

By: Olivo

H.B. No. 3132

A BILL TO BE ENTITLED

AN ACT

1
2 relating to placement of students in alternative education
3 programs.

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

5 SECTION 1. Sections 37.006(h) and (i), Education Code, are
6 amended to read as follows:

7 (h) On receipt of notice under Article 15.27(g), Code of
8 Criminal Procedure, or any other comparable notice that provides
9 information regarding acquittal of a student or refusal to
10 prosecute the student in connection with conduct for which the
11 student was placed in an alternative education program, the
12 superintendent or the superintendent's designee shall verify the
13 contents of the notice and review the student's placement in the
14 alternative education program. The student may not be returned to
15 the regular classroom pending the verification and review. The
16 superintendent or the superintendent's designee shall complete the
17 verification and ~~[schedule a]~~ review ~~[of the student's placement~~
18 ~~with the student's parent or guardian]~~ not later than the ~~[third]~~
19 class day following ~~[after]~~ the day the superintendent or
20 ~~[superintendent's]~~ designee receives notice and shall return the
21 student to the student's regular or special education classroom
22 immediately after completing the verification and review unless the
23 superintendent or designee determines that ~~[from the office or~~
24 ~~official designated by the court. After reviewing the notice and~~

1 ~~receiving information from the student's parent or guardian, the~~
2 ~~superintendent or the superintendent's designee may continue the~~
3 ~~student's placement in the alternative education program if]~~ there
4 is reason to believe that the presence of the student in the regular
5 classroom threatens the safety of other students or teachers. In
6 reviewing a student's placement under this subsection, the
7 superintendent or designee shall provide the student's parent with
8 an opportunity to provide any information relevant to the review.

9 (i) The student or the student's parent or guardian may
10 appeal a ~~[the superintendent's]~~ decision under Subsection (h) to
11 retain the student in the alternative education program to the
12 board of trustees. The student may not be returned to the regular
13 classroom pending the appeal. The board shall, at the next
14 scheduled meeting, review the notice described by Subsection (h)
15 ~~[provided under Article 15.27(g), Code of Criminal Procedure],~~
16 ~~[and]~~ receive information from the student, the student's parent or
17 guardian, and the superintendent or ~~[superintendent's]~~ designee,
18 and confirm or reverse the decision under Subsection (h). The board
19 shall make a record of the proceedings. If the board confirms the
20 decision of the superintendent or ~~[superintendent's]~~ designee, the
21 board shall inform the student and the student's parent or guardian
22 of the right to appeal to the commissioner under Subsection (j).

23 SECTION 2. Sections 37.009(a) and (c), Education Code, are
24 amended to read as follows:

25 (a) Not later than the third class day after the day on which
26 a student is removed from class by the teacher under Section
27 37.002(b) or (d) or by the school principal or other appropriate

1 administrator under Section 37.006, the principal or other
2 appropriate administrator shall schedule a conference among the
3 principal or other appropriate administrator, a parent or guardian
4 of the student, the teacher removing the student from class, if any,
5 and the student. At the conference, the student is entitled to
6 written or oral notice of the reasons for the removal, an
7 explanation of the basis for the removal, and an opportunity to
8 respond to the reasons for the removal. The student may not be
9 returned to the regular classroom pending the conference.
10 Following the conference, and whether or not each requested person
11 is in attendance after valid attempts to require the person's
12 attendance, the principal shall order the placement of the student
13 as provided by Section 37.002 or 37.006, as applicable, for a period
14 consistent with the student code of conduct. The principal may
15 order placement for a period that exceeds 10 days only if the
16 principal makes the determinations described by Subsection (c).

17 (c) Before it may place a student in an alternative
18 education program for a period that exceeds 10 school days [~~that~~
19 ~~extends beyond the end of the school year~~], the board or the board's
20 designee must determine that:

21 (1) the student's presence in the regular classroom
22 program or at the student's regular campus presents a danger of
23 physical harm to the student or to another individual; or

24 (2) the student has engaged in serious or persistent
25 misbehavior that violates the district's student code of conduct.

26 SECTION 3. Section 37.006(k), Education Code, is repealed.

27 SECTION 4. This Act applies beginning with the 2003-2004

1 school year.

2 SECTION 5. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2003.