

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

1  
2 relating to behavior improvement plans and behavioral intervention  
3 plans for certain public school students and notification and  
4 documentation requirements regarding certain behavior management  
5 techniques.

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

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

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

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

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

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

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

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

24 (2) the safety of the student or others.

1 SECTION 2. Section 37.001(a), Education Code, is amended to  
2 read as follows:

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

11 (1) specify the circumstances, in accordance with this  
12 subchapter, under which a student may be removed from a classroom,  
13 campus, disciplinary alternative education program, or vehicle  
14 owned or operated by the district;

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

18 (3) outline conditions under which a student may be  
19 suspended as provided by Section 37.005 or expelled as provided by  
20 Section 37.007;

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

27 (A) self-defense;

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

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

4 (D) a disability that substantially impairs the  
5 student's capacity to appreciate the wrongfulness of the student's  
6 conduct;

7 (5) provide guidelines for setting the length of a  
8 term of:

9 (A) a removal under Section 37.006; and

10 (B) an expulsion under Section 37.007;

11 (6) address the notification of a student's parent or  
12 guardian of a violation of the student code of conduct committed by  
13 the student that results in suspension, removal to a disciplinary  
14 alternative education program, or expulsion, including specifying:

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

18 (B) if the student does not have a behavior  
19 improvement plan or a behavioral intervention plan, whether the  
20 school district recommends conducting or is required under Section  
21 37.004 to conduct a functional behavioral assessment of the  
22 student;

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

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

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

3 (B) disciplining students; and

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

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

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

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

19 (1) be consistent with:

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

23 (B) relevant health and safety standards; ~~and~~

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

1           (3) require a school district to:

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

5                           (i) the name of the student;

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

9                           (iii) the date of the restraint;

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

12                           (v) the location of the restraint;

13                           (vi) the nature of the restraint;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27                           (2) as necessary:

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

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

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

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