

By: Gervin-Hawkins

H.B. No. 38

A BILL TO BE ENTITLED

AN ACT

relating to hearings held by or involving the University Interscholastic League.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 33, Education Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. UNIVERSITY INTERSCHOLASTIC LEAGUE HEARINGS

Sec. 33.121. DEFINITIONS. In this subchapter:

(1) "League" means the University Interscholastic League.

(2) "Legislative council" means the governing body of the league that proposes, implements, and administers rules and procedures for the league as provided by this chapter.

Sec. 33.122. CONSTITUTION AND CONTEST RULES. (a) The legislative council shall amend the league's constitution and contest rules as necessary to comply with this subchapter and submit the proposed amended constitution and rules to the commissioner for approval. The commissioner may not approve a provision of the proposed constitution or a rule submitted by the league that conflicts with the requirements of this subchapter.

(b) The league's constitution and contest rules must:

(1) clearly describe the procedure, process, and timing for a hearing held by, the reconsideration of a decision made by, or an appeal taken from a decision made by the league's district

1 executive committee and state executive committee; and

2 (2) provide a person or school district guidance for
3 actions available following the exhaustion of administrative
4 remedies.

5 Sec. 33.123. DISTRICT EXECUTIVE COMMITTEE DUTIES. (a) A
6 district executive committee shall, when holding a hearing or
7 meeting relating to a violation of a league contest rule by a person
8 or school district campus:

9 (1) hold the hearing or meeting in a school district in
10 which the person or campus does not compete;

11 (2) permit the person or campus to object to a member
12 of the committee's participation in the hearing or meeting due to
13 the member's conflict of interest and resolve the objection before
14 holding the hearing or meeting; and

15 (3) allow a person or campus to appeal the decision of
16 the committee before an administrative law judge in accordance with
17 Section 33.127.

18 (b) In a hearing by the district executive committee to
19 determine whether a student changed schools for an athletic
20 purpose, the committee:

21 (1) must give the greatest weight in the determination
22 of the purpose of the student's change in schools given by the
23 student's parent or person standing in parental relation;

24 (2) may only consider the student's unhappiness with a
25 coach at the student's previous school as a minor indicator of the
26 purpose of the student's change in schools;

27 (3) may consider the student's removal from

1 participation in Amateur Athletic Union athletics or other club
2 athletics as an indicator of the purpose of the student's change in
3 schools; and

4 (4) may impose as a penalty for a student determined to
5 have changed schools for an athletic purpose a prohibition from
6 varsity league athletics of not more than one year.

7 Sec. 33.124. STATE EXECUTIVE COMMITTEE DUTIES. The state
8 executive committee:

9 (1) must accept any appeal taken from a decision of the
10 district executive committee; and

11 (2) may not impose a penalty until the penalty is
12 reviewed and approved by the commissioner.

13 Sec. 33.125. LEAGUE CONTEST RULES. The rules of the league
14 shall, for any hearing or meeting by the district executive
15 committee or state executive committee regarding a violation of
16 league contest rules by a person or school district campus:

17 (1) require the burden of proof to be borne by the
18 person alleging a violation or the district executive committee or
19 state executive committee if the committee alleges the violation;

20 (2) provide that only the minimum penalty applicable
21 may be imposed for the first violation by the person or campus;

22 (3) require the hearing or meeting to be audio- and
23 video-recorded and made accessible through the league's Internet
24 website not later than 24 hours after the end of the hearing or
25 meeting;

26 (4) require the district executive committee or state
27 executive committee to provide written notice, including a list of

1 any evidence or witnesses the committee intends to present at the
2 hearing or meeting relating to the relevant violation, at least
3 five business days before the date of any hearing or meeting to each
4 person or campus involved in an alleged violation of league contest
5 rules that will be discussed at the hearing or meeting;

6 (5) prohibit investigation or use of an anonymous
7 complaint by the district executive committee or state executive
8 committee;

9 (6) require testimony presented by a person or campus,
10 the district executive committee, or the state executive committee,
11 against a person or school district campus to be provided in person,
12 under oath, and subject to cross-examination;

13 (7) to the extent practicable, require the application
14 of the Texas Rules of Evidence to the hearing or meeting in the same
15 manner those rules apply in a court of law;

16 (8) require the district executive committee or state
17 executive committee to ensure the presence of an attorney licensed
18 in this state at each hearing and meeting to ensure compliance with
19 applicable law and the league's constitution and contest rules;

20 (9) permit a person or campus to:

21 (A) be represented by legal counsel; and

22 (B) participate, on the person's or campus's own
23 behalf or through legal counsel, including by allowing:

24 (i) opening statements;

25 (ii) closing statements;

26 (iii) cross-examination of witnesses; and

27 (iv) submission of and objections to

1 evidence consistent with the Texas Rules of Evidence;

2 (10) prohibit the district executive committee or
3 state executive committee from setting a predetermined time limit
4 on the duration of the hearing or meeting; and

5 (11) require the district executive committee or state
6 executive committee to include in any decision of the committee
7 issued after a hearing or meeting written findings of fact
8 addressing the witness testimony and any evidence presented.

9 Sec. 33.126. SUBPOENA. On the motion of any party to a
10 hearing or meeting relating to an alleged violation of league
11 contest rules, a district executive committee or the state
12 executive committee may issue an administrative subpoena to compel
13 the production of records relating to the hearing or meeting or the
14 attendance of any person at the hearing or meeting.

15 Sec. 33.127. ADMINISTRATIVE HEARING. (a) A person or
16 school district campus may submit a motion for hearing to the State
17 Office of Administrative Hearings to contest the decision of a
18 district executive committee regarding an alleged violation of
19 league contest rules by that person or campus. The State Office of
20 Administrative Hearings shall grant a motion timely submitted under
21 this subsection.

22 (b) The state executive committee shall stay the imposition
23 of a penalty ordered by a district executive committee until the
24 State Office of Administrative Hearings enters a decision in the
25 matter.

26 (c) An administrative law judge who conducts a hearing under
27 this section shall:

1 (1) consider the matter de novo, without deference to
2 the decision by the district executive committee;

3 (2) determine whether each hearing or meeting of the
4 district executive committee at which the alleged violation was
5 considered was conducted consistently with the laws of this state
6 and the league's constitution and contest rules, and, if not and if
7 appropriate, revise the decision and any recommended penalty; and

8 (3) permit any relevant party to provide testimony or
9 submit relevant evidence.

10 (d) The administrative law judge shall include in the
11 judge's decision written findings of fact and recommendations to
12 the state executive committee for action by that committee. The
13 judge shall permit a relevant party to timely submit a motion for
14 reconsideration of the judge's decision before submitting the
15 judge's decision to the state executive committee.

16 SECTION 2. Subchapter D-1, Chapter 33, Education Code, as
17 added by this Act, applies only to a hearing or meeting conducted by
18 a district executive committee, the state executive committee, or
19 any other committee of the University Interscholastic League
20 commenced on or after the effective date of this Act. A hearing or
21 meeting commenced before the effective date of this Act is governed
22 by the law in effect on the date the hearing or meeting commenced,
23 and that law is continued in effect for that purpose.

24 SECTION 3. This Act takes effect on the 91st day after the
25 last day of the legislative session.