

By: Dutton

H.B. No. 4690

A BILL TO BE ENTITLED

AN ACT

relating to the grievance procedure used by public schools to address complaints by students or parents.

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

SECTION 1. Section 7.057(a), Education Code, is amended to read as follows:

(a) Except as provided by Subsection (e), a person may appeal in writing to the commissioner a decision by a hearing examiner under Section 26A.006 or if the person is aggrieved by:

(1) the school laws of this state; or

(2) actions or decisions of any school district board of trustees that violate:

(A) the school laws of this state; ~~or~~

(B) a provision of a written employment contract between the school district and a school district employee, if a violation causes or would cause monetary harm to the employee; or

(C) the grievance policy adopted by the school district under Section 26A.002.

SECTION 2. 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

1 offense;

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

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

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

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

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

14 (D) accelerated instruction under Section  
15 28.0211;

16 (E) high school graduation requirements under  
17 Section 28.025;

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

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

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

25 (I) extracurricular activities under Section  
26 33.081;

27 (J) discipline management practices or behavior

1 management techniques under Section 37.0021;

2 (K) health and safety under Chapter 38;

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

4 (M) public school accountability and special

5 investigations under Subchapters A, B, C, D, F, G, and J, Chapter

6 39, and Chapter 39A;

7 (N) the requirement under Section 21.006 to

8 report an educator's misconduct;

9 (O) intensive programs of instruction under

10 Section 28.0213;

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

12 crime, as provided by Section 37.148;

13 (Q) bullying prevention policies and procedures

14 under Section 37.0832;

15 (R) the right of a school under Section 37.0052

16 to place a student who has engaged in certain bullying behavior in a

17 disciplinary alternative education program or to expel the student;

18 (S) the right under Section 37.0151 to report to

19 local law enforcement certain conduct constituting assault or

20 harassment;

21 (T) a parent's right to information regarding the

22 provision of assistance for learning difficulties to the parent's

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

24 (U) establishment of residency under Section

25 25.001;

26 (V) school safety requirements under Sections

27 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,

1 37.207, and 37.2071;

2 (W) the early childhood literacy and mathematics  
3 proficiency plans under Section 11.185;

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

6 (Y) ~~(X)~~ parental options to retain a student  
7 under Section 28.02124; and

8 (Z) the grievance policy and procedure under  
9 Chapter 26A.

10 SECTION 3. The heading to Section 26.011, Education Code,  
11 is amended to read as follows:

12 Sec. 26.011. CERTAIN COMPLAINTS REGARDING EXTRACURRICULAR  
13 ACTIVITIES.

14 SECTION 4. Section 26.011(b), Education Code, is amended to  
15 read as follows:

16 (b) The board of trustees of a school district is not  
17 required by Section 26A.002 [~~Subsection (a)~~] or Section  
18 11.1511(b)(13) to address a complaint that the board receives  
19 concerning a student's participation in an extracurricular  
20 activity that does not involve a violation of a right guaranteed by  
21 this chapter. This subsection does not affect a claim brought by a  
22 parent under the Individuals with Disabilities Education Act (20  
23 U.S.C. Section 1400 et seq.) or a successor federal statute  
24 addressing special education services for a child with a  
25 disability.

26 SECTION 5. Subtitle E, Title 2, Education Code, is amended  
27 by adding Chapter 26A to read as follows:

CHAPTER 26A. GRIEVANCE POLICY

Sec. 26A.001. DEFINITIONS. In this chapter:

(1) "Complainant" means a student or the parent of a student, or both a student and the parent of the student, enrolled in a school district in this state who files a complaint with the student's school for the redress of a grievance under Section 26A.003.

(2) "Parent" includes a person standing in parental relation to a student.

(3) "Superintendent" includes a superintendent's designee.

