

BILL ANALYSIS

C.S.H.B. 466
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Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Chapter 37, Education Code, requires the placement of a student in a disciplinary alternative education program (DAEP) if the student commits certain criminal acts and authorizes such placement if the student is involved in other disciplinary problems in violation of a school district's student code of conduct. A school district has a large amount of discretion in placing a student in a 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.

C.S.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 also 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

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

C.S.H.B. 466 amends the Education Code to require, not later than the first school day after a conference regarding a student's removal from class for certain conduct, the principal or the principal's designee 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 (DAEP) and a notice of the student's right to appeal. The bill authorizes a student, regardless of school district policy, to appeal the decision of the principal or the principal's designee placing the student in a DAEP to the board of trustees of a school district if the placement is for a period longer than 20 school days. The bill requires the appeal hearing to be held at the next regularly scheduled board of trustees meeting or not later than the 30th day after the date of the conference, whichever is earlier. The bill entitles a student to due process at the hearing 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. The bill authorizes the student or the person representing the student to present evidence and witnesses at the hearing.

C.S.H.B. 466 requires good faith attempts, rather than valid attempts, to require each requested person's attendance at a conference regarding a student's removal from class.

C.S.H.B. 466 entitles a student 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 at a hearing before the board of trustees or the board's designee regarding a student's expulsion and placement in a DAEP or a juvenile justice alternative education program for certain conduct. The bill creates an exception to the prohibition against appealing a decision of the board or the board's designee, providing that a decision may be appealed as provided above.

C.S.H.B. 466 makes its provisions applicable beginning with the 2009-2010 school year.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 466 differs from the original by removing the designee of a board of trustees as a person to whom a student may appeal the decision of the principal or the principal's designee placing the student in a DAEP. The substitute authorizes a student to appeal such a decision if the placement is for a period longer than 20 school days, whereas the original authorizes an appeal regardless of the placement period. The substitute requires the appeal hearing to be held at the next regularly scheduled board of trustees meeting or not later than the 30th day after the date of the conference, whichever is earlier, whereas the original requires the hearing to be held not later than the 15th business day after the date of the conference. The substitute removes a specification in the original that the due process to which a student is entitled at a hearing is due process as required under the federal constitution. The substitute adds a provision not in the original authorizing the student or the person representing the student to present evidence and witnesses at the hearing. The substitute adds a provision not in the original creating an exception to the prohibition against appealing a decision of the board or board's designee with respect to a student's expulsion, providing that a decision may be appealed as provided above. The substitute removes a provision in the original repealing a provision entitling a student's parent or guardian to notice of and an opportunity to participate in a proceeding relating to the student's placement in a DAEP that is to extend beyond 60 days or the end of the next grading period, whichever is earlier, and making any decision of the board or the board's designee final.