

By: Lucio

S.B. No. 1074

A BILL TO BE ENTITLED

AN ACT

1
2 relating to positive behavior plans of school districts,
3 development of positive behavior best practices by the Texas
4 Education Agency, and reporting of disproportionate discretionary
5 disciplinary action by school districts.

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

7 SECTION 1. Subchapter F, Chapter 11, Education Code, is
8 amended by adding Section 11.2521 to read as follows:

9 Sec. 11.2521. DISTRICT POSITIVE BEHAVIOR PLAN. (a) A
10 school district may adopt a district positive behavior plan to
11 promote learning, improve school safety, and identify strategies to
12 support students in developing and exhibiting positive behavior. A
13 positive behavior plan must:

14 (1) include measurable district performance
15 objectives to determine if the district is successfully meeting
16 goals established under the plan;

17 (2) use an age-appropriate and research-based
18 approach to identify and support the behavioral needs of students;

19 (3) be developed with input from stakeholders,
20 including school district employees, parents, students, and
21 community members;

22 (4) complement the individualized education plans of
23 any district students receiving special education services under
24 Subchapter A, Chapter 29;

1 (5) provide evidence-based models for positive
2 behavior;

3 (6) prioritize alternative disciplinary courses of
4 action that do not rely on the use of in-school suspension,
5 out-of-school suspension, or placement in a disciplinary
6 alternative education program or juvenile justice alternative
7 education program to manage student behavior;

8 (7) incorporate the use of the comprehensive school
9 counseling program developed under Section 33.005;

10 (8) provide positive behavior management strategies,
11 including:

12 (A) positive behavior interventions and support;

13 (B) trauma-informed practices;

14 (C) social and emotional learning;

15 (D) referral for services, if necessary;

16 (E) restorative practices;

17 (F) meditation; and

18 (G) guided individual counseling and case
19 management;

20 (9) include a list of training and resources necessary
21 to implement the plan; and

22 (10) at least once every two years, be reviewed and, if
23 necessary, revised using data collected on the performance
24 objectives included in the plan under Subdivision (1).

25 (b) In determining the training necessary to implement the
26 positive behavior plan, a school district must, to the extent
27 possible, include training that fulfills educators' continuing

1 education requirements under Section 21.054.

2 (c) A school district's positive behavior plan may:

3 (1) detail the use of exclusionary disciplinary
4 actions, including in-school suspension, out-of-school suspension,
5 or placement in a disciplinary alternative education program or
6 juvenile justice alternative education program, which may be used
7 only:

8 (A) when required by law; or

9 (B) under the circumstances specified in the
10 district's student code of conduct adopted under Section 37.001;
11 and

12 (2) in accordance with Section 37.081, provide for:

13 (A) employing security personnel;

14 (B) entering into a memorandum of understanding
15 with a local law enforcement agency for the provision of school
16 resource officers; or

17 (C) commissioning peace officers.

18 (d) On the request of a school district, the agency shall
19 provide a resource included on the positive behavior best practices
20 list under Section 37.0016 to the district if the district's
21 positive behavior plan complies with Subsection (a) and the
22 resource is included in the district's plan. A district must
23 include a copy of the district's plan with the request. The agency
24 may not charge a district for any resource provided under this
25 subsection.

26 (e) A plan adopted under this section satisfies a school
27 district's requirement to develop strategies to improve positive

1 behavior interventions and support in the district improvement plan
2 under Section 11.252.

3 SECTION 2. Section 21.054(d), Education Code, is amended to
4 read as follows:

5 (d) Continuing education requirements for a classroom
6 teacher must provide that at least 25 percent of the training
7 required every five years include instruction regarding:

8 (1) collecting and analyzing information that will
9 improve effectiveness in the classroom;

10 (2) recognizing early warning indicators that a
11 student may be at risk of dropping out of school;

12 (3) digital learning, digital teaching, and
13 integrating technology into classroom instruction;

14 (4) educating diverse student populations, including:

15 (A) students who are eligible to participate in
16 special education programs under Subchapter A, Chapter 29;

17 (B) students who are eligible to receive
18 educational services required under Section 504, Rehabilitation
19 Act of 1973 (29 U.S.C. Section 794);

