

1-1 By: Garcia S.B. No. 370
1-2 (In the Senate - Filed December 20, 2016; February 1, 2017,
1-3 read first time and referred to Committee on Education;
1-4 May 9, 2017, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 3; May 9, 2017, sent
1-6 to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Taylor of Galveston	X			
1-10	Lucio	X			
1-11	Bettencourt		X		
1-12	Campbell	X			
1-13	Hall		X		
1-14	Huffines	X			
1-15	Hughes	X			
1-16	Seliger	X			
1-17	Taylor of Collin		X		
1-18	Uresti	X			
1-19	West	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 370 By: Lucio

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to the discipline and behavior management of a student
1-24 enrolled in a grade level below grade three at a school district or
1-25 open-enrollment charter school.
1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-27 SECTION 1. Section 12.104(b), Education Code, is amended to
1-28 read as follows:
1-29 (b) An open-enrollment charter school is subject to:
1-30 (1) a provision of this title establishing a criminal
1-31 offense; and
1-32 (2) a prohibition, restriction, or requirement, as
1-33 applicable, imposed by this title or a rule adopted under this
1-34 title, relating to:
1-35 (A) the Public Education Information Management
1-36 System (PEIMS) to the extent necessary to monitor compliance with
1-37 this subchapter as determined by the commissioner;
1-38 (B) criminal history records under Subchapter C,
1-39 Chapter 22;
1-40 (C) reading instruments and accelerated reading
1-41 instruction programs under Section 28.006;
1-42 (D) accelerated instruction under Section
1-43 28.0211;
1-44 (E) high school graduation requirements under
1-45 Section 28.025;
1-46 (F) special education programs under Subchapter
1-47 A, Chapter 29;
1-48 (G) bilingual education under Subchapter B,
1-49 Chapter 29;
1-50 (H) prekindergarten programs under Subchapter E
1-51 or E-1, Chapter 29;
1-52 (I) extracurricular activities under Section
1-53 33.081;
1-54 (J) discipline management practices or behavior
1-55 management techniques under Sections [Section] 37.0021, 37.0182,
1-56 37.0183, and 37.023, including the staff development training
1-57 required under Section 21.451(d)(4);
1-58 (K) health and safety under Chapter 38;
1-59 (L) public school accountability under
1-60 Subchapters B, C, D, E, F, G, and J, Chapter 39;

(M) the requirement under Section 21.006 to report an educator's misconduct;

(N) intensive programs of instruction under Section 28.0213; and

(O) the right of a school employee to report a crime, as provided by Section 37.148.

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

(d) The staff development:

(1) may include training in:

(A) technology;

(B) conflict resolution;

(C) discipline strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Section 37.001 and Chapter 37; and

(D) preventing, identifying, responding to, and reporting incidents of bullying;

(2) subject to Subsection (e) and to Section 21.3541 and rules adopted under that section, must include training that is evidence-based ~~[based on scientifically based research]~~, as defined by Section 8101, Every Student Succeeds Act ~~[9101, No Child Left Behind Act of 2001]~~ (20 U.S.C. Section 7801), and that:

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

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

(3) must include suicide prevention training that must be provided:

(A) on an annual basis, as part of a new employee orientation, to all new school district and open-enrollment charter school educators; and

(B) to existing school district and open-enrollment charter school educators on a schedule adopted by the agency by rule; and

(4) notwithstanding Subdivision (1)(C), must include for educators who work with students enrolled in a grade level below grade three training on the positive behavior and early detection and prevention programs under Section 37.0183.

SECTION 3. Section 37.001(a), Education Code, as amended by Chapters 487 (S.B. 1541) and 1409 (S.B. 1114), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and 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, disciplinary alternative education program, or vehicle owned or operated by the district;

(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 Section 37.007;

(4) specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:

(A) self-defense;

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

(C) a student's disciplinary history; or
 (D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(5) state that a student enrolled in a grade level below grade three may not be placed in out-of-school suspension except as authorized by this subchapter;

(6) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007;

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

(8) ~~[(7)]~~ prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions; and

(9) ~~[(8)]~~ provide, as appropriate for students at each grade level, methods, including options, for:

(A) managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;

(B) disciplining students, including disciplining students enrolled in a grade level below grade three using behavior management techniques that comply with the minimum standards established under Section 37.0182 as an alternative to out-of-school suspension; and

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

SECTION 4. Section 37.005, Education Code, is amended by adding Subsection (c) to read as follows:

(c) A student enrolled in a grade level below grade three may not be placed in out-of-school suspension.

