

## **BILL ANALYSIS**

Senate Research Center  
81R24556 PAM-D

H.B. 466  
By: Paxton (West)  
Education  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

A school district has a large amount of discretion in placing a student in a Disciplinary Alternative Education Program (DAEP) because each school district sets its own student code of conduct. A majority of current DAEP placements are discretionary placements, and students placed in DAEPs have been shown to have lower scores on the standardized statewide tests and higher dropout rates than students not in DAEPs.

Currently, a student has no ability to be represented by the student's parent or counsel, and the student and the student's parents receive limited notification. A student and the student's parents have no ability to appeal or request a hearing on the decision to place the student in a DAEP and no right to due process. Currently, under Chapter 37 (Discipline; Law and Order), if a student is assigned to a DAEP, the student's parents have no ability to request a hearing to appeal the disciplinary measure, no right of due process, no ability to be represented by counsel, and limited notification.

H.B. 466 requires the principal or the principal's designee to deliver to a student and the student's parent or guardian a copy of the order placing the student in a DAEP and a notice of the student's right to appeal by a certain date and authorizes a student to appeal the placement decision if the placement is for a period longer than 20 school days. The bill entitles a student, at the appeal hearing, to due process, to be represented by the student's parent or guardian or another adult who can provide counsel to the student, and to present evidence and witnesses.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 37.0081, Education Code, by adding Subsection (a-2) and amending Subsection (b), as follows:

(a-2) Provides that at the hearing under Subsection (a), the student is entitled to due process and representation as provided by Section 37.009(a).

(b) Provides that any decision of the board of trustees (board) or the board's designee under this section is final and is prohibited from being appealed, except as provided by Section 37.009(a).

SECTION 2. Amends Section 37.009(a), Education Code, to require the principal, following the conference, and whether or not each requested person is in attendance, after good faith, rather than valid, attempts to require the person's attendance, to order the placement of the student for a period consistent with the student code of conduct. Requires the principal or the principal's designee, not later than the first school day after the conference, to deliver to the student and the student's parent or guardian a copy of the order placing the student in a disciplinary alternative education program and a notice of the student's right to appeal. Authorizes a student to appeal the decision of the principal or the principal's designee placing the student in a disciplinary alternative education program to the board if the placement is for a period longer than 20 school days. Requires that the appeal hearing be held at the next regularly scheduled board meeting or not later than the 30th day after the date of the conference, whichever is earlier. Entitles the

student, at the hearing, to due process and to be represented by the student's parent or guardian or another adult who can provide counsel to the student and who is not an employee of the school district. Authorizes the student, or the person representing the student, to present evidence and witnesses at the hearing. Provides that the decision of the board or the board's designee under this subsection is final and is prohibited from being appealed. Deletes existing text providing that if school district policy allows a student to appeal to the board or the board's designee a decision of the principal or other appropriate administrator, other than an expulsion under Section 37.007 (Expulsion for Serious Offenses), the decision of the board or the board's designee is final and is prohibited from being appealed.

SECTION 3. Amends Section 37.010(a), Education Code, to require the board, rather than the board of trustees of a school district, or the board's designee, not later than the second business day after the date a hearing before the board or the board's designee is held under Section 37.009 (Conference; Hearing Review), to deliver a copy of the order placing a student in a disciplinary alternative education program under Section 37.006 (Removal for Certain Conduct) or expelling a student under Section 37.007 and any information required under Section 52.04 (Referral to Juvenile Court; Notice to Parents), Family Code, to the authorized officer of the juvenile court in the county in which the student resides. Requires an expelled student, in a county that operates a juvenile justice alternative education program under Section 37.011 (Juvenile Justice Alternative Education Program), to the extent provided by law or by the memorandum of understanding immediately attend the program, rather than the education program, from the date of expulsion, except that in a county with a population greater than 125,000, every expelled student who is not detained or receiving treatment under an order of the juvenile court to be enrolled in an educational program.

SECTION 4. Provides that this Act applies beginning with the 2009-2010 school year.

SECTION 5. Effective date: upon passage or September 1, 2009.