

By: Cunningham

H.B. No. 2952

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures for the suspension, expulsion, or placement
3 in a disciplinary alternative education program or juvenile justice
4 alternative education program of a public school student enrolled
5 in a school district.

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

7 SECTION 1. Section 37.009, Education Code, is amended by
8 amending Subsections (a) and (b) and adding Subsections (a-1),
9 (a-2), (a-3), (a-4), and (a-5) to read as follows:

10 (a) Not later than the third class day after the day on which
11 a student is removed from class by the teacher under Section
12 37.002(b) or (d) or by the school principal or other appropriate
13 administrator under Section 37.001(a)(2) or 37.006, the campus
14 behavior coordinator or other appropriate administrator shall
15 schedule a conference among the campus behavior coordinator or
16 other appropriate administrator, a parent or guardian of the
17 student or another adult representing the student who is not an
18 employee of the school district, the teacher removing the student
19 from class, if any, and the student. If the school district makes a
20 good-faith effort to inform the student and the student's parent or
21 guardian of the time and place of the conference, the district may
22 hold the conference regardless of whether the student, the
23 student's parent or guardian, or another adult representing the
24 student attends. At the conference, the student is entitled to

1 written or oral notice of the reasons for the removal, an
2 explanation of the basis for the removal, all evidence to be
3 considered in making a determination under this subsection, subject
4 to Subsection (a-2), and an opportunity to respond to the reasons
5 for the removal. The student may not be returned to the regular
6 classroom pending the conference. Following the conference, and
7 whether or not each requested person is in attendance after valid
8 attempts to require the person's attendance, the campus behavior
9 coordinator, after consideration of the factors under Section
10 37.001(a)(4), shall order the placement of the student for a period
11 consistent with the student code of conduct. In determining the
12 student's placement, the campus behavior coordinator must make a
13 good-faith effort to corroborate and assess the validity of the
14 evidence considered and may not consider oral statements that are
15 not reduced to writing or recorded. Before ordering the
16 suspension, expulsion, removal to a disciplinary alternative
17 education program, or placement in a juvenile justice alternative
18 education program of a student, the behavior coordinator must
19 consider whether the student acted in self-defense, the intent or
20 lack of intent at the time the student engaged in the conduct, the
21 student's disciplinary history, and whether the student has a
22 disability that substantially impairs the student's capacity to
23 appreciate the wrongfulness of the student's conduct, regardless of
24 whether the decision of the behavior coordinator concerns a
25 mandatory or discretionary action. If school district policy
26 allows a student to appeal to the board of trustees or the board's
27 designee a decision of the campus behavior coordinator or other

1 appropriate administrator, other than an expulsion under Section
2 37.007 or except as provided by Subsection (b), the decision of the
3 board or the board's designee is final and may not be appealed. If
4 the period of the placement is inconsistent with the guidelines
5 included in the student code of conduct under Section 37.001(a)(5),
6 the order must give notice of the inconsistency. The period of the
7 placement may not exceed one year unless, after a review, the
8 district determines that the student is a threat to the safety of
9 other students or to district employees.

10 (a-1) For purposes of this section, "evidence" means any
11 tangible material, including written statements, audio or visual
12 recordings, or information obtained from social media.

13 (a-2) Evidence provided to a student, the student's parent
14 or guardian, or another adult representing the student under
15 Subsection (a) must be:

16 (1) for handwritten statements, provided in a typed
17 format; and

18 (2) redacted as necessary to ensure that information
19 provided by another student does not reveal the student's identity,
20 unless the district determines the identifying information is
21 necessary for the conference under that subsection.

22 (a-3) A school district shall maintain the original copy of
23 any evidence provided in a typed format or redacted under
24 Subsection (a-2) until the determination under Subsection (a) is
25 final, including any appeals to the commissioner or a district
26 court in Travis County under Section 7.057.

27 (a-4) The commissioner shall adopt rules as necessary to

1 implement and enforce Subsections (a), (a-2), and (a-3).

2 (a-5) A student may not be placed in a disciplinary
3 alternative education program for the student's first disciplinary
4 violation for a school year or for a period longer than three days
5 unless the student engaged in:

6 (1) conduct for which the student is required or
7 permitted to be placed in a disciplinary alternative education
8 program under Section 37.0051, 37.0052, 37.006, 37.007, 37.0081, or
9 37.019 or Subchapter I;

10 (2) conduct that constitutes an offense under
11 Subchapter E, other than Section 37.123, or Subchapter F;

12 (3) bullying, as defined by Section 37.0832;

13 (4) harassment, as defined by Section 37.001; or

14 (5) making a hit list, as defined by Section 37.001.

15 (b) If a student's placement in a disciplinary alternative
16 education program is to extend beyond seven ~~60~~ days or the end of
17 the next grading period, whichever is earlier, the board or the
18 board's designee must provide the student a hearing at which the
19 student is afforded due process in the same manner a student is
20 afforded due process in a hearing under Subsection (f) and to which
21 the [a] student's parent or guardian is invited, in writing, to
22 attend. At the proceeding, the student is entitled to be
23 represented by the student's parent or guardian or another adult
24 who can provide guidance to the student and who is not an employee
25 of the school district. If the school district makes a good-faith
26 effort to inform the student and the student's parent or guardian of
27 the time and place of the hearing, the district may hold the hearing

1 regardless of whether the student, the student's parent or
2 guardian, or another adult representing the student attends [~~notice~~
3 ~~of and an opportunity to participate in a proceeding before the~~
4 ~~board of trustees of the school district or the board's designee, as~~
5 ~~provided by policy of the board of trustees of the district~~].
6 Before placing a student in a disciplinary alternative education
7 program, the board or the board's designee must consider the
8 circumstances surrounding the student's conduct and the student's
9 disciplinary history. If the [~~Any~~] decision to place the student in
10 a disciplinary alternative education program [~~of the board or the~~
11 ~~board's designee~~] under this subsection is made by the board's
12 designee, the decision [~~final and~~] may [~~not~~] be appealed to the
13 board. The decision of the board may be appealed by trial de novo to
14 a district court of the county in which the district's central
15 administrative office is located.

16 SECTION 2. This Act applies beginning with the 2023-2024
17 school year.

18 SECTION 3. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2023.