Sec. 26A.002. GRIEVANCE POLICY. (a) The board of trustees of a school district shall adopt a grievance policy that provides multiple levels of review to address a grievance that becomes the subject of a complaint filed by a student or the parent of a student in the district in accordance with the requirements of this chapter. The grievance policy must:

(1) require a complaint to be filed and addressed at each level of review in accordance with the requirements of this chapter;

(2) require the district to provide the policy to each student and parent of a student in the district at the beginning of each school year;

(3) prohibit the board of trustees of a district or a district employee from retaliating against a student or parent who files a complaint in accordance with the policy;

(4) require a student or parent with multiple

1 grievances arising out of a single event or series of related events  
2 to address all of the grievances in a single complaint;

3 (5) permit any notice, form, or decision required by  
4 this chapter to be written to be submitted or sent electronically;

5 (6) require the board of trustees, district employees,  
6 and a complainant to strictly comply with the deadlines provided by  
7 this chapter, including by permitting the district to dismiss a  
8 complaint by providing written notice to the complainant if the  
9 complaint form or a notice of appeal, as applicable, is not filed in  
10 compliance with the required deadline; and

11 (7) for a withdrawal of a complaint:

12 (A) permit a complainant to withdraw a complaint  
13 at any time;

14 (B) prohibit a withdrawn complaint from being  
15 refiled or reopened unless approved by the district; and

16 (C) permit the district to withdraw a complaint  
17 if the complainant fails to pursue the complaint or is determined by  
18 the district to be unreasonably extending the process of resolving  
19 the complaint.

20 (b) The grievance policy adopted by a board of trustees  
21 under Subsection (a) must provide that a complainant whose  
22 complaint is dismissed under Subsection (a)(6) may appeal the  
23 dismissal by submitting a notice of appeal to the school district  
24 that dismissed the complaint in writing not later than the 10th  
25 business day after the date the complaint is dismissed. An appeal  
26 under this subsection is limited to whether the complainant  
27 strictly complied with the applicable deadline.

1       (c) The grievance policy adopted by a board of trustees  
2 under Subsection (a) must require that a complainant participate in  
3 each level of review provided by the policy in accordance with this  
4 chapter. If the complainant is unable to attend a conference  
5 required by the policy, the complainant must provide notice to the  
6 principal of the school at which the complaint is filed for a level  
7 one conference or to the superintendent of the school district in  
8 which the complaint is filed for a level two conference not less  
9 than three business days before the date of the applicable  
10 conference to:

11               (1) allow another to appear at the conference on the  
12 complainant's behalf; or

13               (2) postpone the conference.

14       Sec. 26A.003. LEVEL ONE: ACTION BY PRINCIPAL. (a) A student  
15 or the parent of a student who has a grievance against the school  
16 district campus at which the student is enrolled may file a  
17 complaint containing the grievance with the principal of the campus  
18 on the form developed and made available under Section 26A.007 not  
19 later than the 15th business day after the date on which the student  
20 or parent knew or had reason to know of the event giving rise to the  
21 grievance.

22               (b) The complainant must include with the complaint form a  
23 copy of each document the complainant believes supports the  
24 complaint, or if the complainant is not able to provide a copy of a  
25 supporting document, present the document at the level one  
26 conference required under Subsection (d)(2). A complainant may not  
27 submit a new document to support a complaint after the level one

1 conference unless:

2 (1) the document did not exist or the complainant did  
3 not know the document existed before the level one conference; or

4 (2) the complainant learned of new information after  
5 the level one conference that made relevant a previously irrelevant  
6 document.

7 (c) A principal may designate a person as the principal's  
8 designee for purposes of receiving or addressing a complaint filed  
9 under this section if the person designated has the authority  
10 necessary to remedy the grievance in the filed complaint.

11 (d) The principal or the principal's designee shall:

12 (1) investigate the grievance alleged in the  
13 complaint;

14 (2) not later than the 10th business day after the  
15 complaint is filed, hold a level one conference with the person who  
16 filed the complaint;

17 (3) consider, in reaching a decision regarding the  
18 complaint, information provided in the level one conference and any  
19 other relevant information the principal or designee believes may  
20 assist in resolving the complaint; and

21 (4) provide the complainant a written level one  
22 decision regarding the complaint, including any relief or redress  
23 planned by the principal or principal's designee in response to the  
24 grievance alleged in the complaint, not later than the 10th  
25 business day after the date of the conference.

26 (e) The principal or principal's designee may set a  
27 reasonable maximum duration for a level one conference held under



1 this section.

2 (f) A principal shall record a level one conference held  
3 under this section and maintain the recording with the level one  
4 record.

5 Sec. 26A.004. LEVEL TWO: ACTION BY SUPERINTENDENT. (a) A  
6 complainant may appeal to a level two conference with the  
7 superintendent of the school district of the campus in which the  
8 complaint was filed under Section 26A.003 if:

9 (1) the level one decision does not resolve the  
10 complaint in the manner requested by the complainant; or

11 (2) the principal of the campus at which the complaint  
12 was filed or the principal's designee designated under Section  
13 26A.003(c) did not provide the complainant a level one decision by  
14 the date required under Section 26A.003(d)(4).

