

By: Menéndez

S.B. No. 2063

A BILL TO BE ENTITLED

AN ACT

relating to public school discipline policies, practices, and procedures regarding student substance use and substance abuse prevention and intervention and mental health training for campus behavior coordinators.

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

SECTION 1. Section 37.0012, Education Code, is amended by adding Subsection (g) to read as follows:

(g) A school district must provide annual training to each campus behavior coordinator regarding:

(1) the research-based best practices for school safety incorporated in the rules established for the safe and supportive school program under Section 37.115(b); and

(2) the district's practices and procedures developed under Sections 38.351(i) and 38.3515.

SECTION 2. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0053 to read as follows:

Sec. 37.0053. SUSPENSION, PLACEMENT, OR EXPULSION OF STUDENTS FOR CONDUCT RELATED TO ALCOHOL OR DRUGS. (a) Except as provided by Subsection (c), in determining the consequences for student conduct relating to being under the influence of drugs or alcohol as specified in Section 37.006(d)(2) or 37.007(b)(2)(A), a school district may provide alternatives to suspension, placement in a disciplinary alternative education program, or expulsion that:

1 (1) ensure the safety of all students;

2 (2) support students in need of services relating to
3 mental health or substance use; and

4 (3) are in accordance with the discipline policy
5 implemented under Section 37.024 and the substance abuse prevention
6 and intervention practices and procedures developed under Sections
7 38.351 and 38.3515.

8 (b) In providing alternatives under Subsection (a), the
9 district may require:

10 (1) the issuance of a warning letter to a student and
11 the student's parent or guardian that specifically describes the
12 student's conduct and explains the possible consequences if the
13 student engages in additional misconduct;

14 (2) a behavior contract with a student that:

15 (A) specifically describes any prohibited
16 behavior or behavior required of the student and the penalties for
17 additional alleged misconduct, including additional disciplinary
18 action; and

19 (B) must be signed by the student, the student's
20 parent or guardian, and the campus behavior coordinator; and

21 (3) a referral of a student to counseling,
22 community-based services, or other in-school or out-of-school
23 services related to substance use prevention and intervention.

24 (c) A school district shall provide alternatives to
25 suspension, placement in an alternative disciplinary education
26 program, or expulsion for conduct described by Subsection (a) if
27 the student self-reports the prohibited conduct. The alternatives

1 must include a standardized screening for substance misuse and any
2 necessary interventions and referrals described by Subsection
3 (b)(3).

4 (d) A district that suspends, places in an alternative
5 disciplinary education program, or expels a student for conduct
6 described by Subsection (a) shall:

7 (1) document any interventions relating to substance
8 use that the district has provided the student under Section 38.351
9 or 38.3515, including:

10 (A) assessing student needs relating to mental
11 health concerns, substance misuse, or suicide risk;

12 (B) providing for appropriate levels of
13 school-based interventions; and

14 (C) making referrals to community-based
15 services, when necessary; and

16 (2) provide for a standardized screening for misuse
17 that includes brief interventions or referrals, when needed.

18 SECTION 3. Sections 37.006(a) and (d), Education Code, are
19 amended to read as follows:

20 (a) A student shall be removed from class and placed in a
21 disciplinary alternative education program as provided by Section
22 37.008 if the student:

23 (1) engages in conduct involving a public school that
24 contains the elements of the offense of false alarm or report under
25 Section 42.06, Penal Code, or terroristic threat under Section
26 22.07, Penal Code; or

27 (2) commits the following on or within 300 feet of

1 school property, as measured from any point on the school's real
2 property boundary line, or while attending a school-sponsored or
3 school-related activity on or off of school property:

4 (A) engages in conduct punishable as a felony;

5 (B) engages in conduct that contains the elements
6 of the offense of assault under Section 22.01(a)(1), Penal Code;

7 (C) sells, gives, or delivers to another person
8 or possesses or uses ~~[or is under the influence of]~~:

9 (i) marihuana or a controlled substance, as
10 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.
11 Section 801 et seq.; or

12 (ii) a dangerous drug, as defined by
13 Chapter 483, Health and Safety Code;

14 (D) sells, gives, or delivers to another person
15 an alcoholic beverage, as defined by Section 1.04, Alcoholic
16 Beverage Code, or commits a serious act or offense while under the
17 influence of alcohol, ~~or~~ possesses, or uses, ~~[or is under the~~
18 ~~influence of an alcoholic beverage]~~;

19 (E) engages in conduct that contains the elements
20 of an offense relating to an abusable volatile chemical under
21 Sections 485.031 through 485.034, Health and Safety Code;

22 (F) engages in conduct that contains the elements
23 of the offense of public lewdness under Section 21.07, Penal Code,
24 or indecent exposure under Section 21.08, Penal Code; or

25 (G) engages in conduct that contains the elements
26 of the offense of harassment under Section 42.07(a)(1), (2), (3),
27 or (7), Penal Code, against an employee of the school district.

