

By: Hall

S.B. No. 377

A BILL TO BE ENTITLED

AN ACT

1
2 relating to eliminating certain requirements imposed on school
3 districts; establishing a process for review of a school district's
4 termination or suspension of a classroom teacher.

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

6 SECTION 1. Section [11.253\(d\)](#), Education Code, is amended to
7 read as follows:

8 (d) Each campus improvement plan must:

9 (1) assess the academic achievement for each student
10 in the school using the achievement indicator system as described
11 by Section [39.053](#);

12 (2) set the campus performance objectives based on the
13 achievement indicator system, including objectives for special
14 needs populations, including students in special education
15 programs under Subchapter A, Chapter [29](#);

16 (3) identify how the campus goals will be met for each
17 student;

18 (4) determine the resources needed to implement the
19 plan;

20 (5) identify staff needed to implement the plan;

21 (6) set timelines for reaching the goals;

22 (7) measure progress toward the performance
23 objectives periodically to ensure that the plan is resulting in
24 academic improvement;

1 (8) include goals and methods for violence prevention
2 and intervention on campus;

3 (9) provide for a program to encourage parental
4 involvement at the campus; and

5 (10) if the campus is an elementary, middle, or junior
6 high school, set goals and objectives for the coordinated health
7 program at the campus based on:

8 (A) student fitness assessment data, including
9 any data from research-based assessments such as the school health
10 index assessment and planning tool created by the federal Centers
11 for Disease Control and Prevention;

12 (B) student academic performance data;

13 (C) student attendance rates;

14 (D) the percentage of students who are
15 educationally disadvantaged; and

16 (E) the use and success of any method to ensure
17 that students participate in moderate to vigorous physical activity
18 as required by Section 28.002(1) [~~, and~~

19 [~~(F) any other indicator recommended by the local~~
20 ~~school health advisory council~~].

21 SECTION 2. The heading to Subchapter F, Chapter 21,
22 Education Code, is amended to read as follows:

23 SUBCHAPTER F. HEARINGS [~~BEFORE HEARING EXAMINERS~~]

24 SECTION 3. Section 21.253, Education Code, is amended by
25 adding Subsections (c) and (d) to read as follows:

26 (c) The school district may choose to have the hearing
27 conducted before:

1 (1) a hearing examiner; or

2 (2) the board of trustees or a subcommittee designated
3 by the board.

4 (d) The school district shall notify the commissioner of the
5 school district's choice under Subsection (c).

6 SECTION 4. The heading to Section 21.258, Education Code,
7 is amended to read as follows:

8 Sec. 21.258. CONSIDERATION OF RECOMMENDATION OF HEARING
9 EXAMINER BY BOARD OF TRUSTEES OR BOARD SUBCOMMITTEE.

10 SECTION 5. The heading to Section 21.259, Education Code,
11 is amended to read as follows:

12 Sec. 21.259. DECISION OF BOARD OF TRUSTEES OR BOARD
13 SUBCOMMITTEE AFTER CONSIDERATION OF RECOMMENDATION OF HEARING
14 EXAMINER.

15 SECTION 6. Subchapter F, Chapter 21, Education Code, is
16 amended by adding Section 21.2595 to read as follows:

17 Sec. 21.2595. HEARING BY BOARD OF TRUSTEES OR BOARD
18 SUBCOMMITTEE; DECISION. (a) If the school district chooses to have
19 a hearing before the board of trustees or a subcommittee designated
20 by the board, the board or subcommittee shall conduct the hearing as
21 provided by this section.

22 (b) The board of trustees or board subcommittee has the same
23 authority as a hearing examiner and the hearing is subject to the
24 same requirements and shall be conducted in the same manner as
25 provided under Sections 21.255 and 21.256. The school district and
26 the teacher have the same rights and responsibilities as provided
27 by Sections 21.255 and 21.256.

1 (c) Not later than the 60th day after the date on which the
2 district receives a copy of the teacher's written request for a
3 hearing, the board of trustees or board subcommittee shall complete
4 the hearing and shall announce a decision that:

5 (1) includes findings of fact and conclusions of law;
6 and

7 (2) may include a grant of relief.

