

1-1 By: Bell of Kaufman, et al. H.B. No. 890
 1-2 (Senate Sponsor - Creighton)
 1-3 (In the Senate - Received from the House April 24, 2023;
 1-4 May 2, 2023, read first time and referred to Committee on
 1-5 Education; May 19, 2023, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 10, Nays 3;
 1-7 May 19, 2023, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16		X		
1-17		X		
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22		X		

1-23 COMMITTEE SUBSTITUTE FOR H.B. No. 890 By: Middleton

1-24 A BILL TO BE ENTITLED
 1-25 AN ACT

1-26 relating to parental rights and public school responsibilities
 1-27 regarding instructional materials.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Chapter 1, Education Code, is amended by adding
 1-30 Section 1.009 to read as follows:

1-31 Sec. 1.009. INFRINGEMENT OF PARENTAL RIGHTS PROHIBITED.
 1-32 The fundamental rights granted to parents by their Creator and
 1-33 upheld by the United States Constitution, the Texas Constitution,
 1-34 and the laws of this state, including the right to direct the moral
 1-35 and religious training of the parent's child, make decisions
 1-36 concerning the child's education, and consent to medical,
 1-37 psychiatric, and psychological treatment of the parent's child
 1-38 under Section 151.001, Family Code, may not be infringed on by any
 1-39 public elementary or secondary school or state governmental entity,
 1-40 including the state or a political subdivision of the state, unless
 1-41 the infringement is:

1-42 (1) necessary to further a compelling state interest,
 1-43 such as providing life-saving care to a child; and

1-44 (2) narrowly tailored using the least restrictive
 1-45 means to achieve that compelling state interest.

1-46 SECTION 2. Section 11.161, Education Code, is amended to
 1-47 read as follows:

1-48 Sec. 11.161. FRIVOLOUS SUIT OR PROCEEDING. (a) In a civil
 1-49 suit or administrative proceeding brought under state law or rules
 1-50 [7] against an independent school district or an officer of an
 1-51 independent school district acting under color of office, the court
 1-52 or another person authorized to make decisions regarding the
 1-53 proceeding may award costs and reasonable attorney's fees if:

1-54 (1) the court or other authorized person finds that
 1-55 the suit or proceeding is frivolous, unreasonable, and without
 1-56 foundation; and

1-57 (2) the suit or proceeding is dismissed or judgment is
 1-58 for the defendant.

1-59 (b) This section does not apply to a civil suit or
 1-60 administrative proceeding brought under the Individuals with

2-1 Disabilities Education Act (20 U.S.C. Section 1400 et seq.). A
2-2 civil suit or administrative proceeding described by this
2-3 subsection is governed by the attorney's fees provisions under 20
2-4 U.S.C. Section 1415.

2-5 SECTION 3. Section 25.036, Education Code, is amended to
2-6 read as follows:

2-7 Sec. 25.036. TRANSFER OF STUDENT. (a) Any child, other
2-8 than a high school graduate, who is younger than 21 years of age and
2-9 eligible for enrollment on September 1 of any school year may apply
2-10 to transfer for in-person instruction annually from the child's
2-11 school district of residence to another district in this state for
2-12 in-person instruction [~~if both the receiving district and the~~
2-13 ~~applicant parent or guardian or person having lawful control of the~~
2-14 ~~child jointly approve and timely agree in writing to the transfer~~].

2-15 (b) A transfer application approved [~~agreement~~] under this
2-16 section shall be filed and preserved as a receiving district record
2-17 for audit purposes of the agency.

2-18 (c) A school district may deny approval of a transfer under
2-19 this section only if:

2-20 (1) the district or a school in the district to which a
2-21 student seeks to transfer is at full student capacity or has more
2-22 requests for transfers than available positions after the district
2-23 has filled available positions in accordance with Subsection (e);

2-24 (2) at the time a student seeks to transfer, the
2-25 student is suspended or expelled by the district in which the
2-26 student is enrolled; or

2-27 (3) approving the transfer would supersede a
2-28 court-ordered desegregation plan.

2-29 (d) For the purpose of determining whether a school in a
2-30 school district is at full student capacity under Subsection
2-31 (c)(1), the district may not consider equity as a factor in the
2-32 district's decision-making process.

2-33 (e) A school district that has more applicants for transfer
2-34 under this section than available positions must fill the available
2-35 positions by lottery and must give priority to applicants in the
2-36 following order:

2-37 (1) students who:

2-38 (A) do not reside in the district but were
2-39 enrolled in the district in the preceding school year; or

2-40 (B) are dependents of an employee of the
2-41 receiving district; and

2-42 (2) students:

2-43 (A) receiving special education services under
2-44 Subchapter A, Chapter 29;

2-45 (B) who are dependents of military personnel;

2-46 (C) who are dependents of law enforcement
2-47 personnel;

2-48 (D) in foster care;

2-49 (E) who are the subject of court-ordered
2-50 modification of an order establishing conservatorship or
2-51 possession and access; or

2-52 (F) who are siblings of a student who is enrolled
2-53 in the receiving district at the time the student seeks to transfer.

