

By: Dutton

H.B. No. 4409

A BILL TO BE ENTITLED

AN ACT

relating to an annual student discipline review by the commissioner of education and student discipline plans submitted by public schools.

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

SECTION 1. Section 12.104(b), Education Code, as amended by Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B. 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular Session, 2021, is reenacted and amended to read as follows:

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

(1) a provision of this title establishing a criminal offense;

(2) the provisions in Chapter 554, Government Code; and

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

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

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) accelerated instruction under Section 28.0211;

(E) high school graduation requirements under Section 28.025;

(F) special education programs under Subchapter A, Chapter 29;

(G) bilingual education under Subchapter B, Chapter 29;

(H) prekindergarten programs under Subchapter E or E-1, Chapter 29, except class size limits for prekindergarten classes imposed under Section 25.112, which do not apply;

(I) extracurricular activities under Section 33.081;

(J) discipline management practices or behavior management techniques under Section 37.0021;

(K) health and safety under Chapter 38;

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

(M) public school accountability and special investigations under Subchapters A, B, C, D, F, G, and J, Chapter 39, and Chapter 39A;

(N) the requirement under Section 21.006 to report an educator's misconduct;

(O) intensive programs of instruction under Section 28.0213;

(P) the right of a school employee to report a crime, as provided by Section 37.148;

(Q) bullying prevention policies and procedures

1 under Section 37.0832;

2 (R) the right of a school under Section 37.0052
3 to place a student who has engaged in certain bullying behavior in a
4 disciplinary alternative education program or to expel the student;

5 (S) the right under Section 37.0151 to report to
6 local law enforcement certain conduct constituting assault or
7 harassment;

8 (T) a parent's right to information regarding the
9 provision of assistance for learning difficulties to the parent's
10 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

11 (U) establishment of residency under Section
12 25.001;

13 (V) school safety requirements under Sections
14 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,
15 37.207, and 37.2071;

16 (W) the early childhood literacy and mathematics
17 proficiency plans under Section 11.185;

18 (X) the college, career, and military readiness
19 plans under Section 11.186; ~~and~~

20 (Y) ~~(X)~~ parental options to retain a student
21 under Section 28.02124;

22 (Z) the reports relating to out-of-school
23 suspensions, expulsions, and disciplinary alternative education
24 program placements under Section 37.020; and

25 (AA) the commissioner review of student
26 discipline and student discipline plan requirements under Section
27 37.0201.

SECTION 2. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0201 to read as follows:

Sec. 37.0201. COMMISSIONER REVIEW OF STUDENT DISCIPLINE; STUDENT DISCIPLINE PLAN. (a) The commissioner shall annually publish on the agency's Internet website a review of student discipline in all school districts in this state. The review under this section shall:

(1) include an analysis of the data reported to the agency under Section 37.020 for each district and a list of districts in the top 20 percent of districts statewide for each of the following metrics:

(A) the total number of students placed in a disciplinary alternative education program established under Section 37.008 divided by the district's total enrollment;

(B) the total number of students expelled under Section 37.007 divided by the district's total enrollment; and

(C) the total number of students placed in out-of-school suspensions under Section 37.005 divided by the district's total enrollment;

(2) disaggregate the data analyzed under Subdivision (1) by:

(A) the grade level, race, ethnicity, gender, age, and status as having limited English proficiency of the student disciplined;

(B) the type of incident for which the student was disciplined; and

(C) the length of time for which the student was

1 disciplined; and

2 (3) report whether the data disaggregated under
3 Subdivision (2) indicates racial disproportionality in the use of
4 placement in a disciplinary alternative education program,
5 out-of-school suspension, or expulsion, as determined using the
6 method established by the United States Department of Education
7 Office for Civil Rights for determining racial disproportionality.

8 (a-1) For purposes of determining a school district's total
9 enrollment under Subsection (a), the commissioner shall use the
10 number of students enrolled in the district on the last school day
11 in September in the school year for which the data was collected.

12 (b) The list of districts for a metric under Subsection
13 (a)(1) may not include a school district that issued fewer than a
14 total of 10 out-of-school suspensions, expulsions, or disciplinary
15 alternative education program placements, as applicable, during a
16 school year to which the data applies.

17 (c) The analysis included in the review under Subsection
18 (a)(1) must be based on data collected over three consecutive
19 school years, beginning with the 2023-2024 school year.

20 (d) Except as provided by Subsection (e), beginning with the
21 2026-2027 school year, the commissioner shall require each school
22 district that has been included on the list of districts in the top
23 20 percent for a metric under Subsection (a)(1) for three
24 consecutive school years to submit a student discipline plan
25 developed by the district's board of trustees. The plan must
26 identify strategies the district will implement to reduce the use
27 of disciplinary alternative education programs, expulsion, or

1 suspension, as applicable.

2 (e) A school district must submit a student discipline plan
3 under Subsection (d) annually until the district has not been
4 included on the list of districts under Subsection (a)(1) for three
5 consecutive school years.

6 (f) A plan submitted under Subsection (d) must be approved
7 at a public meeting of the school district board of trustees and,
8 once approved, be posted on the school district's Internet website.
9 Not later than one year after the date a plan is approved by the
10 board under this subsection, the board shall prepare a report on the
11 district's progress toward implementing the plan, submit the report
12 to the commissioner, and post the report on the district's Internet
13 website.

14 (g) The commissioner by rule may require a plan submitted
15 under Subsection (d) to be combined with any other plan or report
16 required to be submitted to the commissioner under state or federal
17 law.

18 (h) The commissioner shall adopt rules as necessary to
19 implement this section.

20 SECTION 3. To the extent of any conflict, this Act prevails
21 over another Act of the 88th Legislature, Regular Session, 2023,
22 relating to nonsubstantive additions to and corrections in enacted
23 codes.

24 SECTION 4. This Act takes effect September 1, 2023.