

By: Paxton

H.B. No. 3459

A BILL TO BE ENTITLED

AN ACT

1
2 relating to procedures relating to placement of a public school
3 student in a disciplinary alternative education program.

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

5 SECTION 1. Section 37.0081, Education Code, is amended by
6 adding Subsection (a-1) to read as follows:

7 (a-1) At the hearing under Subsection (a), the student is
8 entitled to due process and representation as provided by Section
9 37.009(a).

10 SECTION 2. Section 37.009(a), Education Code, is amended to
11 read as follows:

12 (a) Not later than the third class day after the day on which
13 a student is removed from class by the teacher under Section
14 37.002(b) or (d) or by the school principal or other appropriate
15 administrator under Section 37.001(a)(2) or 37.006, the principal
16 or other appropriate administrator shall schedule a conference
17 among the principal or other appropriate administrator, a parent or
18 guardian of the student, the teacher removing the student from
19 class, if any, and the student. At the conference, the student is
20 entitled to written or oral notice of the reasons for the removal,
21 an explanation of the basis for the removal, and an opportunity to
22 respond to the reasons for the removal. The student may not be
23 returned to the regular classroom pending the conference.
24 Following the conference, and whether or not each requested person

1 is in attendance after good-faith [~~valid~~] attempts to require the
2 person's attendance, the principal shall order the placement of the
3 student for a period consistent with the student code of conduct.
4 Not later than the first school day after the conference, the
5 principal or the principal's designee shall deliver to the student
6 and the student's parent or guardian a copy of the order placing the
7 student in a disciplinary alternative education program and a
8 notice of the student's right to appeal. A [~~If school district~~
9 ~~policy allows a~~] student may [~~to~~] appeal the decision of the
10 principal or the principal's designee placing the student in a
11 disciplinary alternative education program to the board of trustees
12 or the board's designee. The appeal hearing must be held not later
13 than the fifth class day after the date of the conference. At the
14 hearing, the student is entitled to due process as required under
15 the federal constitution and to be represented by the student's
16 parent or guardian or another adult who can provide counsel to the
17 student and who is not an employee of the school district. The [~~a~~
18 ~~decision of the principal or other appropriate administrator, other~~
19 ~~than an expulsion under Section 37.007, the~~] decision of the board
20 or the board's designee under this subsection is final and may not
21 be appealed. If the period of the placement is inconsistent with
22 the guidelines included in the student code of conduct under
23 Section 37.001(a)(5), the order must give notice of the
24 inconsistency. The period of the placement may not exceed one year
25 unless, after a review, the district determines that:

- 26 (1) the student is a threat to the safety of other
27 students or to district employees; or

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

3 SECTION 3. Section 37.010(a), Education Code, is amended to
4 read as follows:

5 (a) Not later than the second business day after the date a
6 hearing before the board of trustees or the board's designee is held
7 under Section 37.009, the board [~~of trustees of a school district~~]
8 or the board's designee shall deliver a copy of the order placing a
9 student in a disciplinary alternative education program under
10 Section 37.006 or expelling a student under Section 37.007 and any
11 information required under Section 52.04, Family Code, to the
12 authorized officer of the juvenile court in the county in which the
13 student resides. In a county that operates a juvenile justice
14 alternative education program under Section 37.011, an expelled
15 student shall to the extent provided by law or by the memorandum of
16 understanding immediately attend the [~~educational~~] program from
17 the date of expulsion, except that in a county with a population
18 greater than 125,000, every expelled student who is not detained or
19 receiving treatment under an order of the juvenile court must be
20 enrolled in an educational program.

21 SECTION 4. Section 37.009(b), Education Code, is repealed.

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

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

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1 Act takes effect September 1, 2007.