

BILL ANALYSIS

C.S.H.B. 1324
By: Madden
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Students that are special education students or are special education eligible represent 25% of the students referred to Disciplinary Alternative Education Programs (DAEP) and Juvenile Justice Alternative Education Programs (JJAEP). Most of these students are referred for discretionary offenses, most notably serious and persistent misbehavior. Currently, it is not a requirement that all special education students are in a special education classroom during the school day, depending on that child's individualized education program.

If a special education student's behavior is deemed to not be related to his or her handicapping condition, there is no requirement that the student be sent to a special education classroom prior to DAEP or JJAEP referral. Furthermore, even in the case that a student's behavior is found to be related to the student's handicapping condition, this does not necessarily prevent the student from being referred to a DAEP or a JJAEP without placement in a special education classroom first.

Additionally, a 2005 report generated by TEA found that special education students that have been placed in DAEPs or JJAEPs have as a group not performed as well on the State-Developed Alternative Assessment test than have special education students placed in non-disciplinary settings.

The purpose of this bill is to provide procedural guidelines for the referral or continued placement of a special education student in a DAEP or a JJAEP in order to ensure that their best interest is fully served.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

(Note: Unless otherwise specified, all statutory references are to the Education Code)

The bill adds Subsection (e) of Section 37.004 to provide that in a county with a juvenile justice alternative education program established under Section 37.011, the expulsion under a provision of Section 37.007 described by this subsection of a student with a disability who receives special education services must occur in accordance with this subsection and Subsection (f) (described below).

The school district that proposes to expel the student shall, in accordance with applicable federal law, provide the administrator of the JJAEP or the administrator's designee with reasonable notice of the meeting of the student's admission, review, and dismissal committee to discuss the student's proposed expulsion. A representative of the JJAEP may participate in the meeting to the extent that the meeting relates to the student's placement in the program. This subsection applies only to an expulsion under Section 37.007(b), (c), (f), or (i); or Section 37.007(d) as a result of conduct that contains the elements of any offense listed in Section 37.007(b)(2)(C) against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district.

The bill adds Subsection (f) of Section 37.004 to provide that if, after placement of a student in a JJAEP under Subsection (e), the administrator of the program or the administrator's designee has

concerns that the student's educational or behavioral needs cannot be met in the program, the administrator or designee shall immediately provide written notice of those concerns to the school district from which the student was expelled. The student's admission, review, and dismissal committee shall meet to reconsider the placement of the student in the program. The district shall, in accordance with applicable federal law, provide the administrator or designee with reasonable notice of the meeting, and a representative of the program may participate in the meeting to the extent that the meeting relates to the student's continued placement in the program.

The bill amends Section 37.008 by amending Subsection (a) and adding Subsection (n). These provisions specify that each school district shall provide a DAEP that provides for students' educational and behavioral needs, including, if applicable, implementation of a student's individualized education program developed under Section 29.005, and employs only teachers who meet all certification requirements established under Subchapter B, Chapter 21, and that a school district shall certify in writing to the Texas Education Agency that each student who has been determined to be eligible under Subchapter A, Chapter 29, for special education services and who is placed in a DAEP has an individualized education program developed under Section 29.005.

The bill provides that the Act applies beginning with the 2007-2008 school year.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill added Subsections (g) and (h) to Section 37.004, which read as follows:

(g) A school district that places in a disciplinary alternative education program a student with a disability who receives special education services shall, during the placement, provide the student with the special education services required by the student's individualized education program developed under Section 29.005.

(h) This subsection applies only to a student who is eligible to receive special education services because of the student's learning disability or emotional disturbance and who is in a regular education classroom for all or part of the school day. The admission, review, and dismissal committee of a student who engages in conduct for which a student may be but is not required to be placed in a disciplinary alternative education program shall place the student in a special education classroom, if available, for the full school day if, after a manifestation determination review, the committee determines the conduct was not a manifestation of the student's disability. If the committee determines that the conduct was a manifestation of the student's disability, the committee may not alter the student's placement under this subsection. If the conduct continues, the student's admission, review, and dismissal committee shall meet to reconsider the student's placement.

The substitute bill does not include the above Subsections (g) and (h).