2-54 (f) A student who transfers to another school district under
2-55 this section may not be charged tuition. The student is included in
2-56 the average daily attendance of the district to which the student
2-57 transfers, beginning on the date the student begins attending
2-58 classes at that district.

2-59 (g) A receiving school district may, but is not required to,
2-60 provide transportation to a student who transfers to the receiving
2-61 district under this section.

2-62 (h) A receiving school district may revoke, at any time
2-63 during the school year, the approval of the student's transfer if:

2-64 (1) the student:

2-65 (A) fails to comply with a condition specified in
2-66 the agreement that is:

2-67 (i) a circumstance specified in the student
2-68 code of conduct under Section 37.001(a)(1);

2-69 (ii) a condition specified in the student

3-1 code of conduct under Section 37.001(a)(2);
3-2 (iii) conduct for which a student is
3-3 required or permitted to be removed from class and placed in a
3-4 disciplinary alternative education program under Section 37.006;
3-5 or
3-6 (iv) conduct for which a student is
3-7 required or permitted to be expelled from school under Section
3-8 37.007; or
3-9 (B) fails to maintain a specified school
3-10 attendance rate; and
3-11 (2) before revoking approval of the student's
3-12 transfer, the district ensures the student is afforded appropriate
3-13 due process and complies with any requirements of state law or
3-14 district policy relating to the expulsion of a student to the same
3-15 extent as if the student were being expelled under Section 37.007.
3-16 SECTION 4. Section 26.001, Education Code, is amended by
3-17 amending Subsections (a), (c), (d), and (e) and adding Subsections
3-18 (a-1) and (c-1) to read as follows:
3-19 (a) As provided under Section 151.001, Family Code, a parent
3-20 has the right to direct the moral and religious training of the
3-21 parent's child, make decisions concerning the child's education,
3-22 and consent to medical, psychiatric, and psychological treatment of
3-23 the child without obstruction or interference from this state, any
3-24 political subdivision of this state, a school district or
3-25 open-enrollment charter school, or any other governmental entity.
3-26 (a-1) Parents are partners with educators, administrators,
3-27 and school district boards of trustees in their children's
3-28 education. Parents shall be encouraged to actively participate in
3-29 creating and implementing educational programs for their children.
3-30 (c) Unless otherwise provided by law, a board of trustees,
3-31 administrator, educator, or other person shall comply with Section
3-32 1.009 and may not limit parental rights or withhold information
3-33 from a parent regarding the parent's child.
3-34 (c-1) A school district may not be considered to have
3-35 withheld information from a parent regarding the parent's child if
3-36 the district's actions are in accordance with other law, including
3-37 the Family Education Rights and Privacy Act of 1974 (20 U.S.C.
3-38 Section 1232g).
3-39 (d) Each board of trustees shall:
3-40 (1) provide for procedures to consider complaints that
3-41 a parent's right has been denied; [-]
3-42 (2) develop a plan for parental participation in the
3-43 district to improve parent and teacher cooperation, including in
3-44 the areas of homework, school attendance, and discipline;
3-45 (3) ~~(c) Each board of trustees shall~~ cooperate in
3-46 the establishment of ongoing operations of at least one
3-47 parent-teacher organization at each school in the district to
3-48 promote parental involvement in school activities; and
3-49 (4) provide to a parent of a child on the child's
3-50 enrollment in the district for the first time and to the parent of
3-51 each child enrolled in the district at the beginning of each school
3-52 year information about parental rights and options, including the
3-53 right to withhold consent for or exempt the parent's child from
3-54 certain activities and instruction, that addresses the parent's
3-55 rights and options concerning:
3-56 (A) the child's course of study and supplemental
3-57 services;
3-58 (B) instructional materials and library
3-59 materials;
3-60 (C) health education instruction under Section
3-61 28.004;
3-62 (D) instruction regarding sexual orientation and
3-63 gender identity under Section 28.0043;
3-64 (E) school options, including virtual and remote
3-65 schooling options;
3-66 (F) immunizations under Section 38.001;
3-67 (G) gifted and talented programs;
3-68 (H) promotion, retention, and graduation
3-69 policies;

4-1 (I) grade, class rank, and attendance
 4-2 information;
 4-3 (J) state standards and requirements;
 4-4 (K) data collection practices;
 4-5 (L) health care services, including notice and
 4-6 consent under Section 26.0083(g); and
 4-7 (M) the local grievance procedure under Section
 4-8 26.011.

