H.B. No. 785

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)  changes in a student's circumstances that may impact the student's behavior, such as:

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

(B)  an increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents;

(C)  a pattern of unexcused absences; or

(D)  an unauthorized unsupervised departure from an educational setting; or

(2)  the safety of the student or others.

SECTION 2.  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 plan may need to be revised as a result of the behavior that led to the restraint; and

(xi)  if the student does not have a behavior improvement plan or a behavioral intervention plan, information on the procedure for the student's parent or person standing in parental relation to the student to request an admission, review, and dismissal committee meeting to discuss the possibility of conducting a functional behavioral assessment of the student and developing a plan for the student;

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

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

(ii)  information on the method by which the written notification was sent to the parent or person; and

(iii)  the contact information for the parent or person to whom the district sent 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 3.  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)  seek consent from the student's parent or person standing in parental relation to the student to conduct a functional behavioral assessment of the student, if a functional behavioral assessment has never been conducted on the student or the student's most recent functional behavioral assessment is more than one year old; 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 4.  This Act applies beginning with the 2021-2022 school year.

SECTION 5.  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, 2021.

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    President of the Senate Speaker of the House

I certify that H.B. No. 785 was passed by the House on April 8, 2021, by the following vote:  Yeas 148, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 785 was passed by the Senate on May 19, 2021, by the following vote:  Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                    Date

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                  Governor