

By: Hall

S.B. No. 393

A BILL TO BE ENTITLED

AN ACT

1
2 relating to parental rights in public education and prohibiting
3 instruction regarding sexual orientation or gender identity for
4 public school students; authorizing a civil remedy.

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

6 SECTION 1. The heading to Section 26.011, Education Code,
7 is amended to read as follows:

8 Sec. 26.011. COMPLAINTS; CIVIL REMEDY.

9 SECTION 2. Section 26.011, Education Code, is amended by
10 adding Subsections (c), (d), and (e) to read as follows:

11 (c) A grievance procedure adopted under this section must
12 require that, not later than the 30th day after receipt of a
13 complaint described by Subsection (a), the school district:

14 (1) resolve the issue that gave rise to the complaint;

15 or

16 (2) provide to the parent who submitted the complaint
17 a written explanation of the district's reason for not resolving
18 the issue.

19 (d) If a school district does not resolve an issue described
20 by Subsection (c)(1), the parent may bring a civil action against
21 the district to obtain appropriate injunctive and declaratory
22 relief. A court may award damages and shall award reasonable
23 attorney's fees and court costs to a prevailing parent. Remedies
24 provided by this subsection are not exclusive.

1 (e) The board of trustees of each school district shall
2 adopt a policy for notifying parents of students enrolled in the
3 district regarding the grievance procedure adopted by the district
4 under this section.

5 SECTION 3. Chapter 26, Education Code, is amended by adding
6 Sections 26.0083, 26.0084, and 26.016 to read as follows:

7 Sec. 26.0083. RIGHT TO INFORMATION REGARDING MENTAL,
8 EMOTIONAL, AND PHYSICAL HEALTH AND HEALTH-RELATED SERVICES. (a)

9 Each school district shall adopt a procedure for notifying the
10 parent of a student enrolled in the district regarding any change
11 in:

12 (1) services provided to or monitoring of the student
13 related to the student's mental, emotional, or physical health or
14 well-being; or

15 (2) the district's ability to provide a safe and
16 supportive learning environment for the student.

17 (b) A procedure adopted under Subsection (a) must reinforce
18 the fundamental right of a parent to make decisions regarding the
19 upbringing and education of the parent's child by requiring school
20 district personnel to:

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

23 (2) facilitate a discussion described under
24 Subdivision (1).

25 (c) A school district may not adopt a procedure or a student
26 support form, including a student well-being questionnaire or
27 health screening form, that:

1 (1) prohibits a district employee from notifying the
2 parent of a student regarding:

3 (A) information about the student's mental,
4 emotional, or physical health or well-being; or

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

8 (2) encourages or has the effect of encouraging a
9 student to withhold from the student's parent information described
10 by Subdivision (1)(A).

11 (d) A school district employee may not discourage or
12 prohibit parental knowledge of or involvement in critical decisions
13 affecting a student's mental, emotional, or physical health or
14 well-being.

15 (e) Before the first instructional day of each school year,
16 a school district shall provide to the parent of each student
17 enrolled in the district written notice of each health-related
18 service offered at the district campus the student attends. The
19 notice must include a statement of the parent's right to withhold
20 consent for or decline a health-related service. A parent's
21 consent to a health-related service does not waive a requirement of
22 Subsection (a), (c), or (d).

23 (f) Before administering a student support form to a
24 student, a school district must provide a copy of the form to the
25 student's parent and obtain the parent's consent to administer the
26 form.

27 (g) Not later than June 30, 2024, the agency, the State

1 Board of Education, and the State Board for Educator Certification,
2 as appropriate, shall review and revise as necessary the following
3 to ensure compliance with this section:

- 4 (1) school counseling frameworks and standards;
5 (2) educator practices and professional conduct
6 principles; and
7 (3) any other student services personnel guidelines,
8 standards, or frameworks.

9 (h) Subsection (g) and this subsection expire September 1,
10 2025.

11 Sec. 26.0084. RIGHT TO INFORMATION REGARDING STUDENT'S
12 PERCEPTION OF BIOLOGICAL SEX. A school district employee or
13 independent contractor of a district, including a third-party
14 instructor, guest speaker, or subcontractor, may not withhold from
15 a student's parent information related to the student's perception
16 of the student's biological sex if that perception is inconsistent
17 with the student's biological sex as determined by the student's sex
18 organs, chromosomes, and endogenous hormone profiles.