4-9 (e) The agency shall develop a form for use by school
 4-10 districts in providing information about parental rights and
 4-11 options under Subsection (d)(4). Each school district shall post
 4-12 the form in a prominent location on the district's Internet
 4-13 website.

4-14 SECTION 5. Chapter 26, Education Code, is amended by adding
 4-15 Sections 26.0026, 26.0061, and 26.0083 to read as follows:

4-16 Sec. 26.0026. RIGHT TO SELECT EDUCATIONAL SETTING. A
 4-17 parent is entitled to choose the educational setting for the
 4-18 parent's child, including public school, private school, or home
 4-19 school.

4-20 Sec. 26.0061. RIGHT TO REQUEST INSTRUCTIONAL MATERIAL
 4-21 REVIEW. (a) The board of trustees of each school district shall
 4-22 establish a process by which a parent of a student, as indicated on
 4-23 the student registration form at the student's campus, may request
 4-24 an instructional material review under Section 31.0236 for a
 4-25 subject area in the grade level in which the student is enrolled.

4-26 (b) A process established under Subsection (a):
 4-27 (1) may not require more than one parent of a student
 4-28 to make the request;

4-29 (2) must provide for the board of trustees of the
 4-30 school district to determine if the request will be granted, either
 4-31 originally or through an appeal process; and

4-32 (3) may permit the requesting parent to review the
 4-33 instructional material directly before the district conducts an
 4-34 instructional material review under Section 31.0236.

4-35 (c) If the parents of at least 25 percent of the students
 4-36 enrolled at a campus present to the board of trustees of the school
 4-37 district in which the campus is located a petition for the board to
 4-38 conduct an instructional material review under Section 31.0236, the
 4-39 board shall conduct the review, unless, by a majority vote, the
 4-40 board denies the request.

4-41 (d) Notwithstanding Subsection (c), if the parents of at
 4-42 least 50 percent of the students enrolled at a school district
 4-43 campus present to the board of trustees of the district a petition
 4-44 to conduct an instructional material review under Section 31.0236,
 4-45 the board shall conduct the review.

4-46 (e) A review conducted under Subsection (c) or (d) shall
 4-47 include a review of instructional materials for each subject area
 4-48 or grade level specified in the petition.

4-49 (f) The commissioner may adopt rules to implement this
 4-50 section.

4-51 Sec. 26.0083. RIGHT TO INFORMATION REGARDING MENTAL,
 4-52 EMOTIONAL, AND PHYSICAL HEALTH AND HEALTH-RELATED SERVICES. (a)
 4-53 The agency shall adopt a procedure for school districts to notify
 4-54 the parent of a student enrolled in the district regarding any
 4-55 change in services provided to or monitoring of the student related
 4-56 to the student's mental, emotional, or physical health or
 4-57 well-being.

4-58 (b) A procedure adopted under Subsection (a) must reinforce
 4-59 the fundamental right of a parent to make decisions regarding the
 4-60 upbringing and control of the parent's child by requiring school
 4-61 district personnel to:

4-62 (1) encourage a student to discuss issues relating to
 4-63 the student's well-being with the student's parent; or

4-64 (2) facilitate a discussion described under
 4-65 Subdivision (1).

4-66 (c) A school district may not adopt a procedure that:

4-67 (1) prohibits a district employee from notifying the
 4-68 parent of a student regarding:

4-69 (A) information about the student's mental,

5-1 emotional, or physical health or well-being; or
 5-2 (B) a change in services provided to or
 5-3 monitoring of the student related to the student's mental,
 5-4 emotional, or physical health or well-being;

5-5 (2) encourages or has the effect of encouraging a
 5-6 student to withhold from the student's parent information described
 5-7 by Subdivision (1)(A); or

5-8 (3) prevents a parent from accessing education or
 5-9 health records concerning the parent's child.

5-10 (d) Subsections (a) and (c) do not require the disclosure of
 5-11 information to a parent if a reasonably prudent person would
 5-12 believe the disclosure is likely to result in the student suffering
 5-13 abuse or neglect, as those terms are defined by Section 261.001,
 5-14 Family Code.

5-15 (e) A school district employee may not discourage or
 5-16 prohibit parental knowledge of or involvement in critical decisions
 5-17 affecting a student's mental, emotional, or physical health or
 5-18 well-being.

5-19 (f) Any student support services training developed or
 5-20 provided by a school district to district employees must comply
 5-21 with any student services guidelines, standards, and frameworks
 5-22 established by the State Board of Education and the agency.