8 (d) A determination by the board of trustees or board
9 subcommittee regarding good cause for the suspension of a teacher
10 without pay or the termination of a probationary, continuing, or
11 term contract is a conclusion of law.

12 SECTION 7. Section 21.260, Education Code, is amended to
13 read as follows:

14 Sec. 21.260. RECORDING OF BOARD PROCEEDINGS [~~MEETING AND~~
15 ~~ANNOUNCEMENT~~]. A certified shorthand reporter shall record the
16 oral argument under Section 21.258 and the announcement of a a [~~the~~]
17 decision under Section 21.259 or 21.2595. The school district
18 shall bear the cost of the services of the certified shorthand
19 reporter.

20 SECTION 8. Sections 21.301(a) and (c), Education Code, are
21 amended to read as follows:

22 (a) Not later than the 20th day after the date the board of
23 trustees or board subcommittee announces its decision under Section
24 21.259 or 21.2595 or the board advises the teacher of its decision
25 not to renew the teacher's contract under Section 21.208, the
26 teacher may appeal the decision by filing a petition for review with
27 the commissioner.

1 (c) The commissioner shall review, as applicable, the
2 record of the hearing before the hearing examiner and the oral
3 argument before the board of trustees or board subcommittee or the
4 record of the hearing before the board of trustees or board
5 subcommittee. Except as provided in Section 21.302, the
6 commissioner shall consider the appeal solely on the basis of the
7 local record and may not consider any additional evidence or issue.
8 The commissioner, on the motion of a party or on the commissioner's
9 motion, may hear oral argument. The commissioner shall accept
10 written argument.

11 SECTION 9. Section 21.302(a), Education Code, is amended to
12 read as follows:

13 (a) If a party alleges that procedural irregularities that
14 are not reflected in the local record occurred at a [the] hearing
15 under Subchapter F [before the hearing examiner], the commissioner
16 may hold a hearing for the presentation of evidence on that issue.
17 The party alleging that procedural irregularities occurred shall
18 identify the specific alleged defect and its claimed effect on the
19 board's or board subcommittee's decision. The commissioner may
20 make appropriate orders consistent with rules adopted by the
21 commissioner. The commissioner's determination on any alleged
22 procedural irregularities is final and may not be appealed.

23 SECTION 10. Sections 21.303(a) and (b), Education Code, are
24 amended to read as follows:

25 (a) If the board of trustees or board subcommittee decided
26 not to renew a teacher's term contract, the commissioner may not
27 substitute the commissioner's judgment for that of the board or

1 subcommittee [~~of trustees~~] unless the decision was arbitrary,
2 capricious, or unlawful or is not supported by substantial
3 evidence.

4 (b) If the board of trustees or board subcommittee
5 terminated a teacher's probationary, continuing, or term contract
6 during the contract term or suspended a teacher without pay, the
7 commissioner may not substitute the commissioner's judgment for
8 that of the board or subcommittee unless:

9 (1) if the board or subcommittee accepted the hearing
10 examiner's findings of fact without modification, the decision is
11 arbitrary, capricious, or unlawful or is not supported by
12 substantial evidence; [~~or~~]

13 (2) if the board or subcommittee modified the hearing
14 examiner's findings of fact, the decision is arbitrary, capricious,
15 or unlawful or the hearing examiner's original findings of fact are
16 not supported by substantial evidence; or

17 (3) the decision of the board or subcommittee in a
18 hearing under Section 21.2595 is arbitrary, capricious, or unlawful
19 or the original findings of fact of the board or subcommittee are
20 not supported by substantial evidence.

21 SECTION 11. Sections 21.304(d) and (e), Education Code, are
22 amended to read as follows:

23 (d) The commissioner shall maintain and index decisions of
24 the commissioner issued under this section with, as applicable:

25 (1) the recommendations or decisions of the hearing
26 examiner; or

27 (2) the decisions of the board of trustees or board

1 subcommittee announced under Section 21.2595.

2 (e) If the commissioner reverses the action of the board of
3 trustees or board subcommittee, the commissioner shall order the
4 school district to reinstate the teacher and to pay the teacher any
5 back pay and employment benefits from the time of discharge or
6 suspension to reinstatement.

