

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Madden, Strama

H.B. No. 426

A BILL TO BE ENTITLED

AN ACT

relating to applicability of provisions of the Education Code to and standards for the operation of school district disciplinary alternative education programs.

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

SECTION 1. Section 29.081(e), Education Code, is amended to read as follows:

(e) A school district may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The programs must:

(1) provide not less than the minimum amount [~~four~~ ~~hours~~] of instructional time per day required under Section 25.082(a);

(2) employ as faculty and administrators persons with baccalaureate or advanced degrees who meet all certification requirements established under Subchapter B, Chapter 21;

(3) provide at least one instructor for each 28 students;

(4) perform satisfactorily according to performance indicators and accountability standards adopted for alternative education programs by the commissioner; and

(5) comply with this title and rules adopted under this title except as otherwise provided by this subsection.

1 SECTION 2. Section 37.008, Education Code, is amended by  
2 amending Subsections (a) through (c) and adding Subsections (a-1),  
3 (a-2), (a-3), and (a-4) to read as follows:

4 (a) Each school district shall provide a disciplinary  
5 alternative education program that:

6 (1) is provided in a setting other than a student's  
7 regular classroom;

8 (2) is located on or off of a regular school campus;

9 (3) provides for the students who are assigned to the  
10 disciplinary alternative education program to be separated from  
11 students who are not assigned to the program;

12 (4) focuses on English language arts, mathematics,  
13 science, history, and self-discipline;

14 (5) provides for students' educational and behavioral  
15 needs;

16 (6) provides supervision and counseling;

17 (7) employs only teachers who ~~[requires that to teach~~  
18 ~~in an off-campus disciplinary alternative education program, each~~  
19 ~~teacher]~~ meet all certification requirements established under  
20 Subchapter B, Chapter 21; and

21 (8) provides not less than the minimum amount of  
22 instructional time per day required by Section 25.082(a)  
23 ~~[notwithstanding Subdivision (7), requires that to teach in a~~  
24 ~~disciplinary alternative education program of any kind, each~~  
25 ~~teacher employed by a school district during the 2003-2004 school~~  
26 ~~year or an earlier school year meet, not later than the beginning of~~  
27 ~~the 2005-2006 school year, all certification requirements~~

1 ~~established under Subchapter B, Chapter 21].~~

2 (a-1) The agency shall adopt standards for the operation of  
3 disciplinary alternative education programs. The standards must be  
4 designed to enable students placed in a disciplinary alternative  
5 education program to perform at grade level and must include  
6 standards relating to:

7 (1) student/teacher ratios;

8 (2) student health and safety;

9 (3) reporting of abuse, neglect, or exploitation of  
10 students;

11 (4) training for teachers in behavior management and  
12 safety procedures; and

13 (5) planning for a student's transition from a  
14 disciplinary alternative education program to a regular campus.

15 (a-2) The commissioner shall develop a compliance  
16 monitoring system that includes the identification of disciplinary  
17 alternative education programs that are at high risk of  
18 noncompliance with the standards adopted under Subsection (a-1) and  
19 the on-site monitoring of the identified programs. The monitoring  
20 system must require the issuance of a monitoring report identifying  
21 any areas of noncompliance, a system to track corrective action  
22 plans for disciplinary alternative education programs, and a system  
23 to track the progression, completion, and verification of  
24 corrective action plans. The monitoring system must also allow the  
25 issuance, notification, and tracking of findings of noncompliance  
26 that are made outside of the normal monitoring process, such as  
27 unannounced visits or investigations.

1           (a-3) Not later than December 15, 2008, the agency shall  
2 deliver a report to the legislature that provides the estimated  
3 costs to the agency of enforcing the standards adopted under  
4 Subsection (a-1), including the estimated cost of:

- 5                   (1) on-site monitoring to enforce the standards; and  
6                   (2) alternative methods of monitoring compliance with  
7 the standards.

8           (a-4) Subsection (a-3) and this subsection expire January  
9 15, 2009.

10           (b) A disciplinary alternative education program may  
11 provide for a student's transfer to:

- 12                   (1) a different campus;  
13                   (2) a school-community guidance center under  
14 Subchapter B; or  
15                   (3) a community-based alternative school, including a  
16 community-based dropout recovery education program under Section  
17 29.081(e).

18           (c) An off-campus disciplinary alternative education  
19 program, including a school-community guidance center, a  
20 community-based alternative school, or a community-based dropout  
21 recovery education program, is not subject to a requirement imposed  
22 by this title, other than:

- 23                   (1) a limitation on liability;  
24                   (2) [~~7~~] a reporting requirement;  
25                   (3) [~~7-04~~] a requirement imposed by this chapter or by  
26 Chapter 39; or  
27                   (4) any other requirement imposed by this title that

1 applies to an on-campus disciplinary alternative education  
2 program.