SECTION 5. Subchapter A, Chapter 37, Education Code, is amended by adding Sections 37.0182, 37.0183, and 37.023 to read as follows:

Sec. 37.0182. APPROPRIATE BEHAVIOR MANAGEMENT TECHNIQUES FOR CERTAIN STUDENTS. (a) The commissioner by rule shall establish minimum standards for behavior management techniques that may be used for a student enrolled in a grade level below grade three as an alternative to placing the student in out-of-school suspension under Section 37.005. The standards must require a behavior management technique to be a positive behavior support that is age appropriate and research based.

(b) The agency shall develop a database of positive behavior support systems that satisfy the standards established under Subsection (a) and make the database available to each school district and open-enrollment charter school.

Sec. 37.0183. POSITIVE BEHAVIOR AND EARLY DETECTION AND PREVENTION PROGRAMS FOR CERTAIN STUDENTS. (a) Each school district shall develop and implement for students enrolled in a grade level below grade three a positive behavior program that:

(1) is age appropriate and research based;

(2) models positive behaviors;

(3) promotes a positive school climate;

(4) uses only behavior management techniques that comply with the minimum standards established under Section 37.0182;

(5) does not rely on the use of out-of-school suspensions or placements in a disciplinary alternative education program as a means of managing problematic behavior; and

(6) includes behavior management strategies such as positive behavioral interventions and supports, trauma-informed practices, social and emotional learning, referral services, and restorative practices.

(b) Each school district shall develop and implement an early detection and prevention program to address the needs of students enrolled in a grade level below grade three who are

4-1 experiencing behavioral or disciplinary challenges. The program
 4-2 must be designed to provide appropriate evaluations, services, and
 4-3 supports to the student and the student's family.

4-4 (c) A program under Subsection (a) or (b) must include
 4-5 methods for improving in-school suspension by incorporating
 4-6 behavior management techniques that comply with the minimum
 4-7 standards established under Section 37.0182.

4-8 (d) In developing a program under Subsection (a) or (b), a
 4-9 school district may request assistance from a regional education
 4-10 service center.

4-11 (e) Each school district shall:

4-12 (1) submit to the agency written procedures detailing
 4-13 the implementation of each program under this section;

4-14 (2) make the procedures under Subdivision (1) publicly
 4-15 available; and

4-16 (3) train educators and other student support staff as
 4-17 necessary to implement the programs as required by this section.

4-18 (f) The commissioner may adopt rules as necessary to
 4-19 implement this section.

4-20 Sec. 37.023. SANCTIONS FOR CERTAIN VIOLATIONS. The
 4-21 commissioner may sanction, in a manner determined appropriate by
 4-22 the commissioner, a school district or open-enrollment charter
 4-23 school that:

4-24 (1) permits a student enrolled in a grade level below
 4-25 grade three to be placed in out-of-school suspension unless the
 4-26 suspension is authorized by this subchapter; or

4-27 (2) fails to comply with a requirement under Section
 4-28 37.0183.

4-29 SECTION 6. This Act applies beginning with the 2018-2019
 4-30 school year.

4-31 SECTION 7. Not later than September 1, 2018, each school
 4-32 district and open-enrollment charter school shall submit to the
 4-33 Texas Education Agency the procedures required under Section
 4-34 37.0183, Education Code, as added by this Act.

4-35 SECTION 8. This Act takes effect immediately if it receives
 4-36 a vote of two-thirds of all the members elected to each house, as
 4-37 provided by Section 39, Article III, Texas Constitution. If this
 4-38 Act does not receive the vote necessary for immediate effect, this
 4-39 Act takes effect September 1, 2017.

4-40 * * * * *