

By: Lucio

S.B. No. 1584

A BILL TO BE ENTITLED

1 AN ACT
2 relating to positive behavioral interventions and supports for
3 students enrolled in public school who receive special education
4 services.

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

6 SECTION 1. Subchapter A, Chapter 29, Education Code, is
7 amended by adding Section 29.021 to read as follows:

8 Sec. 29.021. POSITIVE BEHAVIORAL INTERVENTIONS AND
9 SUPPORTS. (a) In this section:

10 (1) "Behavior specialist professional" includes a
11 behavior analyst certified by the Behavior Analyst Certification
12 Board, a clinical psychologist, or a licensed specialist in school
13 psychology.

14 (2) "Licensed specialist in school psychology" has the
15 meaning assigned by Section 501.002, Occupations Code.

16 (3) "Restraint" and "time-out" have the meanings
17 assigned by Section 37.0021.

18 (b) It is the policy of this state that each school district
19 to the maximum extent possible should provide functional behavioral
20 assessments to a student whose behavior interferes with the ability
21 of that student or of another student to learn. The result of
22 student assessments shall be used to develop and provide positive
23 behavioral interventions and supports and other strategies to
24 enhance academic and social behavioral outcomes for students by:

1 (1) emphasizing the use of data to inform decisions
2 regarding selecting, implementing, and monitoring the progress of
3 evidence-based behavioral practices; and

4 (2) organizing resources and systems to improve the
5 faithful implementation and sustainability of positive behavioral
6 interventions and supports strategies.

7 (c) A school district shall provide positive behavioral
8 interventions and supports and related strategies under this
9 section in a manner that:

10 (1) ensures a student's physical freedom and social
11 interaction;

12 (2) respects human dignity and personal privacy and
13 does not cause pain or trauma to a student; and

14 (3) ensures a student's right to placement in the least
15 restrictive educational environment.

16 (d) In the case of a student enrolled in a special education
17 program under this subchapter, a school district may use restraint
18 or time-out as an emergency intervention only if:

19 (1) preventive or verbal techniques or techniques to
20 de-escalate the situation have been ineffective; and

21 (2) use of restraint or time-out is immediately
22 necessary to prevent:

23 (A) imminent probable death or substantial
24 bodily harm to the student because the student is attempting to
25 commit suicide or inflict serious bodily harm; or

26 (B) imminent physical harm to another person.

27 (e) A school district may not use restraint or time-out as a

1 substitute for or as part of a behavioral intervention plan
2 developed under Section 29.005(g).

3 (f) A school district may not use restraint or time-out
4 after the student stops engaging in the behavior described by
5 Subsection (d).

6 (g) Not later than the end of the school day on which a
7 school district has used restraint or time-out for a student, the
8 district shall notify the student's parent or person standing in
9 parental relation to the student of the use of restraint or time-out
10 and provide the information described by Subsections (h)(1)-(8).

11 (h) The school district shall complete a behavioral
12 emergency report concerning the use of restraint or time-out and
13 shall maintain the report in the student's eligibility folder and
14 cumulative record. The report must include:

15 (1) the name, age, and grade level of the student;

16 (2) the beginning and ending time of the restraint or
17 time-out;

18 (3) the location and setting of the restraint or
19 time-out;

20 (4) the name of district personnel or any other person
21 involved in the incident;

22 (5) a description of the incident, including the
23 precipitating factors;

24 (6) the specific type of restraint or time-out used;

25 (7) a statement as to whether the student currently
26 has a behavioral intervention plan;

27 (8) details of any injury sustained by the student or

1 another person as a result of the incident, including the restraint
2 or time-out, and any medical care provided; and

3 (9) the time the district notified the parent or
4 person standing in parental relation to the student regarding the
5 use, including details of the use, of the restraint or time-out.

6 (i) Not later than the third school day after the date of the
7 incident, the principal of the school shall submit a copy of the
8 behavioral emergency report for review to a school district
9 administrator designated by the district superintendent as the
10 responsible official for that purpose.

11 (j) Subject to the notice requirements for an admission,
12 review, and dismissal committee, the designated responsible
13 official shall schedule a meeting of the student's admission,
14 review, and dismissal committee to occur not later than the 10th
15 school day after the date of the incident. The committee shall
16 determine the need for:

17 (1) a functional behavioral assessment, regardless of
18 whether a functional behavioral assessment was previously
19 conducted; and

20 (2) an interim or modified behavioral intervention
21 plan.

22 (k) If the student's admission, review, and dismissal
23 committee determines that the student needs a functional behavioral
24 assessment, the school district attended by the student shall
25 ensure that the functional behavioral assessment is conducted by a
26 behavior specialist professional. The student's admission, review,
27 and dismissal committee shall review the functional behavioral

1 assessment conducted under this subsection and determine whether
2 individualized positive behavioral interventions and supports need
3 to be included in the student's individualized education program
4 under Section 29.005.

5 (1) If the student's admission, review, and dismissal
6 committee determines that a behavioral intervention plan or a
7 modified behavioral intervention plan is necessary, the committee
8 shall develop the plan and determine the need for school district
9 personnel who will implement the plan to participate in training
10 with a behavior specialist professional. The committee shall
11 monitor the implementation and results of the plan and determine
12 the need for any modification to the plan or any additional training
13 for school personnel.

14 SECTION 2. Section 21.451(d), Education Code, is amended to
15 read as follows:

16 (d) The staff development:

17 (1) may include training in:

18 (A) technology;

19 (B) conflict resolution;

20 (C) discipline strategies, including positive
21 behavioral intervention and supports strategies, classroom
22 management, district discipline policies, and the student code of
23 conduct adopted under Section 37.001 and Chapter 37; and

24 (D) protecting students from bullying, including
25 preventing, identifying, responding to, and reporting incidents of
26 bullying; ~~and~~

27 (2) subject to Subsection (e) and to Section 21.3541

1 and rules adopted under that section, must include training based
2 on scientifically based research, as defined by Section 9101, No
3 Child Left Behind Act of 2001 (20 U.S.C. Section 7801), that:

4 (A) relates to instruction of students with
5 disabilities; and

6 (B) is designed for educators who work primarily
7 outside the area of special education; and

8 (3) must include training to ensure that adequately
9 trained school district personnel are available to work effectively
10 with the positive behavioral intervention and support needs of
11 students eligible for the district special education program.

12 SECTION 3. This Act applies beginning with the 2015-2016
13 school year.

14 SECTION 4. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2015.