86R26140 MEW-F

By:  Allen H.B. No. 873

Substitute the following for H.B. No. 873:

By:  Bernal C.S.H.B. No. 873

A BILL TO BE ENTITLED

AN ACT

relating to behavior improvement plans and behavioral intervention plans for certain public school students and notification and documentation requirements regarding certain behavior management techniques.

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

SECTION 1.  Section 29.005, Education Code, is amended by adding Subsection (h) to read as follows:

(h)  If a behavior improvement plan or a behavioral intervention plan is included as part of a student's individualized education program under Subsection (g), the committee shall review the plan at least annually and more frequently if appropriate to address:

(1)  any changes in a student's circumstances, including:

(A)  the placement of the student in a different educational setting;

(B)  an increase or persistence in disciplinary actions taken regarding the student;

(C)  a variation in the student's attendance; or

(D)  a variation in the student's behavior, including an unauthorized unsupervised departure from an educational setting; or

(2)  the safety of the student or others.

SECTION 2.  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, 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)  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;

(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, including specifying:

(A)  if the student has a behavior improvement plan or a behavioral intervention plan, whether the school district recommends any revision to the plan; or

(B)  if the student does not have a behavior improvement plan or a behavioral intervention plan, whether the school district recommends conducting or is required under Section 37.004 to conduct a functional behavioral assessment of the student;

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

(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; and

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

(9)  include an explanation of the provisions regarding refusal of entry to or ejection from district property under Section 37.105, including the appeal process established under Section 37.105(h).

SECTION 3.  Section 37.0021(d), Education Code, is amended to read as follows:

(d)  The commissioner by rule shall adopt procedures for the use of restraint and time-out by a school district employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special education services under Subchapter A, Chapter 29. A procedure adopted under this subsection must:

(1)  be consistent with:

(A)  professionally accepted practices and standards of student discipline and techniques for behavior management; and

(B)  relevant health and safety standards; [~~and~~]

(2)  identify any discipline management practice or behavior management technique that requires a district employee or volunteer or an independent contractor of a district to be trained before using that practice or technique; and

(3)  require a school district to:

(A)  provide written notification to the student's parent or person standing in parental relation to the student for each use of restraint that includes:

(i)  the name of the student;

(ii)  the name of the district employee or volunteer or independent contractor of the district who administered the restraint;

(iii)  the date of the restraint;

(iv)  the time that the restraint started and ended;

(v)  the location of the restraint;

(vi)  the nature of the restraint;

(vii)  a description of the activity in which the student was engaged immediately preceding the use of the restraint;

(viii)  the behavior of the student that prompted the restraint;

(ix)  any efforts made to de-escalate the situation and any alternatives to restraint that were attempted;

(x)  if the student has a behavior improvement plan or a behavioral intervention plan, whether the school district recommends any revision to the plan; and

(xi)  if the student does not have a behavior improvement plan or a behavioral intervention plan, whether the school district recommends conducting a functional behavioral assessment of the student;

(B)  include in a student's special education eligibility school records:

(i)  a copy of any written notification provided to the student's parent or person standing in parental relation to the student under Paragraph (A); and

(ii)  the contact information for the parent or person who received the notification; and

(C)  if the student has a behavior improvement plan or behavioral intervention plan, document each use of time-out prompted by a behavior of the student specified in the student's plan, including a description of the behavior that prompted the time-out.

SECTION 4.  Section 37.004, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  If a school district takes a disciplinary action regarding a student with a disability who receives special education services that constitutes a change in placement under federal law, the district shall:

(1)  not later than the 10th school day after the change in placement:

(A)  conduct a functional behavioral assessment of the student; and

(B)  review any previously conducted functional behavioral assessment of the student and any behavior improvement plan or behavioral intervention plan developed for the student based on that assessment; and

(2)  as necessary:

(A)  develop a behavior improvement plan or behavioral intervention plan for the student if the student does not have a plan; or

(B)  if the student has a behavior improvement plan or behavioral intervention plan, revise the student's plan.

SECTION 5.  This Act applies beginning with the 2019-2020 school year.

SECTION 6.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.