5-23 (g) Before the first instructional day of each school year,
 5-24 a school district shall provide to the parent of each student
 5-25 enrolled in the district written notice of each health-related
 5-26 service offered at the district campus the student attends. The
 5-27 notice must include a statement of the parent's right to withhold
 5-28 consent for or decline a health-related service. A parent's
 5-29 consent to a health-related service does not waive a requirement of
 5-30 Subsection (a), (c), or (e).

5-31 (h) Before administering a student well-being questionnaire
 5-32 or health screening form to a student enrolled in prekindergarten
 5-33 through 12th grade, a school district must provide a copy of the
 5-34 questionnaire or form to the student's parent and obtain the
 5-35 parent's consent to administer the questionnaire or form.

5-36 (i) This section may not be construed to:

5-37 (1) limit or alter the requirements of Section 38.004
 5-38 of this code or Chapter 261, Family Code; or

5-39 (2) limit a school district employee's ability to
 5-40 inquire about a student's daily well-being without parental
 5-41 consent.

5-42 (j) Not later than June 30, 2024, the agency, the State
 5-43 Board of Education, and the State Board for Educator Certification,
 5-44 as appropriate, shall review and revise as necessary the following
 5-45 to ensure compliance with this section:

5-46 (1) school counseling frameworks and standards;

5-47 (2) educator practices and professional conduct
 5-48 principles; and

5-49 (3) any other student services personnel guidelines,
 5-50 standards, or frameworks.

5-51 (k) Subsection (j) and this subsection expire September 1,
 5-52 2025.

5-53 SECTION 6. Section 26.004(b), Education Code, is amended to
 5-54 read as follows:

5-55 (b) A parent is entitled to access to all written records of
 5-56 a school district concerning the parent's child, including:

5-57 (1) attendance records;

5-58 (2) test scores;

5-59 (3) grades;

5-60 (4) disciplinary records;

5-61 (5) counseling records;

5-62 (6) psychological records;

5-63 (7) applications for admission;

5-64 (8) medical records in accordance with Section
 5-65 38.0095, including health and immunization information;

5-66 (9) teacher and school counselor evaluations;

5-67 (10) reports of behavioral patterns; and

5-68 (11) records relating to assistance provided for
 5-69 learning difficulties, including information collected regarding

6-1 any intervention strategies used with the child.

6-2 SECTION 7. Chapter 26, Education Code, is amended by adding
6-3 Section 26.0071 to read as follows:

6-4 Sec. 26.0071. COMMUNITY ENGAGEMENT POLICY. Each board of
6-5 trustees of a school district shall develop a parental engagement
6-6 policy that:

6-7 (1) provides for an Internet portal through which
6-8 parents of students enrolled in the district may submit comments to
6-9 campus or district administrators and the board;

6-10 (2) requires the board to prioritize public comments
6-11 by presenting those comments at the beginning of each board
6-12 meeting; and

6-13 (3) requires board meetings to be held outside of
6-14 typical work hours.

6-15 SECTION 8. Section 26.008, Education Code, is amended to
6-16 read as follows:

6-17 Sec. 26.008. RIGHT TO FULL INFORMATION CONCERNING STUDENT.
6-18 (a) Except as provided by Section 38.004, a [A] parent is entitled
6-19 to:

6-20 (1) full information regarding the school activities
6-21 of a parent's child; and

6-22 (2) notification not later than one school business
6-23 day after the date a school district employee first suspects that a
6-24 criminal offense has been committed against the parent's child
6-25 [except as provided by Section 38.004].

6-26 (b) An attempt by any school district employee to encourage
6-27 or coerce a child to withhold information from the child's parent is
6-28 grounds for discipline under Section 21.104, 21.156, or 21.211, as
6-29 applicable, or by the State Board for Educator Certification, if
6-30 applicable.

6-31 SECTION 9. Section 26.009, Education Code, is amended by
6-32 amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3),
6-33 (c), and (d) to read as follows:

6-34 (a) An employee of a school district must obtain the written
6-35 consent of a child's parent in the manner required by Subsection
6-36 (a-2) before the employee may:

6-37 (1) conduct a psychological examination, test, or
6-38 treatment, unless the examination, test, or treatment is required
6-39 under Section 38.004 or state or federal law regarding requirements
6-40 for special education; ~~or~~

6-41 (2) subject to Subsection (b), make or authorize the
6-42 making of a videotape of a child or record or authorize the
6-43 recording of a child's voice;

6-44 (3) unless authorized by other law:

6-45 (A) disclose a child's health or medical
6-46 information to any person other than the child's parent; or

6-47 (B) collect, use, store, or disclose to any
6-48 person other than the child's parent a child's biometric
6-49 identifiers; or

6-50 (4) subject to Subsection (a-3), provide health care
6-51 services or medication or conduct a medical procedure.