3 SECTION 3. (a) Sections 29.081(e) and 37.008, Education  
4 Code, as amended by this Act, apply beginning with the 2007-2008  
5 school year.

6 (b) Standards for the operation of school district  
7 disciplinary alternative education programs adopted under Section  
8 37.008(a-1), Education Code, as added by this Act, apply beginning  
9 with the 2007-2008 school year.

10 SECTION 4. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2007.

**ADOPTED**

MAY 23 2007

By: Madden

Latay Spaw H.B. No. 426  
Secretary of the Senate

Substitute the following for H.B. No. 426:

By: Sam Pitts

C.S. H.B. No. 426

A BILL TO BE ENTITLED

AN ACT

relating to standards for the operation of school district disciplinary alternative education programs.

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

SECTION 1. Section 37.008, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) Each school district shall provide a disciplinary alternative education program that:

(1) is provided in a setting other than a student's regular classroom;

(2) is located on or off of a regular school campus;

(3) provides for the students who are assigned to the disciplinary alternative education program to be separated from students who are not assigned to the program;

(4) focuses on English language arts, mathematics, science, history, and self-discipline;

(5) provides for students' educational and behavioral needs;

(6) provides supervision and counseling;

(7) employs only teachers who ~~requires that to teach in an off-campus disciplinary alternative education program, each teacher~~ meet all certification requirements established under Subchapter B, Chapter 21; and

1           (8) provides not less than the minimum amount of  
2 instructional time per day required by Section 25.082(a)  
3 ~~[notwithstanding Subdivision (7), requires that to teach in a~~  
4 ~~disciplinary alternative education program of any kind, each~~  
5 ~~teacher employed by a school district during the 2003-2004 school~~  
6 ~~year or an earlier school year meet, not later than the beginning of~~  
7 ~~the 2005-2006 school year, all certification requirements~~  
8 ~~established under Subchapter B, Chapter 21].~~

9           (a-1) The agency shall adopt minimum standards for the  
10 operation of disciplinary alternative education programs,  
11 including standards relating to:

- 12                   (1) student/teacher ratios;  
13                   (2) student health and safety;  
14                   (3) reporting of abuse, neglect, or exploitation of  
15 students;  
16                   (4) training for teachers in behavior management and  
17 safety procedures; and  
18                   (5) planning for a student's transition from a  
19 disciplinary alternative education program to a regular campus.

20           (a-2) Not later than December 15, 2008, the agency shall  
21 deliver a report to the legislature that provides the estimated  
22 costs to the agency of enforcing the standards adopted under  
23 Subsection (a-1), including the estimated cost of:

- 24                   (1) on-site monitoring to enforce the standards; and  
25                   (2) alternative methods of monitoring compliance with  
26 the standards.

27           (a-3) Subsection (a-2) and this subsection expire January

1 15, 2009.

2 SECTION 2. (a) Section 37.008(a), Education Code, as  
3 amended by this Act, applies beginning with the 2007-2008 school  
4 year.

5 (b) Standards for the operation of school district  
6 disciplinary alternative education programs adopted under Section  
7 37.008(a-1), Education Code, as added by this Act, apply beginning  
8 with the 2007-2008 school year.

9 SECTION 3. This Act takes effect immediately if it receives  
10 a vote of two-thirds of all the members elected to each house, as  
11 provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect September 1, 2007.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 18, 2007**

**TO:** Honorable Florence Shapiro, Chair, Senate Committee on Education

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** HB426 by Madden ( relating to standards for the operation of school district disciplinary alternative education programs.), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would require that Disciplinary Alternative Education Programs (DAEPs) operated by school districts provide at least the minimum required daily instructional time and that faculty and administrators meet state educator certification requirements.

The bill would require the Texas Education Agency (TEA) to adopt standards for the operation of a DAEP related to student/teacher ratios, student health and safety, reporting abuse or neglect, teacher training in behavior management and safety, and training in transitioning students from a DAEP to the regular classroom setting. Adopted standards would apply beginning in the 2007-2008 school year.

The bill would require TEA to submit a report to the legislature in FY2009 regarding the cost of enforcing standards adopted under the provisions of the bill including the cost of conducting onsite monitoring and alternative methods of monitoring compliance with the standards.

TEA indicates that the provisions of the bill could be implemented with current agency resources.

