and **that parental involvement in the school is essential** for the maximum educational achievement of a child." Section 4.001(b) lays out the objectives of public education, the FIRST of which is that "**Parents will be full partners with educators in the education of their children.**"

Our process leading to the adoption of North East ISD's lawful policy carried out this mandate, as it is reflective of the feedback parents/guardians provided for what their children's school day would look like. Indeed, to limit a parent/guardian from being able to contact their child for the entirety of the school day runs afoul of Section 26.001(c), which makes clear that educators "... may not limit parental rights or withhold information from a parent regarding the parent's child." This would be particularly true in the event of a campus emergency, where not having access to a cell phone would clearly limit a parent/guardian's right to obtain information about their child's well-being during such an emergency. As explained above, this was a key factor for parents/guardians when discussing a cell phone policy for their children in our District.

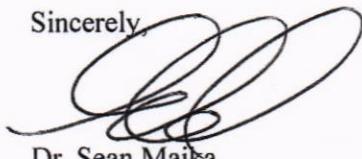
The kind of information parents/guardians want to be able to have about their children through allowing them to have use of their cell phones during some part of the school day, or during any emergency situations, is a specific legal right, as shown in Section 26.008 of the Education Code, titled "Right to Full Information Concerning Students," Subsection (a) which guarantees that "... **a parent is entitled to (1) full information regarding the school activities of a parent's child.**" Section 26.008(b) makes it grounds for discipline against a school employee who attempts to encourage or coerce a child to withhold information from their parents. Despite this law, the Agency, and whomever is directing it to remove any form of local control based upon partnership with parents in crafting the policy you claim is a violation of law, is essentially asking school employees to functionally require that a child withhold information he or she wants to communicate immediately to a parent through a brief text or call during passing periods, lunch, or during an emergency, by removing a child's cell phone or barring them from school at all. It amounts to the Agency forcing the District to override parents/guardians and make a decision for students that should be left to parents/guardians.

It is unfathomable to us that, in a time when there is a renewed emphasis on parents' rights through the provisions in Senate Bill 12, the Agency or any legislator would suggest that the District is in violation of the law when it is clear that (1) the District and the Board exercised its lawful authority to define a term left undefined by the Legislature, (2) the overall goal of the law – eliminating classroom distractions – is being achieved and supported, and (3) the policy was crafted after an extensive period of discussion with current stakeholders, including the very parents/guardians whose rights the law purports to make sacrosanct and who have expressed nothing but support for the policy, as shown in the representative sample of communications included as **Exhibit 3**. While we understand there may be disagreement from legislators about the ultimate meaning of the terms used in the law's text, it is certainly NOT appropriate to contend that such disagreement constitutes grounds to conclude that North East ISD violated the law.

Having illustrated the District's response to your notice, please be advised that the Board policy at issue will be placed on an agenda within the next thirty (30) days for review. To that end, we would like to extend an invitation to an authorized representative from the Agency to attend the meeting where this will be discussed so that a dialogue can be had and Board members' questions can be answered, recognizing that parents/guardians in our District will not be pleased at any mandated changes to the current policy.

Please let me know if you need any additional information from me regarding this matter.

Sincerely,



Dr. Sean Maika
Superintendent of Schools



Mr. David Beyer
NEISD Board President