1 (d) In addition to Subsections (a), (b), and (c), a student
2 may be removed from class and placed in a disciplinary alternative
3 education program under Section 37.008 if:

4 (1) based on conduct occurring off campus and while
5 the student is not in attendance at a school-sponsored or
6 school-related activity [~~if~~]:

7 (A) [~~(1)~~] the superintendent or the
8 superintendent's designee has a reasonable belief that the student
9 has engaged in conduct defined as a felony offense other than
10 aggravated robbery under Section 29.03, Penal Code, or those
11 offenses defined in Title 5, Penal Code; and

12 (B) [~~(2)~~] the continued presence of the student
13 in the regular classroom threatens the safety of other students or
14 teachers or will be detrimental to the educational process; or

15 (2) the student commits the following on or within 300
16 feet of school property, as measured from any point on the school's
17 real property boundary line, or while attending a school-sponsored
18 or school-related activity on or off of school property:

19 (A) subject to Section 37.0053(c), is under the
20 influence of:

21 (i) marihuana or a controlled substance, as
22 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.
23 Section 801 et seq.; or

24 (ii) a dangerous drug, as defined by
25 Chapter 483, Health and Safety Code; or

26 (B) is under the influence of an alcoholic
27 beverage.

1 SECTION 4. Sections 37.007(a) and (b), Education Code, are
2 amended to read as follows:

3 (a) Except as provided by Subsection (k), a student shall be
4 expelled from a school if the student, on school property or while
5 attending a school-sponsored or school-related activity on or off
6 of school property:

7 (1) engages in conduct that contains the elements of
8 the offense of unlawfully carrying weapons under Section 46.02,
9 Penal Code, or elements of an offense relating to prohibited
10 weapons under Section 46.05, Penal Code; or

11 (2) engages in conduct that contains the elements of
12 the offense of:

13 (A) aggravated assault under Section 22.02,
14 Penal Code, sexual assault under Section 22.011, Penal Code, or
15 aggravated sexual assault under Section 22.021, Penal Code;

16 (B) arson under Section 28.02, Penal Code;

17 (C) murder under Section 19.02, Penal Code,
18 capital murder under Section 19.03, Penal Code, or criminal
19 attempt, under Section 15.01, Penal Code, to commit murder or
20 capital murder;

21 (D) indecency with a child under Section 21.11,
22 Penal Code;

23 (E) aggravated kidnapping under Section 20.04,
24 Penal Code;

25 (F) aggravated robbery under Section 29.03,
26 Penal Code;

27 (G) manslaughter under Section 19.04, Penal

1 Code;

2 (H) criminally negligent homicide under Section
3 19.05, Penal Code; or

4 (I) continuous sexual abuse of young child or
5 children under Section 21.02, Penal Code~~[, or~~

6 ~~[(3) engages in conduct specified by Section~~
7 ~~37.006(a)(2)(C) or (D), if the conduct is punishable as a felony].~~

8 (b) A student may be expelled if the student:

9 (1) engages in conduct involving a public school that
10 contains the elements of the offense of false alarm or report under
11 Section 42.06, Penal Code, or terroristic threat under Section
12 22.07, Penal Code;

13 (2) while on or within 300 feet of school property, as
14 measured from any point on the school's real property boundary
15 line, or while attending a school-sponsored or school-related
16 activity on or off of school property:

17 (A) sells, gives, or delivers to another person
18 or, subject to Section 37.0053(c), possesses, uses, or is under the
19 influence of any amount of:

20 (i) marihuana or a controlled substance, as
21 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.
22 Section 801 et seq.;

23 (ii) a dangerous drug, as defined by
24 Chapter 483, Health and Safety Code; or

25 (iii) an alcoholic beverage, as defined by
26 Section 1.04, Alcoholic Beverage Code;

27 (B) engages in conduct that contains the elements

1 of an offense relating to an abusable volatile chemical under
2 Sections 485.031 through 485.034, Health and Safety Code;

3 (C) engages in conduct that contains the elements
4 of an offense under Section 22.01(a)(1), Penal Code, against a
5 school district employee or a volunteer as defined by Section
6 22.053; or

7 (D) engages in conduct that contains the elements
8 of the offense of deadly conduct under Section 22.05, Penal Code;

9 (3) subject to Subsection (d), while within 300 feet
10 of school property, as measured from any point on the school's real
11 property boundary line:

12 (A) engages in conduct specified by Subsection
13 (a); or

14 (B) possesses a firearm, as defined by 18 U.S.C.
15 Section 921;

16 (4) engages in conduct that contains the elements of
17 any offense listed in Subsection (a)(2)(A) or (C) or the offense of
18 aggravated robbery under Section 29.03, Penal Code, against another
19 student, without regard to whether the conduct occurs on or off of
20 school property or while attending a school-sponsored or
21 school-related activity on or off of school property; or

22 (5) engages in conduct that contains the elements of
23 the offense of breach of computer security under Section 33.02,
24 Penal Code, if:

25 (A) the conduct involves accessing a computer,
26 computer network, or computer system owned by or operated on behalf
27 of a school district; and

1 (B) the student knowingly:

2 (i) alters, damages, or deletes school
3 district property or information; or

4 (ii) commits a breach of any other
5 computer, computer network, or computer system.

6 SECTION 5. Section 37.008, Education Code, is amended by
7 amending Subsection (k) and adding Subsection (k-1) to read as
8 follows:

9 (k) A disciplinary alternative education program shall
10 provide a student placed in the program due to conduct that involves
11 drugs or alcohol as specified under Section 37.006 or 37.007:

12 (1) a standardized screening for substance misuse that
13 includes brief interventions or referrals, when needed; and

14 (2) a [A] program of educational and support services
15 for the [may be provided to a] student and the student's parents
16 [when the offense involves drugs or alcohol as specified under
17 Section 37.006 or 37.007].

18 (k-1) A disciplinary alternative education program that
19 provides chemical dependency treatment services must be licensed
20 under Chapter 464, Health and Safety Code.

21 SECTION 6. Subchapter A, Chapter 37, Education Code, is
22 amended by adding Section 37.024 to read as follows:

23 Sec. 37.024. DISCIPLINE POLICY REGARDING SUBSTANCE USE.

24 (a) Each school district shall adopt and implement a policy
25 regarding student discipline for a violation of the student code of
26 conduct committed by a student relating to substance use. The
27 policy may provide for:

- 1 (1) in accordance with the substance abuse prevention
2 and intervention practices and procedures developed under Section
3 38.3515, disciplinary alternatives to student suspension or
4 expulsion, including:
- 5 (A) encouraging the use of diversion programs for
6 students; and
- 7 (B) identifying local community referrals
8 appropriate for students and youth treatment programs;
- 9 (2) staff training and education regarding
10 alternatives to disciplinary action;
- 11 (3) encouraging students to seek assistance for
12 substance use and less severe consequences if a student
13 self-reports prohibited conduct relating to substance use;
- 14 (4) consequences for substance use that are:
- 15 (A) based on evidence or best practices, whenever
16 possible;
- 17 (B) consistent, nondiscriminatory, and
18 reasonable; and
- 19 (C) appropriate for:
- 20 (i) the level of offense or violation;
21 (ii) the student's age and development;
22 (iii) the circumstances of the incident or
23 substance use; and
- 24 (iv) the school's available resources;
- 25 (5) the use of out-of-school suspension or expulsion
26 for substance use only when absolutely necessary; and
- 27 (6) a system of graduated sanctions for substance use

1 that are required to be imposed on a student before the student is
2 expelled under Section 37.007(b)(2)(A).

3 (b) A discipline policy adopted under Subsection (a) must
4 require that the district document any graduated sanctions imposed
5 on a student before the student is expelled for conduct relating to
6 substance use.

7 SECTION 7. Subchapter G, Chapter 38, Education Code, is
8 amended by adding Section 38.3515 to read as follows:

9 Sec. 38.3515. SUBSTANCE ABUSE PREVENTION AND INTERVENTION
10 PRACTICES AND PROCEDURES. In addition to the practices and
11 procedures developed under Section 38.351(i), a school district
12 shall develop practices and procedures concerning substance abuse
13 prevention and intervention that:

14 (1) encourage support, intervention, and treatment
15 for students who are at risk of engaging in substance abuse;

16 (2) establish an identified process for assessing and
17 developing intervention plans with students who are at risk of
18 engaging in substance abuse, including designating a person within
19 the school district who is responsible for overseeing the process;

20 (3) require a standardized screening and assessment
21 for substance use issues to be conducted on a student who was under
22 the influence of illegal drugs or alcohol while on school property
23 or during a school-sponsored activity, if the student's parent or
24 guardian consents to a screening and assessment of the student;

25 (4) assist students who have been identified as having
26 substance use issues through intervention, counseling, and
27 referral to a continuum of services; and

1 (5) provide alternatives to disciplinary action to
2 students who have been identified as having substance use issues
3 that include multitiered interventions, including:

4 (A) trauma-informed practices;

5 (B) social and emotional learning;

6 (C) restorative practices; and

7 (D) referrals to services, as necessary.

8 SECTION 8. This Act applies beginning with the 2021-2022
9 school year.

10 SECTION 9. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2021.