20 (C) students with mental health conditions or who
21 engage in substance abuse;

22 (D) students with intellectual or developmental
23 disabilities;

24 (E) students who are educationally
25 disadvantaged;

26 (F) students of limited English proficiency; and

27 (G) students at risk of dropping out of school;

1 (5) understanding appropriate relationships,
2 boundaries, and communications between educators and students;
3 [~~and~~]

4 (6) how mental health conditions, including grief and
5 trauma, affect student learning and behavior and how
6 evidence-based, grief-informed, and trauma-informed strategies
7 support the academic success of students affected by grief and
8 trauma; and

9 (7) using positive behavior management strategies
10 described by Section 11.2521(a)(8).

11 SECTION 3. Section 21.451(d), Education Code, is amended to
12 read as follows:

13 (d) The staff development:

14 (1) may include training in:

15 (A) technology;

16 (B) positive behavior intervention and support
17 strategies, including classroom management, district discipline
18 policies, the district's positive behavior plan adopted under
19 Section 11.2521, and the student code of conduct adopted under
20 Chapter 37; and

21 (C) digital learning;

22 (2) subject to Subsection (e) and to Section 21.3541
23 and rules adopted under that section, must include training that is
24 evidence-based, as defined by Section 8101, Every Student Succeeds
25 Act (20 U.S.C. Section 7801), and that:

26 (A) relates to instruction of students with
27 disabilities, including students with disabilities who also have

1 other intellectual or mental health conditions; and

2 (B) is designed for educators who work primarily
3 outside the area of special education; and

4 (3) must include training on:

5 (A) suicide prevention;

6 (B) recognizing signs of mental health
7 conditions and substance abuse;

8 (C) strategies for establishing and maintaining
9 positive relationships among students, including conflict
10 resolution;

11 (D) how grief and trauma affect student learning
12 and behavior and how evidence-based, grief-informed, and
13 trauma-informed strategies support the academic success of
14 students affected by grief and trauma; and

15 (E) preventing, identifying, responding to, and
16 reporting incidents of bullying.

17 SECTION 4. Subchapter A, Chapter 37, Education Code, is
18 amended by adding Section 37.0016 to read as follows:

19 Sec. 37.0016. POSITIVE BEHAVIOR BEST PRACTICES LIST. (a)
20 The agency, in coordination with the Health and Human Services
21 Commission, shall provide and annually update a list of recommended
22 best practices relating to school discipline and models of positive
23 behavior, including methods to:

24 (1) ensure schools do not take discretionary
25 disciplinary action against a disproportionate number of students:

26 (A) of a particular race;

27 (B) who are enrolled in a special education

- 1 program under Subchapter A, Chapter 29; or
2 (C) who receive accommodations or services under
3 Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794);
4 (2) identify underlying causes of disruptive
5 behaviors;
6 (3) promote person-centered approaches to behavior
7 management;
8 (4) minimize the use of exclusionary disciplinary
9 actions;
10 (5) promote a positive school climate;
11 (6) develop, implement, and revise evidence-based
12 behavior intervention plans; and
13 (7) improve the general health and safety of students.
14 (b) The list developed under Subsection (a):
15 (1) must include training materials and other
16 resources on:
17 (A) positive behavior interventions and support;
18 (B) trauma-informed practices;
19 (C) social and emotional learning;
20 (D) promoting a positive school climate; and
21 (E) restorative practices; and
22 (2) may include training materials and other resources
23 on any other topic listed under Subsection (a).
24 (c) In developing the list, the agency may collaborate with:
25 (1) educators;
26 (2) community member organizations;
27 (3) institutions of higher education;

1 (4) the Texas School Safety Center;

2 (5) regional education service centers;

3 (6) the Center for Elimination of Disproportionality
4 and Disparities;

5 (7) organizations with expertise in providing
6 evidence-based training in positive behavior models to school
7 districts; and

8 (8) any other entity the agency considers appropriate.

9 (d) The list developed under Subsection (a) must be posted
10 on the agency's Internet website and on the Internet website of each
11 regional education service center.

