

SENATE AMENDMENTS

2nd Printing

By: Bell of Kaufman, Buckley,
Harris of Anderson, Hefner, Dutton,
et al.

H.B. No. 890

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a process adopted by a school district regarding
3 complaints and hearings on complaints.

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

5 SECTION 1. Section 11.1511(b), Education Code, is amended
6 to read as follows:

7 (b) The board shall:

8 (1) seek to establish working relationships with other
9 public entities to make effective use of community resources and to
10 serve the needs of public school students in the community;

11 (2) adopt a vision statement and comprehensive goals
12 for the district and the superintendent and monitor progress toward
13 those goals;

14 (3) establish performance goals for the district
15 concerning:

16 (A) the academic and fiscal performance
17 indicators under Subchapters C, D, and J, Chapter 39; and

18 (B) any performance indicators adopted by the
19 district;

20 (4) ensure that the superintendent:

21 (A) is accountable for achieving performance
22 results;

23 (B) recognizes performance accomplishments; and

24 (C) takes action as necessary to meet performance

1 goals;

2 (5) adopt a policy to establish a district- and
3 campus-level planning and decision-making process as required
4 under Section 11.251;

5 (6) publish an annual educational performance report
6 as required under Section 39.306;

7 (7) adopt an annual budget for the district as
8 required under Section 44.004;

9 (8) adopt a tax rate each fiscal year as required under
10 Section 26.05, Tax Code;

11 (9) monitor district finances to ensure that the
12 superintendent is properly maintaining the district's financial
13 procedures and records;

14 (10) ensure that district fiscal accounts are audited
15 annually as required under Section 44.008;

16 (11) publish an end-of-year financial report for
17 distribution to the community;

18 (12) conduct elections as required by law;

19 (13) by rule, adopt a process through which district
20 personnel, students or the parents or guardians of students, and
21 members of the public may file a complaint and obtain a hearing from
22 the district administrators and the board regarding the [a]
23 complaint that must:

24 (A) allow a complaint to be filed at any time
25 regardless of when the conduct initially giving rise to the
26 complaint occurred if the complaint alleges a violation of law or
27 board policy that is continuous or ongoing;

1 (B) unless otherwise provided by law, include:

2 (i) an initial administrative hearing; and

3 (ii) an opportunity to appeal the
4 administrative decision following the initial hearing;

5 (C) unless otherwise agreed to by the parties,
6 provide for a final decision on the complaint not later than 120
7 calendar days after the date on which the complaint was filed; and

8 (D) if a final decision on a complaint is not
9 rendered before the 120th day after the date on which the complaint
10 was filed, require the district to immediately render a final
11 decision on the complaint in favor of the complainant;

12 (14) make decisions relating to terminating the
13 employment of district employees employed under a contract to which
14 Chapter 21 applies, including terminating or not renewing an
15 employment contract to which that chapter applies; and

16 (15) carry out other powers and duties as provided by
17 this code or other law.

18 SECTION 2. The board of trustees of a school district shall
19 adopt a process for filing a complaint and obtaining a hearing in
20 accordance with Section 11.1511(b), Education Code, as amended by
21 this Act, as soon as practicable after the effective date of this
22 Act.

23 SECTION 3. This Act takes effect September 1, 2023.

ADOPTED

MAY 23 2023

Lately Spaw
Secretary of the Senate

By: Bell, Keith / Craigdon

H.B. No. 890

Substitute the following for ___B. No. _____:

By: Mayor Medda

C.S. ___B. No. _____

A BILL TO BE ENTITLED

AN ACT

1
2 relating to parental rights and public school responsibilities
3 regarding instructional materials.

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

5 SECTION 1. Chapter 1, Education Code, is amended by adding
6 Section 1.009 to read as follows:

7 Sec. 1.009. INFRINGEMENT OF PARENTAL RIGHTS PROHIBITED.
8 The fundamental rights granted to parents by their Creator and
9 upheld by the United States Constitution, the Texas Constitution,
10 and the laws of this state, including the right to direct the moral
11 and religious training of the parent's child, make decisions
12 concerning the child's education, and consent to medical,
13 psychiatric, and psychological treatment of the parent's child
14 under Section 151.001, Family Code, may not be infringed on by any
15 public elementary or secondary school or state governmental entity,
16 including the state or a political subdivision of the state, unless
17 the infringement is:

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

20 (2) narrowly tailored using the least restrictive
21 means to achieve that compelling state interest.

