

By: Allen

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 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) a disciplinary action 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

1 read as follows:

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

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

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

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

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

26 (A) self-defense;

27 (B) intent or lack of intent at the time the

1 student engaged in the conduct;

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

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

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

8 (A) a removal under Section 37.006; and

9 (B) an expulsion under Section 37.007;

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

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

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

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

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

27 (A) managing students in the classroom, on school

1 grounds, and on a vehicle owned or operated by the district;

2 (B) disciplining students; and

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

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

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

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

18 (1) be consistent with:

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

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

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

27 (3) require a school district to:

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

4                   (i) the name of the student;

5                   (ii) the name of the district employee or  
6 volunteer or independent contractor of the district who  
7 administered the restraint or time-out;

8                   (iii) the date of the restraint or  
9 time-out;

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

12                   (v) the location of the restraint or  
13 time-out;

14                   (vi) the nature of the restraint or  
15 time-out;

16                   (vii) a description of the activity in  
17 which the student was engaged immediately preceding the use of the  
18 restraint or time-out;

19                   (viii) the behavior of the student that  
20 prompted the restraint or time-out;

21                   (ix) any efforts made to de-escalate the  
22 situation and any alternatives to restraint or time-out that were  
23 attempted;

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

27                   (xi) if the student does not have a behavior

1 improvement plan or a behavioral intervention plan, whether the  
2 school district recommends conducting a functional behavioral  
3 assessment of the student; and

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

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

9 (ii) the contact information for the parent  
10 or person who received the notification.

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

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

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

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

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

25 (2) as necessary:

26 (A) develop a behavior improvement plan or  
27 behavioral intervention plan for the student if the student does

1 not have a plan; or

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

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

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