

By: Dutton

H.B. No. 790

A BILL TO BE ENTITLED

AN ACT

relating to public school disciplinary procedures and the evaluation of disciplinary alternative education programs.

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

SECTION 1. Section 37.002(c), Education Code, is amended to read as follows:

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension as provided by Section 37.005(c), or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

SECTION 2. Section 37.005, Education Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) An out-of-school [A] suspension [~~under this section~~] may not exceed three school days.

(c) A student and the student's parent or guardian are entitled to a conference in the same manner as provided by Section 37.009(a) for removal of a student from class if the student

1 receives:

2 (1) an in-school suspension that is to exceed three
3 school days;

4 (2) an in-school suspension of any length during the
5 same school year in which the student previously received an
6 in-school suspension of three or more days; or

7 (3) an out-of-school suspension of any length.

8 SECTION 3. Section 37.008(m), Education Code, is amended to
9 read as follows:

10 (m) The commissioner shall adopt rules necessary to
11 evaluate annually the performance of each district's disciplinary
12 alternative education program established under this subchapter.
13 The evaluation required by this section shall be based on
14 indicators defined by the commissioner, but must include student
15 academic performance as determined by the academic excellence
16 indicators [~~on assessment instruments required~~] under Section
17 39.051. [~~Sections 39.023(a) and (c). Academically, the mission of~~
18 ~~disciplinary alternative education programs shall be to enable~~
19 ~~students to perform at grade level.~~]

20 SECTION 4. Sections 37.009(a) and (f), Education Code, are
21 amended to read as follows:

22 (a) Not later than the third class day after the day on which
23 a student is removed from class by the teacher under Section
24 37.002(b) or (d) or by the school principal or other appropriate
25 administrator under Section 37.001(a)(2) or 37.006, the principal
26 or other appropriate administrator shall schedule a conference
27 among the principal or other appropriate administrator, a parent or

1 guardian of the student, the teacher removing the student from
2 class, if any, and the student. At the conference, the student is
3 entitled to written [~~or oral~~] notice of the reasons for the removal
4 that explains [~~, an explanation of~~] the basis for the removal and
5 states whether the student is a threat to the safety of other
6 students or to district employees. The student is also entitled to
7 [~~, and~~] an opportunity to respond to the reasons for the removal.
8 The student may not be returned to the regular classroom pending the
9 conference. Following the conference, and whether or not each
10 requested person is in attendance after valid attempts to require
11 the person's attendance, the principal shall order the placement of
12 the student for a period consistent with the student code of
13 conduct. If school district policy allows a student to appeal to
14 the board of trustees or the board's designee a decision of the
15 principal or other appropriate administrator, other than an
16 expulsion under Section 37.007, the decision of the board or the
17 board's designee is final and may not be appealed. If the period of
18 the placement is inconsistent with the guidelines included in the
19 student code of conduct under Section 37.001(a)(5), the order must
20 give notice of the inconsistency. The period of the placement may
21 not exceed one year unless, after a review, the district determines
22 that:

23 (1) the student is a threat to the safety of other
24 students or to district employees; or

25 (2) extended placement is in the best interest of the
26 student.

27 (f) Before a student may be expelled under Section 37.007,

1 the board or the board's designee must provide the student a hearing
2 at which the student is afforded appropriate due process as
3 required by the federal constitution and which the student's parent
4 or guardian is invited, in writing, to attend. At the hearing, the
5 student is entitled to be represented by the student's parent or
6 guardian or another adult who can provide guidance to the student
7 and who is not an employee of the school district. The student is
8 also entitled to written notice of the reasons for the expulsion
9 that explains the basis for the expulsion and states whether the
10 student is a threat to the safety of other students or to district
11 employees. If the school district makes a good-faith effort to
12 inform the student and the student's parent or guardian of the time
13 and place of the hearing, the district may hold the hearing
14 regardless of whether the student, the student's parent or
15 guardian, or another adult representing the student attends. If
16 the decision to expel a student is made by the board's designee, the
17 decision may be appealed to the board. The decision of the board
18 may be appealed by trial de novo to a district court of the county in
19 which the school district's central administrative office is
20 located.

21 SECTION 5. This Act applies beginning with the 2007-2008
22 school year.

23 SECTION 6. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2007.