

By: Madden

H.B. No. 1050

A BILL TO BE ENTITLED

AN ACT

1
2 relating to placement of public school students with certain
3 disabilities in disciplinary alternative education programs and
4 juvenile justice alternative education programs.

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

6 SECTION 1. Section 37.004, Education Code, is amended by
7 adding Subsections (e), (f), (g), and (h) to read as follows:

8 (e) Notwithstanding any other provision of this subchapter,
9 in a county with a juvenile justice alternative education program
10 established under Section 37.011, the expulsion under a provision
11 of Section 37.007 described by this subsection of a student with a
12 disability who receives special education services must occur in
13 accordance with this subsection and Subsection (f). The school
14 district that proposes to expel the student shall, in accordance
15 with applicable federal law, provide the administrator of the
16 juvenile justice alternative education program or the
17 administrator's designee with reasonable notice of the meeting of
18 the student's admission, review, and dismissal committee to discuss
19 the student's proposed expulsion. A representative of the juvenile
20 justice alternative education program may participate in the
21 meeting to the extent that the meeting relates to the student's
22 placement in the program. This subsection applies only to an
23 expulsion under:

24 (1) Section 37.007(b), (c), (f), or (i); or

1 (2) Section 37.007(d) as a result of conduct that
2 contains the elements of any offense listed in Section
3 37.007(b)(2)(C) against any employee or volunteer in retaliation
4 for or as a result of the person's employment or association with a
5 school district.

6 (f) If, after placement of a student in a juvenile justice
7 alternative education program under Subsection (e), the
8 administrator of the program or the administrator's designee has
9 concerns that the student's educational or behavioral needs cannot
10 be met in the program, the administrator or designee shall
11 immediately provide written notice of those concerns to the school
12 district from which the student was expelled. The student's
13 admission, review, and dismissal committee shall meet to reconsider
14 the placement of the student in the program. The district shall, in
15 accordance with applicable federal law, provide the administrator
16 or designee with reasonable notice of the meeting, and a
17 representative of the program may participate in the meeting to the
18 extent that the meeting relates to the student's continued
19 placement in the program.

20 (g) A school district that places in a disciplinary
21 alternative education program a student with a disability who
22 receives special education services shall, during the placement,
23 provide the student with the special education services required by
24 the student's individualized education program developed under
25 Section 29.005.

26 (h) This subsection applies only to a student who is
27 eligible to receive special education services because of the

1 student's learning disability or emotional disturbance and who is
2 in a regular education classroom for all or part of the school day.
3 The admission, review, and dismissal committee of a student who
4 engages in conduct for which a student may be but is not required to
5 be placed in a disciplinary alternative education program shall
6 place the student in a special education classroom, if available,
7 for the full school day if, after a manifestation determination
8 review, the committee determines the conduct was not a
9 manifestation of the student's disability. If the committee
10 determines that the conduct was a manifestation of the student's
11 disability, the committee may not alter the student's placement
12 under this subsection. If the conduct continues, the student's
13 admission, review, and dismissal committee shall meet to reconsider
14 the student's placement.

15 SECTION 2. Section 37.008, Education Code, is amended by
16 amending Subsection (a) and adding Subsection (n) to read as
17 follows:

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

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

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

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

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

1 (5) provides for students' educational and behavioral
2 needs, including, if applicable, implementation of a student's
3 individualized education program developed under Section 29.005;

4 (6) provides supervision and counseling;

5 (7) employs only teachers who meet all certification
6 requirements established under Subchapter B, Chapter 21; and

7 (8) provides not less than the minimum amount of
8 instructional time per day required by Section 25.082(a).

9 (n) A school district shall certify in writing to the agency
10 that each student who has been determined to be eligible under
11 Subchapter A, Chapter 29, for special education services and who is
12 placed in a disciplinary alternative education program has an
13 individualized education program developed under Section 29.005.

14 SECTION 3. This Act applies beginning with the 2009-2010
15 school year.

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