6-52 (a-1) For purposes of Subsection (a), "biometric
6-53 identifier" means a blood sample, hair sample, skin sample, DNA
6-54 sample, body scan, retina or iris scan, fingerprint, voiceprint, or
6-55 record of hand or face geometry.

6-56 (a-2) Written consent for a parent's child to participate in
6-57 a district activity described by Subsection (a) must be signed by
6-58 the parent and returned to the district. A child may not
6-59 participate in the activity unless the district receives the
6-60 parent's signed written consent to that activity.

6-61 (a-3) For the purpose of obtaining written consent for
6-62 actions described by Subsection (a)(4) that are determined by a
6-63 school district to be routine care provided by a person who is
6-64 authorized by the district to provide physical or mental
6-65 health-related services, the district may obtain consent at the
6-66 beginning of the school year or at the time of the child's
6-67 enrollment in the district. Unless otherwise provided by a child's
6-68 parent, written consent obtained in accordance with this subsection
6-69 is effective until the end of the school year in which the consent

7-1 was obtained.

7-2 (c) Before the first instructional day of each school year,
7-3 a school district shall provide to the parent of each student
7-4 enrolled in the district written notice of any actions the district
7-5 may take involving the authorized collection, use, or storage of
7-6 information as described by Subsection (a)(3). The notice must:

7-7 (1) include a plain language explanation for the
7-8 district's collection, use, or storage of the child's information
7-9 and the district's legal authority to engage in that collection,
7-10 use, or storage; and

7-11 (2) be signed by the parent and returned to the
7-12 district.

7-13 (d) A school district shall take disciplinary action
7-14 against an employee responsible for allowing a child to participate
7-15 in an activity described by Subsection (a)(4) if the district did
7-16 not obtain a parent's consent for the child's participation in that
7-17 activity.

7-18 SECTION 10. Section 26.011, Education Code, is amended to
7-19 read as follows:

7-20 Sec. 26.011. LOCAL GRIEVANCE PROCEDURE [COMPLAINTS].

7-21 (a) The board of trustees of each school district shall adopt a
7-22 grievance procedure under which the board shall:

7-23 (1) address each grievance [complaint] that the board
7-24 receives concerning a violation of a right guaranteed by Section
7-25 1.009 or this chapter:

7-26 (A) if the grievance is filed not later than six
7-27 school weeks after the date on which the parent received notice of
7-28 an incident giving rise to the grievance; or

7-29 (B) regardless of whether the grievance was filed
7-30 during the period prescribed by Paragraph (A) if the grievance was
7-31 informally brought to the attention of school district personnel
7-32 during that period;

7-33 (2) allow a parent at any time before a final decision
7-34 by the board to provide additional evidence regarding the parent's
7-35 grievance; and

7-36 (3) allow a parent to file more than one grievance at
7-37 the same time.

7-38 (b) The board of trustees of a school district is not
7-39 required by Subsection (a) or Section 11.1511(b)(13) to address a
7-40 grievance [complaint] that the board receives concerning a
7-41 student's participation in an extracurricular activity that does
7-42 not involve a violation of a right guaranteed by this chapter. This
7-43 subsection does not affect a claim brought by a parent under the
7-44 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
7-45 et seq.) or a successor federal statute addressing special
7-46 education services for a child with a disability.

7-47 (c) The board of trustees of a school district shall ensure
7-48 a grievance procedure adopted under Subsection (a):

7-49 (1) authorizes a parent to file a grievance with the
7-50 principal of the district campus the parent's child attends or the
7-51 person designated by the district to receive grievances for that
7-52 campus;

7-53 (2) requires that a principal or the person designated
7-54 by the district to receive grievances for a campus:

7-55 (A) acknowledge receipt of a grievance under
7-56 Subdivision (1) not later than two school business days after
7-57 receipt of the grievance; and

7-58 (B) not later than the 14th school business day
7-59 after receipt of a grievance described by Subdivision (1), provide
7-60 to the parent who submitted the grievance written documentation of
7-61 the decision regarding the issue that gave rise to the grievance,
7-62 including:

7-63 (i) an explanation of the findings that
7-64 contributed to the decision;

7-65 (ii) notification regarding the parent's
7-66 right to appeal the decision; and

7-67 (iii) the timeline for appealing the
7-68 decision;

7-69 (3) requires that, if a parent appeals a decision

8-1 under Subdivision (2) not later than the 14th school business day
 8-2 after receiving notice of the decision, the superintendent or the
 8-3 superintendent's designee provide to the parent not later than the
 8-4 14th school business day after receipt of the appeal written
 8-5 documentation of the decision regarding the issue that gave rise to
 8-6 the grievance, including:

8-7 (A) an explanation of the findings that
 8-8 contributed to the decision;

8-9 (B) notification regarding the parent's right to
 8-10 appeal the decision; and