15 (b) To request a level two conference, the complainant must  
16 submit a notice of appeal on the form developed and made available  
17 under Section 26A.007 to the principal of the campus at which the  
18 complaint was filed not later than the 10th business day after  
19 either the date the level one decision was provided to the  
20 complainant or the date the level one decision was required to be  
21 provided to the complainant under Section 26A.003(d)(4).

22 (c) On receiving a notice of appeal under Subsection (b),  
23 the principal shall prepare and submit to the superintendent of the  
24 school district and the complainant a level one record including:

25 (1) the original complaint submitted under Section  
26 26A.003, including each document submitted with the complaint;

27 (2) each document, if any, separately submitted by a

1 complainant before the level one decision was issued; and

2 (3) the level one decision, including:

3 (A) any documents attached to the decision; and

4 (B) each document relied on by the principal or  
5 the principal's designee in reaching the decision.

6 (d) A superintendent shall hold a level two conference with  
7 a complainant who submitted a notice of appeal under this section  
8 not later than the 15th business day after the date the notice was  
9 filed. A level two conference:

10 (1) must be limited to a grievance submitted by the  
11 complainant identified in the notice of the appeal;

12 (2) must provide the complainant a specific amount of  
13 time to present the complainant's reasons for appealing a level one  
14 decision and the grievance that is the basis of the complaint, which  
15 may include presentation of documentation or witnesses;

16 (3) is not an evidentiary hearing or a due process  
17 hearing within the meaning of any federal law; and

18 (4) may not include the cross-examination of a  
19 witness.

20 (e) A superintendent who conducts a level two conference  
21 under this section shall provide the complainant with a written  
22 level two decision not later than the 15th business day after the  
23 date of the conference, including any relief or redress planned by  
24 the superintendent in response to the grievance alleged in the  
25 complaint. The superintendent may consider in reaching a decision  
26 the level one record, information provided at the level two  
27 conference, and any other relevant information the superintendent

1 believes may assist in resolving the complaint.

2 (f) A superintendent shall record a level two conference and  
3 maintain the recording with the level one and level two records for  
4 a complaint.

5 Sec. 26A.005. LEVEL THREE: ACTION BY BOARD OF TRUSTEES. (a)  
6 A complainant may appeal a level two decision by requesting a  
7 hearing by the board of trustees of the school district in which the  
8 complaint was filed if:

9 (1) the level two decision does not resolve the  
10 complaint in the manner requested by the complainant; or

11 (2) the superintendent of the school district in which  
12 the complaint was filed did not provide the complainant a level two  
13 decision by the date required under Section 26A.004(e).

14 (b) To request a level three hearing, the complainant must  
15 submit a request for a hearing on a form developed and made  
16 available under Section 26A.007 to the superintendent who made the  
17 level two decision not later than the 10th business day after:

18 (1) the date the level two decision was provided to the  
19 complainant; or

20 (2) the date the level two decision was required to be  
21 provided to the complainant under Section 26A.004(e).

22 (c) On receiving a request for a hearing under Subsection  
23 (b), the superintendent shall prepare and submit to the board of  
24 trustees of the school district and the complainant a level two  
25 record. The board may not hold a level three hearing until a level  
26 two record has been submitted under this subsection. A level two  
27 record must include:

1           (1) the level one record;

2           (2) the notice of appeal filed under Section 26A.004;

3 and

4           (3) the level two decision, including:

5                   (A) any document attached to the decision; and

6                   (B) each document relied on by the superintendent  
7 in reaching the decision.

8           (d) The superintendent shall provide a complainant written  
9 notice of the date, time, and place of the board of trustees meeting  
10 for which the complaint is on the agenda at least five business days  
11 before the date of the meeting.

