

By: Paxton

H.B. No. 466

Substitute the following for H.B. No. 466:

By: Shelton

C.S.H.B. No. 466

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

(b) Any decision of the board of trustees or the board's designee under this section is final and may not be appealed, except as provided by Section 37.009(a).

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

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.001(a)(2) or 37.006, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal,

1 an explanation of the basis for the removal, and an opportunity to
2 respond to the reasons for the removal. The student may not be
3 returned to the regular classroom pending the conference.
4 Following the conference, and whether or not each requested person
5 is in attendance after good faith [~~valid~~] attempts to require the
6 person's attendance, the principal shall order the placement of the
7 student for a period consistent with the student code of conduct.
8 Not later than the first school day after the conference, the
9 principal or the principal's designee shall deliver to the student
10 and the student's parent or guardian a copy of the order placing the
11 student in a disciplinary alternative education program and a
12 notice of the student's right to appeal. A [~~If school district~~
13 ~~policy allows a~~] student may [~~to~~] appeal the decision of the
14 principal or the principal's designee placing the student in a
15 disciplinary alternative education program to the board of trustees
16 if the placement is for a period longer than 20 school days. The
17 appeal hearing must be held at the next regularly scheduled board of
18 trustees meeting or not later than the 30th day after the date of
19 the conference, whichever is earlier. At the hearing, the student
20 is entitled to due process and to be represented by the student's
21 parent or guardian or another adult who can provide counsel to the
22 student and who is not an employee of the school district. The
23 student, or the person representing the student, may present
24 evidence and witnesses at the hearing. The [~~or the board's designee~~
25 ~~a decision of the principal or other appropriate administrator,~~
26 ~~other than an expulsion under Section 37.007, the~~] decision of the
27 board or the board's designee under this subsection is final and may

1 not be appealed. If the period of the placement is inconsistent
2 with the guidelines included in the student code of conduct under
3 Section 37.001(a)(5), the order must give notice of the
4 inconsistency. The period of the placement may not exceed one year
5 unless, after a review, the district determines that:

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

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

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

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

1 SECTION 4. This Act applies beginning with the 2009-2010
2 school year.

3 SECTION 5. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2009.