8-11 (C) the timeline for appealing the decision;

8-12 (4) requires that, if a parent appeals a decision
 8-13 under Subdivision (3) not later than the 14th school business day
 8-14 after receiving notice of the decision, the board hear the
 8-15 grievance in a closed session at the board's next regular meeting
 8-16 that occurs on or after the 14th school business day after the date
 8-17 the board receives notice of the appeal; and

8-18 (5) requires that, not later than the 10th school
 8-19 business day after the date of a board meeting described by
 8-20 Subdivision (4), the board provide to the parent written
 8-21 documentation of the board's decision regarding the issue that gave
 8-22 rise to the grievance, including notice that the parent may appeal
 8-23 to the commissioner in writing under Section 7.057, if applicable.

8-24 (d) The parties may mutually agree to adjust the timeline
 8-25 for the procedure under this section.

8-26 (e) Notwithstanding Subsection (d), if a grievance
 8-27 submitted under this section involves an employee who is on
 8-28 documented leave that is scheduled to begin or has begun before the
 8-29 grievance is submitted, the district may alter the timeline for the
 8-30 procedure under this section to make a reasonable accommodation for
 8-31 the employee's leave. The district must provide notice of the
 8-32 change to the parent who submitted the grievance.

8-33 SECTION 11. Chapter 26, Education Code, is amended by
 8-34 adding Sections 26.0111 and 26.0112 to read as follows:

8-35 Sec. 26.0111. GRIEVANCE HEARING BEFORE HEARING EXAMINER.

8-36 (a) This section applies only to a grievance regarding a violation
 8-37 of:

8-38 (1) Section 28.0022, 28.004, or 28.0043 or Chapter 38
 8-39 or the implementation of those provisions by a school district; or

8-40 (2) Chapter 551, Government Code, involving school
 8-41 district personnel.

8-42 (b) If a parent has exhausted the parent's options under the
 8-43 local grievance procedure established by the board of trustees of a
 8-44 school district under Section 26.011 regarding a grievance to which
 8-45 this section applies, and the grievance is not resolved to a
 8-46 parent's satisfaction, the parent may file a written request with
 8-47 the commissioner for a hearing before a hearing examiner under this
 8-48 section not later than the 30th school business day after the date
 8-49 on which the board of trustees of the district resolved the parent's
 8-50 grievance under Section 26.011. The parent must provide the
 8-51 district with a copy of the request and must provide the
 8-52 commissioner with a copy of the district's resolution of the
 8-53 grievance. The parties may agree in writing to extend by not more
 8-54 than 10 school business days the deadline for requesting a hearing.

8-55 (c) The commissioner shall assign a hearing examiner to
 8-56 review the grievance in the manner provided by Section 21.254. The
 8-57 hearing examiner has the powers described by Sections 21.255 and
 8-58 21.256 and shall conduct the hearing in the manner provided by those
 8-59 sections as if the parent were a teacher.

8-60 (d) Not later than the 60th business day after the date on
 8-61 which the commissioner receives a parent's written request for a
 8-62 hearing, the hearing examiner shall complete the hearing and make a
 8-63 written recommendation that includes proposed findings of fact and
 8-64 conclusions of law. The recommendation of the hearing examiner is
 8-65 final and may not be appealed.

8-66 (e) Sections 21.257(c), (d), and (e) apply to a hearing
 8-67 under this section in the same manner as a hearing conducted under
 8-68 Subchapter F, Chapter 21.

8-69 (f) Section 21.258 applies to the State Board of Education

9-1 in the same manner as if the board were the board of trustees of the
 9-2 school district or board subcommittee.

9-3 (g) Chapter 2001, Government Code, does not apply to the
 9-4 State Board of Education's actions regarding the recommendation of
 9-5 the hearing examiner.

9-6 (h) The costs of the hearing examiner, the court reporter,
 9-7 the original hearing transcript, and any hearing room costs, if the
 9-8 hearing room is not provided by the school district, shall be paid
 9-9 by the school district if the hearing examiner finds in favor of the
 9-10 parent.

9-11 (i) Notwithstanding Subsection (d), if a parent fails to
 9-12 appear at a hearing under this section, the hearing examiner is not
 9-13 required to complete the hearing and may not make a recommendation
 9-14 in favor of the parent.

9-15 Sec. 26.0112. TESTIMONY BEFORE STATE BOARD OF EDUCATION.
 9-16 If a hearing examiner reviews and finds against a school district
 9-17 under Section 26.0111 in at least five grievances to which that
 9-18 section applies involving the district during a school year, the
 9-19 superintendent of the school district must appear before the State
 9-20 Board of Education to testify regarding the hearing examiner's
 9-21 findings and the frequency of grievances against the district.