12 (e) In updating the list developed under Subsection (a), the
13 agency shall incorporate data collected from school districts that
14 have adopted positive behavior plans under Section 11.2521,
15 including data collected by school districts on the performance
16 objectives included in districts' plans under Section
17 11.2521(a)(1).

18 (f) Training materials included in the list under
19 Subsection (b) must, to the extent possible, fulfill educators'
20 continuing education requirements under Section 21.054.

21 SECTION 5. Subchapter A, Chapter 37, Education Code, is
22 amended by adding Section 37.0201 to read as follows:

23 Sec. 37.0201. POSITIVE BEHAVIOR PLAN: DISPROPORTIONATE
24 DISCRETIONARY DISCIPLINARY ACTION. (a) In this section,
25 "discretionary disciplinary action" means any disciplinary action
26 taken by a school district that is allowed but not required under
27 this chapter or the district's student code of conduct.

1 (b) The agency shall evaluate information reported through
2 the Public Education Information Management System (PEIMS) to
3 determine whether a school district appears to be taking
4 discretionary disciplinary action, including suspension,
5 expulsion, placement in a disciplinary alternative education
6 program or juvenile justice alternative education program, or any
7 other disciplinary action reported through PEIMS, against a
8 disproportionate number of students:

9 (1) of a particular race or ethnicity;

10 (2) who are enrolled in a special education program
11 under Subchapter A, Chapter 29;

12 (3) who receive accommodations or services under
13 Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794);

14 (4) who are homeless; or

15 (5) who are in a bilingual education or special
16 language program under Subchapter B, Chapter 29.

17 (c) On determining that a school district is taking
18 discretionary disciplinary action disproportionately, the agency
19 shall:

20 (1) notify the district of the determination; and

21 (2) include in the notification information on the
22 resources available to school districts through the positive
23 behavior best practices list provided by Section 37.0016.

24 (d) A school district determined by the agency to be taking
25 discretionary disciplinary action disproportionately for three
26 consecutive years shall develop, adopt, and implement a positive
27 behavior plan under Section 11.2521. The district's plan must

1 include strategies to reduce disproportionality in the application
2 of discretionary disciplinary action.

3 SECTION 6. Section 37.081, Education Code, is amended by
4 amending Subsections (a) and (d) and adding Subsection (a-1) to
5 read as follows:

6 (a) Subject to Subsection (a-1), the ~~The~~ board of trustees
7 of any school district may employ security personnel, enter into a
8 memorandum of understanding with a local law enforcement agency for
9 the provision of school resource officers, and commission peace
10 officers to carry out this subchapter. If a board of trustees
11 authorizes a person employed as security personnel to carry a
12 weapon, the person must be a commissioned peace officer. The
13 jurisdiction of a peace officer, a school resource officer, or
14 security personnel under this section shall be determined by the
15 board of trustees and may include all territory in the boundaries of
16 the school district and all property outside the boundaries of the
17 district that is owned, leased, or rented by or otherwise under the
18 control of the school district and the board of trustees that employ
19 the peace officer or security personnel or that enter into a
20 memorandum of understanding for the provision of a school resource
21 officer.

22 (a-1) If a school district employs security personnel,
23 enters into a memorandum of understanding with a local law
24 enforcement agency for the provision of school resource officers,
25 or commissions peace officers under Subsection (a), the district
26 must adopt a positive behavior plan under Section 11.2521 and the
27 plan must state the duties of the peace officers, school resource

1 officers, or security personnel.

2 (d) The board of trustees of the school district shall
3 determine the law enforcement duties of peace officers, school
4 resource officers, and security personnel. The duties must be
5 included in:

6 (1) the district improvement plan under Section
7 11.252;

8 (2) the student code of conduct adopted under Section
9 37.001;

10 (3) any memorandum of understanding providing for a
11 school resource officer; ~~and~~

12 (4) any other campus or district document describing
13 the role of peace officers, school resource officers, or security
14 personnel in the district; and

15 (5) the district's positive behavior plan adopted
16 under Section 11.2521.

17 SECTION 7. This Act applies beginning with the 2021-2022
18 school year.

19 SECTION 8. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2021.