12           (e) The board of trustees shall:

13                   (1) if the board intends to rely on information not  
14 contained in the level two record, provide the complainant a  
15 description of that information at least five business days before  
16 the date of the meeting for which the complaint is on the agenda;

17                   (2) determine whether to hear a complaint at an open  
18 meeting in accordance with Chapter 551, Government Code, and any  
19 other applicable law;

20                   (3) hold a level three hearing at a meeting of the  
21 board for which the complaint is on the agenda:

22                           (A) for which the board must prepare a record  
23 separate from any other record the board is required to prepare for  
24 the meeting or complaint;

25                           (B) that the board must record by audio or video  
26 recording or a court reporter; and

27                           (C) that shall include:

1                   (i) a presentation made by the complainant;  
2                   (ii) a presentation made by a member of the  
3 relevant district campus's administration;  
4                   (iii) questions asked by members of the  
5 board and responses to those questions; and  
6                   (iv) if requested by the board, an  
7 explanation by the relevant district campus's administration of the  
8 level one and level two decisions made for the complaint; and  
9                   (4) after the level three hearing, provide the  
10 complainant a level three decision, including any relief or redress  
11 planned by the board in response to the grievance alleged in the  
12 complaint, in writing not later than the earlier of:  
13                   (A) 60 business days after the date of the  
14 meeting for which the complaint was on the agenda; or  
15                   (B) the date of the next meeting of the board  
16 after the meeting for which the complaint was on the agenda.  
17                   (f) The presiding officer of the board of trustees may set  
18 reasonable time limits and guidelines for a level three hearing.  
19                   Sec. 26A.006. LEVEL FOUR: ACTION BY HEARING EXAMINER. (a)  
20 If the board of trustees of a school district does not provide a  
21 complainant a level three decision by the date required under  
22 Section 26A.005(e)(4), the complainant may request the  
23 commissioner appoint a hearing examiner qualified under Subchapter  
24 F, Chapter 21. A hearing examiner appointed under this subsection  
25 shall:  
26                   (1) determine facts relating to the complainant's  
27 grievance;

1           (2) consider information provided by the relevant  
2 school district and complainant; and

3           (3) render a decision, which must include findings of  
4 fact and conclusions of law and may grant relief or redress to the  
5 complainant.

6           (b) Sections 21.252 through 21.256 apply to a hearing under  
7 this section as if the complainant was a teacher. Sections 21.257  
8 and 21.258 do not apply to a hearing under this section.

9           (c) The school district shall bear the cost of the hearing  
10 examiner, the hearing room, the certified shorthand reporter at the  
11 hearing, and the production of any original hearing transcript as  
12 provided by Section 21.255(e).

13           (d) A complainant who is a parent may appeal a decision made  
14 by a hearing examiner under this section to the commissioner under  
15 Section 7.057 by providing notice of the appeal in the form required  
16 by the commissioner not later than the 30th day after the date the  
17 parent receives notice of the hearing examiner's decision. For an  
18 appeal to the commissioner submitted under this subsection:

19                   (1) the school district is a party to the appeal; and

20                   (2) the hearing examiner is not a party to the appeal.

21           Sec. 26A.007. COMPLAINT, NOTICES OF APPEAL, AND REQUESTS  
22 FOR HEARING FORMS. The board of trustees of a school district shall  
23 develop and make available to students and the parents of students  
24 enrolled in the district standardized forms for the filing of each  
25 complaint, a notice of appeal, or a request for a hearing described  
26 by this chapter other than a notice of appeal filed with the  
27 commissioner under Section 26A.006.

1 SECTION 6. Section 28.004(i-1), Education Code, is amended  
2 to read as follows:

3 (i-1) A parent may use the grievance procedure adopted under  
4 Section 26A.002 [~~26.011~~] concerning a complaint of a violation of  
5 this section.

6 SECTION 7. Section 28.017(d), Education Code, is amended to  
7 read as follows:

8 (d) If a school district does not comply with the  
9 requirements of Subsection (c), a parent of a student enrolled in  
10 the district may file a complaint in accordance with the district's  
11 grievance procedure developed under Section 26A.002 [~~26.011~~].

12 SECTION 8. Section 28.0211(f-3), Education Code, is amended  
13 to read as follows:

14 (f-3) The board of trustees of each school district shall  
15 adopt a policy consistent with the grievance procedure adopted  
16 under Section 26A.002 [~~26.011~~] to allow a parent to contest the  
17 content or implementation of an educational plan developed under  
18 Subsection (f).

19 SECTION 9. Section 26.011(a), Education Code, is repealed.

20 SECTION 10. 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 11. This Act applies beginning with the 2023-2024  
25 school year.

26 SECTION 12. This Act takes effect immediately if it  
27 receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.  
2 If this Act does not receive the vote necessary for immediate  
3 effect, this Act takes effect September 1, 2023.