7 SECTION 12. Section 21.305(a), Education Code, is amended
8 to read as follows:

9 (a) If a teacher appeals the decision of the board of
10 trustees or board subcommittee, the school district shall bear the
11 cost of preparing the original transcripts of, as applicable:

12 (1) the hearing before the hearing examiner[+] and
13 [~~(2)~~] the oral argument before the board of trustees
14 or board subcommittee; or

15 (2) the hearing before the board or subcommittee under
16 Section 21.2595.

17 SECTION 13. Section 21.451, Education Code, is amended by
18 adding Subsection (h) to read as follows:

19 (h) Notwithstanding any other law, a school district may,
20 but is not required to, provide staff training regarding:

- 21 (1) Internet safety;
- 22 (2) teen dating violence;
- 23 (3) bullying;
- 24 (4) student parenthood;
- 25 (5) child abuse; or
- 26 (6) school bus transportation safety.

27 SECTION 14. Section 28.002(p), Education Code, is amended

1 to read as follows:

2 (p) The State Board of Education, in conjunction with the
3 office of the attorney general, shall develop a parenting and
4 paternity awareness program that a school district may [~~shall~~] use
5 in the district's high school health curriculum or [~~.— A school~~
6 ~~district may use the program developed under this subsection in~~]
7 the district's middle or junior high school curriculum. At the
8 discretion of the district, a teacher may modify the suggested
9 sequence and pace of the program at any grade level. The program
10 must:

11 (1) address parenting skills and responsibilities,
12 including child support and other legal rights and responsibilities
13 that come with parenthood;

14 (2) address relationship skills, including money
15 management, communication skills, and marriage preparation; and

16 (3) in district middle, junior high, or high schools
17 that do not have a family violence prevention program, address
18 skills relating to the prevention of family violence.

19 SECTION 15. Sections [28.0023](#)(c) and (e), Education Code,
20 are amended to read as follows:

21 (c) A school district or open-enrollment charter school may
22 [~~shall~~] provide instruction to students in grades 7 through 12 in
23 cardiopulmonary resuscitation in a manner consistent with the
24 requirements of this section [~~and State Board of Education rules~~
25 ~~adopted under this section~~]. The instruction may be provided as a
26 part of any course. [~~A student shall receive the instruction at~~
27 ~~least once before graduation.~~]

1 (e) If a school district or open-enrollment charter school
2 offers cardiopulmonary [Cardiopulmonary] resuscitation
3 instruction, the instruction must include training that has been
4 developed:

5 (1) by the American Heart Association or the American
6 Red Cross; or

7 (2) using nationally recognized, evidence-based
8 guidelines for emergency cardiovascular care and incorporating
9 psychomotor skills to support the instruction.

10 SECTION 16. Subchapter A, Chapter 28, Education Code, is
11 amended by adding Section 28.0026 to read as follows:

12 Sec. 28.0026. INSTRUCTION NOT REQUIRED. Notwithstanding
13 any other law, a school district may, but is not required to,
14 provide student instruction regarding:

15 (1) Internet safety;

16 (2) teen dating violence;

17 (3) bullying;

18 (4) student parenthood;

19 (5) child abuse; or

20 (6) school bus transportation safety.

21 SECTION 17. The heading to Section 28.004, Education Code,
22 is amended to read as follows:

23 Sec. 28.004. [~~LOCAL SCHOOL HEALTH ADVISORY COUNCIL AND~~]
24 HEALTH EDUCATION INSTRUCTION.

25 SECTION 18. Sections 28.004(e), (i), and (k), Education
26 Code, are amended to read as follows:

27 (e) Any course materials and instruction relating to human

1 sexuality, sexually transmitted diseases, or human
2 immunodeficiency virus or acquired immune deficiency syndrome
3 shall be selected by the board of trustees [~~with the advice of the~~
4 ~~local school health advisory council~~] and must:

5 (1) present abstinence from sexual activity as the
6 preferred choice of behavior in relationship to all sexual activity
7 for unmarried persons of school age;

8 (2) devote more attention to abstinence from sexual
9 activity than to any other behavior;

10 (3) emphasize that abstinence from sexual activity, if
11 used consistently and correctly, is the only method that is 100
12 percent effective in preventing pregnancy, sexually transmitted
13 diseases, infection with human immunodeficiency virus or acquired
14 immune deficiency syndrome, and the emotional trauma associated
15 with adolescent sexual activity;

16 (4) direct adolescents to a standard of behavior in
17 which abstinence from sexual activity before marriage is the most
18 effective way to prevent pregnancy, sexually transmitted diseases,
19 and infection with human immunodeficiency virus or acquired immune
20 deficiency syndrome; and

21 (5) teach contraception and condom use in terms of
22 human use reality rates instead of theoretical laboratory rates, if
23 instruction on contraception and condoms is included in curriculum
24 content.

