

By: Hull, González of El Paso, Cain, Moody,
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H.B. No. 459

Substitute the following for H.B. No. 459:

By: Landgraf

C.S.H.B. No. 459

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the use of certain restraints or chemical irritants on certain public school students.

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

SECTION 1. Section 37.0021, Education Code, is amended by amending Subsection (d) and adding Subsection (j) to read as follows:

(d) Subject to Subsection (j), the ~~[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;

(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

1 student's parent or person standing in parental relation to the
2 student for each use of restraint that includes:

3 (i) the name of the student;

4 (ii) the name of the district employee or
5 volunteer or independent contractor of the district who
6 administered the restraint;

7 (iii) the date of the restraint;

8 (iv) the time that the restraint started
9 and ended;

10 (v) the location of the restraint;

11 (vi) the nature of the restraint;

12 (vii) a description of the activity in
13 which the student was engaged immediately preceding the use of the
14 restraint;

15 (viii) the behavior of the student that
16 prompted the restraint;

17 (ix) any efforts made to de-escalate the
18 situation and any alternatives to restraint that were attempted;

19 (x) if the student has a behavior
20 improvement plan or a behavioral intervention plan, whether the
21 plan may need to be revised as a result of the behavior that led to
22 the restraint; and

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

1 conducting a functional behavioral assessment of the student and
2 developing a plan for the student;

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

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

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

10 (iii) the contact information for the
11 parent or person to whom the district sent the notification; and

12 (C) if the student has a behavior improvement
13 plan or behavioral intervention plan, document each use of time-out
14 prompted by a behavior of the student specified in the student's
15 plan, including a description of the behavior that prompted the
16 time-out; and

17 (4) prohibit a district employee or volunteer or an
18 independent contractor of a district from using any variation of a
19 restraint or other technique that results in full body
20 immobilization of the student in a prone or supine position on the
21 floor or ground.

22 (j) A peace officer performing law enforcement duties or
23 school security personnel performing security-related duties on
24 school property or at a school-sponsored or school-related activity
25 may not restrain or use a chemical irritant spray on a student 10
26 years of age or younger unless the student poses an imminent risk of
27 harm to the student or another person.

1 SECTION 2. As soon as practicable after the effective date
2 of this Act, the commissioner of education in consultation with the
3 continuing advisory committee established under Section 29.006,
4 Education Code, shall adopt rules as necessary to implement Section
5 37.0021, Education Code, as amended by this Act, including rules to
6 provide any required definitions of terms.

7 SECTION 3. This Act applies beginning with the 2023-2024
8 school year.

9 SECTION 4. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2023.