9-22 SECTION 12. Section 28.002, Education Code, is amended by
 9-23 adding Subsection (c-4) to read as follows:

9-24 (c-4) The State Board of Education may not adopt standards
 9-25 in violation of Section 28.0043.

9-26 SECTION 13. Subchapter A, Chapter 28, Education Code, is
 9-27 amended by adding Section 28.0043 to read as follows:

9-28 Sec. 28.0043. RESTRICTION ON INSTRUCTION REGARDING SEXUAL
 9-29 ORIENTATION AND GENDER IDENTITY. (a) A school district,
 9-30 open-enrollment charter school, or district or charter school
 9-31 employee may not provide or allow a third party to provide
 9-32 instruction, guidance, activities, or programming regarding sexual
 9-33 orientation or gender identity to students enrolled in
 9-34 prekindergarten through 12th grade.

9-35 (b) This section may not be construed to limit:

9-36 (1) a student's ability to engage in speech or
 9-37 expressive conduct protected by the First Amendment to the United
 9-38 States Constitution or by Section 8, Article I, Texas Constitution,
 9-39 that does not result in material disruption to school activities;
 9-40 or

9-41 (2) the ability of a person who is authorized by the
 9-42 district to provide physical or mental health-related services to
 9-43 provide the services to a student, subject to any required parental
 9-44 consent.

9-45 SECTION 14. Section 28.02124, Education Code, is amended by
 9-46 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
 9-47 read as follows:

9-48 (a) Subject to Subsection (c), a parent or guardian may
 9-49 elect for a student to:

9-50 (1) repeat prekindergarten;
 9-51 (2) enroll in prekindergarten, if the student would
 9-52 have been eligible to enroll in prekindergarten during the previous
 9-53 school year under Section 29.153(b) and the student has not yet
 9-54 enrolled in kindergarten;

9-55 (3) repeat kindergarten;
 9-56 (4) enroll in kindergarten, if the student would have
 9-57 been eligible to enroll in kindergarten in the previous school year
 9-58 and has not yet enrolled in first grade; or

9-59 (5) for grades one through eight [~~three~~], repeat the
 9-60 grade in which the student was enrolled during the previous school
 9-61 year.

9-62 (a-1) Subject to Subsection (c), for courses taken for high
 9-63 school credit, a parent or guardian may elect for a student to
 9-64 repeat any course in which the student was enrolled during the
 9-65 previous school year. A parent or guardian may not elect for a
 9-66 student to repeat a course under this subsection if the school
 9-67 district or open-enrollment charter school determines the student
 9-68 has met all of the requirements for graduation.

9-69 (a-2) A parent or guardian may make an election under

10-1 Subsection (a)(5) or (a-1), or both.

10-2 SECTION 15. The heading to Section 28.022, Education Code,
10-3 is amended to read as follows:

10-4 Sec. 28.022. NOTICE TO PARENT OF UNSATISFACTORY
10-5 PERFORMANCE; CONFERENCES.

10-6 SECTION 16. Section 28.022(a), Education Code, is amended
10-7 to read as follows:

10-8 (a) The board of trustees of each school district shall
10-9 adopt a policy that:

10-10 (1) provides for at least two opportunities for
10-11 in-person conferences during each school year [~~a conference~~]
10-12 between each parent of a child enrolled in the district and the
10-13 child's [~~parents and~~] teachers;

10-14 (2) requires the district, at least once every 12
10-15 weeks, to give written notice to a parent of a student's performance
10-16 in each class or subject; and

10-17 (3) requires the district, at least once every three
10-18 weeks, or during the fourth week of each nine-week grading period,
10-19 to give written notice to a parent or legal guardian of a student's
10-20 performance in a subject included in the foundation curriculum
10-21 under Section 28.002(a)(1) if the student's performance in the
10-22 subject is consistently unsatisfactory, as determined by the
10-23 district.

10-24 SECTION 17. Subchapter B, Chapter 31, Education Code, is
10-25 amended by adding Section 31.0236 to read as follows:

10-26 Sec. 31.0236. LOCAL REVIEW OF CLASSROOM INSTRUCTIONAL
10-27 MATERIAL. (a) The agency shall adopt rules developing a process by
10-28 which a school district may conduct a review of instructional
10-29 materials used by a classroom teacher in a foundation curriculum
10-30 course under Section 28.002(a)(1) to determine the degree to which
10-31 the material:

10-32 (1) complies with the instructional materials adopted
10-33 by the school district; and

10-34 (2) is appropriately rigorous for the grade level in
10-35 which it is being used.

10-36 (b) A review conducted under this section may only be
10-37 conducted using a rubric developed by the agency and approved by the
10-38 State Board of Education.