19 Sec. 26.016. CONSENT REQUIRED FOR PARTICIPATION IN CERTAIN
20 STUDENT CLUBS. (a) In this section, "student club" means any
21 student organization sponsored or sanctioned by a school district.

22 (b) A school district shall require written parental
23 consent as a condition of a student's participation in a student
24 club that promotes themes of sexuality, gender, or gender identity.

25 (c) A school district shall seek parental consent under this
26 section by providing a written form to a parent that includes the
27 foundational documents of the student club described by Subsection

- 1 (b) in which the student wishes to participate, including:
2 (1) the name of the club;
3 (2) the mission statement or purpose of the club; and
4 (3) any additional information determined appropriate
5 by the school district.

6 SECTION 4. Subchapter A, Chapter 28, Education Code, is
7 amended by adding Section 28.0043 to read as follows:

8 Sec. 28.0043. RESTRICTION ON INSTRUCTION REGARDING SEXUAL
9 ORIENTATION AND GENDER IDENTITY. A school district,
10 open-enrollment charter school, or district or charter school
11 employee may not provide or allow a third party to provide
12 instruction regarding sexual orientation or gender identity to
13 students enrolled in the district or school.

14 SECTION 5. Section 12.104(b), Education Code, as amended by
15 Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B.
16 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular
17 Session, 2021, is reenacted and amended to read as follows:

- 18 (b) An open-enrollment charter school is subject to:
19 (1) a provision of this title establishing a criminal
20 offense;
21 (2) the provisions in Chapter 554, Government Code;
22 and
23 (3) a prohibition, restriction, or requirement, as
24 applicable, imposed by this title or a rule adopted under this
25 title, relating to:

26 (A) the Public Education Information Management
27 System (PEIMS) to the extent necessary to monitor compliance with

- 1 this subchapter as determined by the commissioner;
- 2 (B) criminal history records under Subchapter C,
3 Chapter 22;
- 4 (C) reading instruments and accelerated reading
5 instruction programs under Section 28.006;
- 6 (D) accelerated instruction under Section
7 28.0211;
- 8 (E) high school graduation requirements under
9 Section 28.025;
- 10 (F) special education programs under Subchapter
11 A, Chapter 29;
- 12 (G) bilingual education under Subchapter B,
13 Chapter 29;
- 14 (H) prekindergarten programs under Subchapter E
15 or E-1, Chapter 29, except class size limits for prekindergarten
16 classes imposed under Section 25.112, which do not apply;
- 17 (I) extracurricular activities under Section
18 33.081;
- 19 (J) discipline management practices or behavior
20 management techniques under Section 37.0021;
- 21 (K) health and safety under Chapter 38;
- 22 (L) the provisions of Subchapter A, Chapter 39;
- 23 (M) public school accountability and special
24 investigations under Subchapters A, B, C, D, F, G, and J, Chapter
25 39, and Chapter 39A;
- 26 (N) the requirement under Section 21.006 to
27 report an educator's misconduct;

1 (O) intensive programs of instruction under
2 Section 28.0213;

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

5 (Q) bullying prevention policies and procedures
6 under Section 37.0832;

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

10 (S) the right under Section 37.0151 to report to
11 local law enforcement certain conduct constituting assault or
12 harassment;

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

16 (U) establishment of residency under Section
17 25.001;

18 (V) school safety requirements under Sections
19 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,
20 37.207, and 37.2071;

21 (W) the early childhood literacy and mathematics
22 proficiency plans under Section 11.185;

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

25 (Y) [~~(X)~~] parental options to retain a student
26 under Section 28.02124; and

27 (Z) parental rights to:

1 (i) information regarding a student's
2 mental, emotional, and physical health and health-related services
3 offered by the school as provided by Section 26.0083;

4 (ii) information regarding a student's
5 perception of the student's biological sex as provided by Section
6 26.0084; and

7 (iii) consent to a student's participation
8 in a student club that promotes themes of sexuality, gender, or
9 gender identity as provided by Section 26.016.

10 SECTION 6. This Act applies beginning with the 2023-2024
11 school year.

12 SECTION 7. To the extent of any conflict, this Act prevails
13 over another Act of the 88th Legislature, Regular Session, 2023,
14 relating to nonsubstantive additions to and corrections in enacted
15 codes.

16 SECTION 8. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2023.