25 (i) Before each school year, a school district shall provide
26 written notice to a parent of each student enrolled in the district
27 of the board of trustees' decision regarding whether the district

1 will provide human sexuality instruction to district students. If
2 instruction will be provided, the notice must include:

3 (1) a summary of the basic content of the district's
4 human sexuality instruction to be provided to the student,
5 including a statement informing the parent of the instructional
6 requirements under state law;

7 (2) a statement of the parent's right to:

8 (A) review curriculum materials as provided by
9 Subsection (j); and

10 (B) remove the student from any part of the
11 district's human sexuality instruction without subjecting the
12 student to any disciplinary action, academic penalty, or other
13 sanction imposed by the district or the student's school; and

14 (3) information describing the opportunities for
15 parental involvement in the development of the curriculum to be
16 used in human sexuality instruction[~~, including information~~
17 ~~regarding the local school health advisory council established~~
18 ~~under Subsection (a)].~~

19 (k) A school district shall publish in the student handbook
20 and post on the district's Internet website, if the district has an
21 Internet website:

22 (1) a statement of the policies adopted to ensure that
23 elementary school, middle school, and junior high school students
24 engage in at least the amount and level of physical activity
25 required by Section 28.002(1);

26 (2) a statement of:

27 (A) [~~the number of times during the preceding~~

1 ~~year the district's school health advisory council has met,~~

2 ~~[(B)]~~ whether the district has adopted and
3 enforces policies to ensure that district campuses comply with
4 agency vending machine and food service guidelines for restricting
5 student access to vending machines; and

6 (B) ~~[(C)]~~ whether the district has adopted and
7 enforces policies and procedures that prescribe penalties for the
8 use of e-cigarettes, as defined by Section 38.006, and tobacco
9 products by students and others on school campuses or at
10 school-sponsored or school-related activities; and

11 (3) a statement providing notice to parents that they
12 can request in writing their child's physical fitness assessment
13 results at the end of the school year if assessment was requested
14 under Section 38.101.

15 SECTION 19. Sections 33.901(a) and (b), Education Code, are
16 amended to read as follows:

17 (a) If at least 10 percent of the students enrolled in one or
18 more schools in a school district or enrolled in an open-enrollment
19 charter school are eligible for free or reduced-price breakfasts
20 under the national school breakfast program provided for by the
21 Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the board of
22 trustees of the school district or the governing body of the
23 open-enrollment charter school may ~~[shall either]~~:

24 (1) participate in the national program and make the
25 benefits of the national program available to all eligible students
26 in the schools or school; or

27 (2) develop and implement a locally funded program to

1 provide free meals, including breakfast and lunch, to each student
2 eligible for free meals under federal law and reduced-price meals,
3 including breakfast and lunch, to each student eligible for
4 reduced-price meals under federal law, provided that the reduced
5 price may not exceed the maximum allowable rate under federal law.

6 (b) A school district campus or an open-enrollment charter
7 school participating in the national school breakfast program
8 provided for by the Child Nutrition Act of 1966 (42 U.S.C. Section
9 1773) or providing a locally funded program in which 80 percent or
10 more of the students qualify under the national program for a free
11 or reduced-price breakfast may [~~shall~~] offer a free breakfast to
12 each student.

13 SECTION 20. Section 34.008(c), Education Code, is amended
14 to read as follows:

15 (c) A mass transit authority contracting under this section
16 for daily transportation of pre-primary, primary, or secondary
17 students to or from school shall conduct, in a manner and on a
18 schedule approved by the county or district school board, the
19 following education programs:

20 (1) a program to inform the public that public school
21 students will be riding on the authority's or company's buses; and

22 (2) a program to educate the drivers of the buses to be
23 used under the contract of the special needs and problems of public
24 school students riding on the buses [~~, and~~

25 [~~(3) a program to educate public school students on~~
26 ~~bus riding safety and any special considerations arising from the~~
27 ~~use of the authority's or company's buses]~~].

