

AN ACT

relating to prohibiting the use of certain aversive techniques on students enrolled in public schools.

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

SECTION 1. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0023 to read as follows:

Sec. 37.0023. PROHIBITED AVERSIVE TECHNIQUES. (a) In this section, "aversive technique" means a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. The term includes a technique or intervention that:

(1) is designed to or likely to cause physical pain, other than an intervention or technique permitted under Section 37.0011;

(2) notwithstanding Section 37.0011, is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;

(3) involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;

(4) denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom

1 facility;

2 (5) ridicules or demeans the student in a manner that
3 adversely affects or endangers the learning or mental health of the
4 student or constitutes verbal abuse;

5 (6) employs a device, material, or object that
6 simultaneously immobilizes all four extremities, including any
7 procedure that results in such immobilization known as prone or
8 supine floor restraint;

9 (7) impairs the student's breathing, including any
10 procedure that involves:

11 (A) applying pressure to the student's torso or
12 neck; or

13 (B) obstructing the student's airway, including
14 placing an object in, on, or over the student's mouth or nose or
15 placing a bag, cover, or mask over the student's face;

16 (8) restricts the student's circulation;

17 (9) secures the student to a stationary object while
18 the student is in a sitting or standing position;

19 (10) inhibits, reduces, or hinders the student's
20 ability to communicate;

21 (11) involves the use of a chemical restraint;

22 (12) constitutes a use of timeout that precludes the
23 student from being able to be involved in and progress
24 appropriately in the required curriculum and, if applicable, toward
25 the annual goals included in the student's individualized education
26 program, including isolating the student by the use of physical
27 barriers; or

1 (13) except as provided by Subsection (c), deprives
2 the student of the use of one or more of the student's senses.

3 (b) A school district or school district employee or
4 volunteer or an independent contractor of a school district may not
5 apply an aversive technique, or by authorization, order, or
6 consent, cause an aversive technique to be applied, to a student.

7 (c) Notwithstanding Subsection (a)(13), an aversive
8 technique described by Subsection (a)(13) may be used if the
9 technique is executed in a manner that:

10 (1) does not cause the student pain or discomfort; or

11 (2) complies with the student's individualized
12 education program or behavior intervention plan.

13 (d) Nothing in this section may be construed to prohibit a
14 teacher from removing a student from class under Section 37.002.

15 (e) In adopting procedures under this section, the
16 commissioner shall provide guidance to school district employees,
17 volunteers, and independent contractors of school districts in
18 avoiding a violation of Subsection (b).

19 SECTION 2. This Act applies beginning with the 2019-2020
20 school year.

21 SECTION 3. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 3630 was passed by the House on May 3, 2019, by the following vote: Yeas 141, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3630 on May 24, 2019, by the following vote: Yeas 139, Nays 0, 3 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3630 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor