

BILL ANALYSIS

Senate Research Center
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S.B. 165
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In March of 2022, an elementary school in Texas conducted a social experiment that separated 5th graders based on their hair color. Those with dark hair were told they were better than those with light hair. Light haired students were told they were not as intelligent and were made to serve the students with darker hair. The students and their parents had no idea that this experiment was being conducted. There was nothing sent home to parents to explain this would take place prior to the experiment from being conducted.

A documentary, 4 Little Girls, by Spike Lee, rated TV-14 for violence, brief nudity, and racial epithets, was also shown to the same 5th grade class. This documentary depicts graphics images of deceased children on evaluation tables. These images last anywhere from 1 to 5 seconds. The total time of the flashing images was roughly 5-6 minutes of the entire documentary but occurred too quickly for a teacher to react to ensure these images were not shown. There again was no communication to parents this content was going to be shown to 5th grade students. This documentary is rated TV-14, these students were ages 10-11.

Parents have also expressed concerns with their grievances being discussed during public school board meetings and posting of grievances online.

S.B. 165 seeks to create more transparency in the classroom giving parents/guardians the right to decide what non-textbook materials are age-appropriate for their children, while maintaining flexibility for educators to be creative in their classrooms. Additionally, S.B. 165 will enforce the laws on education curriculum by creating an auditing system within the Texas Education Agency (TEA).

S.B. 165:

- Allows parents to file a confidential grievance and requires that parents be given a physical copy of the grievance policy when they seek to file complaint.
- Requires parental written consent before a social or psychological experiment may be conducted on their student. The bill will also require parental written consent before the district may provide visual materials that contain violence, profanity, illegal substance use, nudity, sexual content or written materials that contain sexual content or non-historical violence. This does not apply to textbooks utilized by the district.
- Requires that school districts provide written notification of a violation if the board of trustees or the commissioner of education determines there was a violation of a right guaranteed in Chapter 26 of the Education Code. This notification must be sent out within 30 days of the decision and provide the district's solution to the problem.
- Grants the Texas Education Agency (TEA) authority to conduct curriculum audits to be conducted annually. The commissioner is to determine the parameters of the audits and the schools that will be audited each year. TEA will post a list of the schools found to be in violation of state and federal laws regarding curriculum. Written notice will also be provided to parents in a school district if the school district their student attends is non-compliant.

As proposed, S.B. 165 amends current law relating to parental rights in public education and to audits of school district curricula by the Texas Education Agency.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to commissioner of education in SECTION 6 (Section 39.501, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 7.057, Education Code, by adding Subsection (a-2), as follows:

(a-2) Authorizes a person who is a parent of or person standing in parental relation to a child enrolled in a school district and who submits an appeal under Subsection (a) (relating to a person appealing in writing to the commissioner of education (commissioner) regarding certain aggrievances) to designate the appeal as confidential. Prohibits an appeal designated as confidential under this subsection from being disclosed to the public and provides that an appeal designated as confidential is not public information under Chapter 552 (Public Information), Government Code.

SECTION 2. Amends Section 26.009(a), Education Code, as follows:

(a) Requires an employee of a school district to obtain the written consent of a child's parent before the employee is authorized to:

(1) makes a nonsubstantive change to this subdivision;

(2) conduct a social or psychological experiment involving the child that seeks to investigate how a person's behavior influences the behavior of a group or the internal states of members of a group, such as attitude or self-concept; or

(3) makes a nonsubstantive change to this subdivision.

SECTION 3. Amends Chapter 26, Education Code, by adding Section 26.0092, as follows:

Sec. 26.0092. CONSENT REQUIRED FOR CERTAIN CONTENT. (a) Requires a school district to obtain the written consent of a child's parent before the district is authorized to provide to the child instruction involving:

(1) visual material that contains violence, profanity, illegal substance use, nudity, or sexual content; or

(2) written material that contains violence, other than violence included as part of a depiction of a historical event, or sexual content.

(b) Provides that this section does not apply to material in a required textbook. Defines "textbook."

SECTION 4. Amends Section 26.011, Education Code, by adding Subsections (a-1) and (c), as follows:

(a-1) Requires that the grievance procedure adopted under Subsection (a) (relating to requiring the board of trustees of each school district to adopt a grievance procedure) allow a parent to designate a complaint as confidential. Prohibits a complaint designated as confidential from being disclosed to the public and provides that a complaint designated as confidential is not public information under Chapter 552, Government Code.

(c) Requires the board of trustees of each school district, on receipt of a complaint by a parent regarding a violation of a right guaranteed by Chapter 26 (Parental Rights and

Responsibilities), to provide to the parent a physical copy of the district's grievance procedure adopted under Section 26.011 (Complaints) and the procedure to appeal a decision of the district's board of trustees to the commissioner under Section 7.057 (Appeals).

SECTION 5. Amends Chapter 26, Education Code, by adding Section 26.014, as follows:

Sec. 26.014. NOTICE TO PARENTS OF VIOLATION. (a) Requires the district, if the board of trustees of a school district or the commissioner determines that a violation of a right guaranteed by this chapter occurred at the district, to provide written notice of the determination to the parent of each student enrolled in the district not later than the 30th day after the date on which the determination is made.

(b) Requires that the notice describe the actions being taken by the district to remedy the violation.

SECTION 6. Amends Chapter 39, Education Code, by adding Subchapter O, as follows:

SUBCHAPTER O. CURRICULUM AUDITS

Sec. 39.501. CURRICULUM AUDITS REQUIRED. (a) Requires the Texas Education Agency (TEA), each year, to conduct an audit of the curriculum used in school districts to ensure compliance with applicable federal and state law.

(b) Requires the commissioner by rule to establish the procedures for auditing curriculum under Subsection (a) and the schedule by which those audits will be conducted at each school district.

Sec. 39.502. POSTING OF NONCOMPLIANT CURRICULA. Requires TEA, each year, to post on TEA's Internet website a list, disaggregated by school district, of curricula that TEA determined were not in compliance with applicable federal and state law as a result of the curriculum audit conducted for that year under Section 39.501.

Sec. 39.503. NOTIFICATION TO PARENTS. (a) Requires each school district included on the list of noncompliant curricula posted on TEA's Internet website under Section 39.502 to provide written notice of TEA's determination to the parent of or person standing in parental relation to each student enrolled in the district not later than the 30th day after the date on which the list is posted on TEA's Internet website.

(b) Requires that the notice describe the actions being taken by the district to remedy the noncompliance.

SECTION 7. Provides that Section 26.0092, Education Code, as added by this Act, applies beginning with the 2023–2024 school year.

SECTION 8. Effective date: upon passage or September 1, 2023.