

By: Hochberg

H.B. No. 2657

A BILL TO BE ENTITLED

AN ACT

relating to disciplinary action taken against certain public school students on the basis of serious and persistent misbehavior.

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

SECTION 1. Section 37.001(a), Education Code, is amended to read as follows:

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, or disciplinary alternative education program, including circumstances in which a student engages in serious and persistent misbehavior under Section 37.007(c);

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by

1 Section 37.007;

2 (4) specify whether consideration is given, as a
3 factor in a decision to order suspension, removal to a disciplinary
4 alternative education program, or expulsion, to:

5 (A) self-defense;

6 (B) intent or lack of intent at the time the
7 student engaged in the conduct;

8 (C) a student's disciplinary history; or

9 (D) a disability that substantially impairs the
10 student's capacity to appreciate the wrongfulness of the student's
11 conduct;

12 (5) provide guidelines for setting the length of a
13 term of:

14 (A) a removal under Section 37.006; and

15 (B) an expulsion under Section 37.007;

16 (6) address the notification of a student's parent or
17 guardian of a violation of the student code of conduct committed by
18 the student that results in suspension, removal to a disciplinary
19 alternative education program, or expulsion;

20 (7) prohibit bullying, harassment, and making hit
21 lists and ensure that district employees enforce those
22 prohibitions; and

23 (8) provide, as appropriate for students at each grade
24 level, methods, including options, for:

25 (A) managing students in the classroom and on
26 school grounds;

27 (B) disciplining students; and

1 (C) preventing and intervening in student
2 discipline problems, including bullying, harassment, and making
3 hit lists.

4 SECTION 2. Section 37.007(c), Education Code, is amended to
5 read as follows:

6 (c) A student may be expelled if the student, while placed
7 in a disciplinary ~~[an]~~ alternative education program, engages ~~[for~~
8 ~~disciplinary reasons, continues to engage]~~ in documented serious
9 and ~~[or]~~ persistent misbehavior despite documented behavioral
10 interventions ~~[that violates the district's student code of~~
11 ~~conduct]~~. For purposes of this subsection, "serious and persistent
12 misbehavior" means three or more occurrences within an academic
13 year of any of the following:

14 (1) aggressive action, meaning deliberate violent
15 behavior that poses a direct threat to the health or safety of
16 others;

17 (2) extortion, meaning the gaining of money or other
18 property by force or threat;

19 (3) conduct that constitutes coercion, as defined by
20 Section 1.07, Penal Code; or

21 (4) conduct that constitutes the offense of:

22 (A) public lewdness under Section 21.07, Penal
23 Code;

24 (B) indecent exposure under Section 21.08, Penal
25 Code;

26 (C) criminal mischief under Section 28.03, Penal
27 Code;

1 (D) personal hazing under Section 37.152; or

2 (E) harassment under Section 42.07(a)(1), Penal
3 Code, of a student or district employee.

4 SECTION 3. Section 37.009(c), Education Code, is amended to
5 read as follows:

6 (c) Before it may place a student in a disciplinary
7 alternative education program for a period that extends beyond the
8 end of the school year, the board or the board's designee must
9 determine that:

10 (1) the student's presence in the regular classroom
11 program or at the student's regular campus presents a danger of
12 physical harm to the student or to another individual; or

13 (2) the student has engaged in serious and ~~[or]~~
14 persistent misbehavior, as defined by Section 37.007(c) [that
15 ~~violates the district's student code of conduct].~~

16 SECTION 4. Sections 37.011(k) and (l), Education Code, are
17 amended to read as follows:

18 (k) Each school district in a county with a population
19 greater than 125,000 and the county juvenile board shall annually
20 enter into a joint memorandum of understanding that:

21 (1) outlines the responsibilities of the juvenile
22 board concerning the establishment and operation of a juvenile
23 justice alternative education program under this section;

24 (2) defines the amount and conditions on payments from
25 the school district to the juvenile board for students of the school
26 district served in the juvenile justice alternative education
27 program whose placement was not made on the basis of an expulsion

1 required under Section 37.007(a), (d), or (e);

2 (3) establishes [~~identifies those categories of~~
3 ~~conduct~~] that [~~the school district has defined in its student code~~
4 ~~of conduct as constituting serious or persistent misbehavior for~~
5 ~~which~~] a student may be placed in the juvenile justice alternative
6 education program if the student engages in serious and persistent
7 misbehavior, as defined by Section 37.007(c);

8 (4) identifies and requires a timely placement and
9 specifies a term of placement for expelled students for whom the
10 school district has received a notice under Section 52.041(d),
11 Family Code;

12 (5) establishes services for the transitioning of
13 expelled students to the school district prior to the completion of
14 the student's placement in the juvenile justice alternative
15 education program;

16 (6) establishes a plan that provides transportation
17 services for students placed in the juvenile justice alternative
18 education program;

19 (7) establishes the circumstances and conditions
20 under which a juvenile may be allowed to remain in the juvenile
21 justice alternative education program setting once the juvenile is
22 no longer under juvenile court jurisdiction; and

23 (8) establishes a plan to address special education
24 services required by law.

25 (1) The school district shall be responsible for providing
26 an immediate educational program to students who engage in behavior
27 resulting in expulsion under Section 37.007(b) [~~(c)~~] and (f) but

1 who are not eligible for admission into the juvenile justice
2 alternative education program in accordance with the memorandum of
3 understanding required under this section. The school district may
4 provide the program or the school district may contract with a
5 county juvenile board, a private provider, or one or more other
6 school districts to provide the program. The memorandum of
7 understanding shall address the circumstances under which such
8 students who continue to engage in serious and ~~or~~ persistent
9 misbehavior, as defined by Section 37.007(c), shall be admitted
10 into the juvenile justice alternative education program.

11 SECTION 5. This Act applies beginning with the 2009-2010
12 school year.

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