**Local Government Impact**

The bill would require that Disciplinary Alternative Education Programs (DAEPs) operated by school districts provide at least the minimum required daily instructional time and that faculty and administrators meet state educator certification requirements. To the extent that instructional time must be extended or uncertified personnel must be replaced with certified personnel, local costs would be incurred. Costs would be expect to vary statewide.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, JSp, UP, JSc

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 16, 2007**

**TO:** Honorable Florence Shapiro, Chair, Senate Committee on Education

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB426** by Madden (Relating to applicability of provisions of the Education Code to and standards for the operation of school district disciplinary alternative education programs.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB426, As Engrossed: a negative impact of (\$1,688,208) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$1,131,479)
2009	(\$556,729)
2010	(\$475,229)
2011	(\$475,229)
2012	(\$475,229)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2007
2008	(\$1,131,479)	5.0
2009	(\$556,729)	5.0
2010	(\$475,229)	5.0
2011	(\$475,229)	5.0
2012	(\$475,229)	5.0

**Fiscal Analysis**

The bill would require that public or private community-based dropout recovery programs used by school districts to provide alternative education to students identified as at-risk and Disciplinary Alternative Education Programs (DAEPs) operated by school districts provide at least the minimum required daily instructional time and that faculty and administrators meet state educator certification requirements.

The bill would require the Texas Education Agency (TEA) to adopt standards for the operation of a DAEP. Adopted standards would apply beginning in the 2007-2008 school year.

The bill would require TEA to develop a compliance monitoring system for DAEPs that includes on-

site visits to ensure compliance with standards adopted under the provisions of the bill.

The bill would require TEA to submit a report to the legislature in FY2009 regarding the cost of enforcing standards adopted under the provisions of the bill including the cost of conducting on-site monitoring.

The bill would allow a DAEP to provide for a student's transfer to certain off-campus alternative education programs and stipulates that such programs are exempt from certain provisions of the Education Code.

### **Methodology**

The development of the monitoring system would require the purchase of hardware and software licenses at a cost of \$65,000 in FY2008 and \$10,000 in on-going annual costs in subsequent years. TEA estimates that the contracted services of a business analyst, a report writer, a tester, a technical writer, and two application developers would be required in FY2008 to develop the system at a cost of \$691,000. In fiscal year 2009, contracted services of one full-time application developer and one part-time tester would be required at an estimated cost of \$196,250. In subsequent years, contracted services of a part-time application developer and a part-time software tester would be required at an estimated annual cost of \$114,750.

TEA estimates that 5 FTEs would be required to conduct on-site monitoring visits as part of the compliance monitoring system at an estimated cost of \$345,479 in FY2008 and \$320,479 annually in each subsequent year. For purposes of this estimate, it is assumed that the number of DAEPs identified by the risk assessment component of the compliance monitoring system plus randomly selected DAEPs would generate the need for twelve 7-day site visits per year. Travel costs for teams of two to conduct the visits are estimated at \$2,500 per visit, for a total annual travel cost of \$30,000. TEA assumes staff not traveling for monitoring visits would provide assistance to DAEPs and conduct desk audits.

### **Technology**

The development of the monitoring system would require the purchase of hardware and software licenses at a cost of \$65,000 in FY2008 and \$10,000 in on-going annual costs in subsequent years.

### **Local Government Impact**

The bill would require school districts and public and private entities providing alternative education programs for at-risk students to comply with standards for operating alternative education programs stipulated by the bill. To the extent that instructional time must be extended, uncertified personnel must be replaced with certified personnel, or additional personnel must be hired to comply with the provisions of the bill, local costs would be incurred. Those costs would be expected to vary statewide.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, JSp, UP, JSc

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 20, 2007

**TO:** Honorable Rob Eissler, Chair, House Committee on Public Education

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** HB426 by Madden (relating to standards for the operation of school district disciplinary alternative education programs. ), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would require the Texas Education Agency (TEA) to adopt standards for the operation of a disciplinary alternative education program (DAEP) related to student/teacher ratios, student health and safety, reporting abuse or neglect, teacher training in behavior management and safety, and training in transitioning students from a DAEP to the regular classroom setting. Adopted standards would apply beginning in the 2007-2008 school year.

The bill would require TEA to submit a report to the legislature in FY2009 regarding the cost of enforcing standards adopted under the provisions of the bill including the cost of conducting onsite monitoring and alternative methods of monitoring compliance with the standards.

TEA indicates that the provisions of the bill could be implemented with current agency resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, JSp, UP, JSc

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LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 11, 2007

**TO:** Honorable Rob Eissler, Chair, House Committee on Public Education

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB426** by Madden (Relating to standards for the operation of school district disciplinary alternative education programs.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would require the Texas Education Agency (TEA) to adopt standards for the operation of a disciplinary alternative education program (DAEP) related to student/teacher ratios, student health and safety, reporting abuse or neglect, teacher training in behavior management and safety, and training in transitioning students from a DAEP to the regular classroom setting. Adopted standards would apply beginning in the 2007-2008 school year.

The bill would require TEA to submit a report to the legislature in FY2009 regarding the cost of enforcing standards adopted under the provisions of the bill including the cost of conducting onsite monitoring.

TEA indicates that the provisions of the bill could be implemented with current agency resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, JSp, UP, JSc

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