

By: Paxton

H.B. No. 466

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-2) to read as follows:

7 (a-2) 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 15th business 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 2009-2010  
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

H.B. No. 466

1 Act takes effect September 1, 2009.