10-39 (c) The agency, in developing a review process under
10-40 Subsection (a):

10-41 (1) shall minimize, to the extent possible, the time a
10-42 classroom teacher is required to spend complying with a review
10-43 conducted under this section;

10-44 (2) may not require a teacher to spend more than 30
10-45 minutes on a single review conducted under this section unless the
10-46 teacher determines that spending more than 30 minutes on the review
10-47 is necessary; and

10-48 (3) shall permit a regional education service center
10-49 to conduct the review for a school district, if the center has
10-50 completed the training offered by the agency under Subsection (d).

10-51 (d) The agency shall provide to regional education service
10-52 centers training relating to appropriately conducting a review
10-53 under this section.

10-54 SECTION 18. Section 12.104(b), Education Code, as amended
10-55 by Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974
10-56 (S.B. 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature,
10-57 Regular Session, 2021, is reenacted and amended to read as follows:

10-58 (b) An open-enrollment charter school is subject to:

10-59 (1) a provision of this title establishing a criminal
10-60 offense;

10-61 (2) the provisions in Chapter 554, Government Code;
10-62 and

10-63 (3) a prohibition, restriction, or requirement, as
10-64 applicable, imposed by this title or a rule adopted under this
10-65 title, relating to:

10-66 (A) the Public Education Information Management
10-67 System (PEIMS) to the extent necessary to monitor compliance with
10-68 this subchapter as determined by the commissioner;

10-69 (B) criminal history records under Subchapter C,

11-1 Chapter 22;

11-2 (C) reading instruments and accelerated reading

11-3 instruction programs under Section 28.006;

11-4 (D) accelerated instruction under Section

11-5 28.0211;

11-6 (E) high school graduation requirements under

11-7 Section 28.025;

11-8 (F) special education programs under Subchapter

11-9 A, Chapter 29;

11-10 (G) bilingual education under Subchapter B,

11-11 Chapter 29;

11-12 (H) prekindergarten programs under Subchapter E

11-13 or E-1, Chapter 29, except class size limits for prekindergarten

11-14 classes imposed under Section 25.112, which do not apply;

11-15 (I) extracurricular activities under Section

11-16 33.081;

11-17 (J) discipline management practices or behavior

11-18 management techniques under Section 37.0021;

11-19 (K) health and safety under Chapter 38;

11-20 (L) the provisions of Subchapter A, Chapter 39;

11-21 (M) public school accountability and special

11-22 investigations under Subchapters A, B, C, D, F, G, and J, Chapter

11-23 39, and Chapter 39A;

11-24 (N) the requirement under Section 21.006 to

11-25 report an educator's misconduct;

11-26 (O) intensive programs of instruction under

11-27 Section 28.0213;

11-28 (P) the right of a school employee to report a

11-29 crime, as provided by Section 37.148;

11-30 (Q) bullying prevention policies and procedures

11-31 under Section 37.0832;

11-32 (R) the right of a school under Section 37.0052

11-33 to place a student who has engaged in certain bullying behavior in a

11-34 disciplinary alternative education program or to expel the student;

11-35 (S) the right under Section 37.0151 to report to

11-36 local law enforcement certain conduct constituting assault or

11-37 harassment;

11-38 (T) a parent's right to information regarding the

11-39 provision of assistance for learning difficulties to the parent's

11-40 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

11-41 (U) establishment of residency under Section

11-42 25.001;

11-43 (V) school safety requirements under Sections

11-44 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,

11-45 37.207, and 37.2071;

11-46 (W) the early childhood literacy and mathematics

11-47 proficiency plans under Section 11.185;

11-48 (X) the college, career, and military readiness

11-49 plans under Section 11.186; ~~and~~

11-50 (Y) ~~[(X)]~~ parental options to retain a student

11-51 under Section 28.02124;

11-52 (Z) parental access to instructional materials

11-53 and curricula under Section 26.0061;

11-54 (AA) the adoption of a community engagement

11-55 policy as provided by Section 26.0071; and

11-56 (BB) parental rights to information regarding a

11-57 student's mental, emotional, and physical health-related needs and

11-58 related services offered by the school as provided by Section

11-59 26.0083.

11-60 SECTION 19. Section 28.004(i-3), Education Code, is

11-61 repealed.

11-62 SECTION 20. To the extent of any conflict, this Act prevails

11-63 over another Act of the 88th Legislature, Regular Session, 2023,

11-64 relating to nonsubstantive additions to and corrections in enacted

11-65 codes.

11-66 SECTION 21. This Act takes effect immediately if it

11-67 receives a vote of two-thirds of all the members elected to each

11-68 house, as provided by Section 39, Article III, Texas Constitution.

11-69 If this Act does not receive the vote necessary for immediate

12-1 effect, this Act takes effect September 1, 2023.

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