1 SECTION 21. Section 34.012(b), Education Code, is amended
2 to read as follows:

3 (b) The State Board of Education shall serve as a
4 clearinghouse of best practices for school districts seeking the
5 most efficient and sensible information regarding school bus
6 safety[~~, including possible compliance with Section 547.701,~~
7 ~~Transportation Code, using school buses originally purchased~~
8 ~~without seat belts~~].

9 SECTION 22. Section 37.001(a), Education Code, is amended
10 to read as follows:

11 (a) The board of trustees of an independent school district
12 shall, with the advice of its district-level committee established
13 under Subchapter F, Chapter 11, adopt a student code of conduct for
14 the district. The student code of conduct must be posted and
15 prominently displayed at each school campus or made available for
16 review at the office of the campus principal. In addition to
17 establishing standards for student conduct, the student code of
18 conduct must:

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

23 (2) specify conditions that authorize or require a
24 principal or other appropriate administrator to transfer a student
25 to a disciplinary alternative education program;

26 (3) outline conditions under which a student may be
27 suspended as provided by Section 37.005 or expelled as provided by

1 Section 37.007;

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

8 (A) self-defense;

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

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

12 (D) a disability that substantially impairs the
13 student's capacity to appreciate the wrongfulness of the student's
14 conduct;

15 (5) provide guidelines for setting the length of a
16 term of:

17 (A) a removal under Section 37.006; and

18 (B) an expulsion under Section 37.007;

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

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 23. Section 37.0831(b), Education Code, is amended
12 to read as follows:

13 (b) A dating violence policy:

14 (1) must:

15 (A) [~~(1)~~] include a definition of dating
16 violence that includes the intentional use of physical, sexual,
17 verbal, or emotional abuse by a person to harm, threaten,
18 intimidate, or control another person in a dating relationship, as
19 defined by Section 71.0021, Family Code; and

20 (B) [~~(2)~~] address safety planning, enforcement
21 of protective orders, school-based alternatives to protective
22 orders, and [~~training for teachers and administrators,~~
23 for affected students; ~~]~~ and

24 (2) may address:

25 (A) training for teachers and administrators;
26 and

27 (B) awareness education for students and

1 parents.

2 SECTION 24. Section 38.004(b), Education Code, is amended
3 to read as follows:

4 (b) A [Each] school district may, but is not required to,
5 ~~[shall]~~ provide child abuse antivictimization programs in
6 elementary and secondary schools.

7 SECTION 25. Section 38.101, Education Code, is amended to
8 read as follows:

9 Sec. 38.101. REQUEST FOR ASSESSMENT [REQUIRED]. At the
10 request of the student's parent or a person standing in parental
11 relation to the student [~~(a) Except as provided by Subsection (b)],~~
12 a school district annually shall assess the physical fitness of a
13 student [~~students~~] enrolled in grade three or higher in a course
14 that satisfies the curriculum requirements for physical education
15 under Section 28.002(a)(2)(C).

16 [~~(b) A school district is not required to assess a student~~
17 ~~for whom, as a result of disability or other condition identified by~~
18 ~~commissioner rule, the assessment instrument adopted under Section~~
19 ~~38.102 is inappropriate.]~~

20 SECTION 26. (a) Section 12.0029(d), Agriculture Code, is
21 repealed.

22 (b) The following provisions of the Education Code are
23 repealed:

- 24 (1) Section 28.002(s);
25 (2) Sections 28.0023(b) and (d);
26 (3) Sections 28.004(a), (b), (c), (d), (d-1), (l),
27 (l-1), (m), and (n); and

1 (4) Section 33.901(c).

2 (c) Section 547.701(e), Transportation Code, is repealed.

3 SECTION 27. Section 21.253, Education Code, as amended by
4 this Act, applies only to a written notice of a proposed decision
5 described by Section 21.251, Education Code, received by a teacher
6 on or after September 1, 2019.

7 SECTION 28. This Act applies beginning with the 2019-2020
8 school year.

9 SECTION 29. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2019.