22 SECTION 2. Section 11.161, Education Code, is amended to
23 read as follows:

24 Sec. 11.161. FRIVOLOUS SUIT OR PROCEEDING. (a) In a civil

1 suit or administrative proceeding brought under state law or rules
2 ~~[7]~~ against an independent school district or an officer of an
3 independent school district acting under color of office, the court
4 or another person authorized to make decisions regarding the
5 proceeding may award costs and reasonable attorney's fees if:

6 (1) the court or other authorized person finds that
7 the suit or proceeding is frivolous, unreasonable, and without
8 foundation; and

9 (2) the suit or proceeding is dismissed or judgment is
10 for the defendant.

11 (b) This section does not apply to a civil suit or
12 administrative proceeding brought under the Individuals with
13 Disabilities Education Act (20 U.S.C. Section 1400 et seq.). A
14 civil suit or administrative proceeding described by this
15 subsection is governed by the attorney's fees provisions under 20
16 U.S.C. Section 1415.

17 SECTION 3. Section 25.036, Education Code, is amended to
18 read as follows:

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

27 (b) A transfer application approved [~~agreement~~] under this

1 section shall be filed and preserved as a receiving district record
2 for audit purposes of the agency.

3 (c) A school district may deny approval of a transfer under
4 this section only if:

5 (1) the district or a school in the district to which a
6 student seeks to transfer is at full student capacity or has more
7 requests for transfers than available positions after the district
8 has filled available positions in accordance with Subsection (e);

9 (2) at the time a student seeks to transfer, the
10 student is suspended or expelled by the district in which the
11 student is enrolled; or

12 (3) approving the transfer would supersede a
13 court-ordered desegregation plan.

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

18 (e) A school district that has more applicants for transfer
19 under this section than available positions must fill the available
20 positions by lottery and must give priority to applicants in the
21 following order:

22 (1) students who:

23 (A) do not reside in the district but were
24 enrolled in the district in the preceding school year; or

25 (B) are dependents of an employee of the
26 receiving district; and

27 (2) students:

1 (A) receiving special education services under
2 Subchapter A, Chapter 29;

3 (B) who are dependents of military personnel;

4 (C) who are dependents of law enforcement
5 personnel;

6 (D) in foster care;

7 (E) who are the subject of court-ordered
8 modification of an order establishing conservatorship or
9 possession and access; or

10 (F) who are siblings of a student who is enrolled
11 in the receiving district at the time the student seeks to transfer.

12 (f) A student who transfers to another school district under
13 this section may not be charged tuition. The student is included in
14 the average daily attendance of the district to which the student
15 transfers, beginning on the date the student begins attending
16 classes at that district.

17 (g) A receiving school district may, but is not required to,
18 provide transportation to a student who transfers to the receiving
19 district under this section.

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

22 (1) the student:

23 (A) fails to comply with a condition specified in
24 the agreement that is:

25 (i) a circumstance specified in the student
26 code of conduct under Section 37.001(a)(1);

27 (ii) a condition specified in the student

1 code of conduct under Section 37.001(a)(2);

2 (iii) conduct for which a student is
3 required or permitted to be removed from class and placed in a
4 disciplinary alternative education program under Section 37.006;
5 or

6 (iv) conduct for which a student is
7 required or permitted to be expelled from school under Section
8 37.007; or

9 (B) fails to maintain a specified school
10 attendance rate; and

11 (2) before revoking approval of the student's
12 transfer, the district ensures the student is afforded appropriate
13 due process and complies with any requirements of state law or
14 district policy relating to the expulsion of a student to the same
15 extent as if the student were being expelled under Section 37.007.

16 SECTION 4. Section 26.001, Education Code, is amended by
17 amending Subsections (a), (c), (d), and (e) and adding Subsections
18 (a-1) and (c-1) to read as follows:

19 (a) As provided under Section 151.001, Family Code, a parent
20 has the right to direct the moral and religious training of the
21 parent's child, make decisions concerning the child's education,
22 and consent to medical, psychiatric, and psychological treatment of
23 the child without obstruction or interference from this state, any
24 political subdivision of this state, a school district or
25 open-enrollment charter school, or any other governmental entity.

26 (a-1) Parents are partners with educators, administrators,
27 and school district boards of trustees in their children's

1 education. Parents shall be encouraged to actively participate in
2 creating and implementing educational programs for their children.

3 (c) Unless otherwise provided by law, a board of trustees,
4 administrator, educator, or other person shall comply with Section
5 1.009 and may not limit parental rights or withhold information
6 from a parent regarding the parent's child.

7 (c-1) A school district may not be considered to have
8 withheld information from a parent regarding the parent's child if
9 the district's actions are in accordance with other law, including
10 the Family Education Rights and Privacy Act of 1974 (20 U.S.C.
11 Section 1232g).

12 (d) Each board of trustees shall:

13 (1) provide for procedures to consider complaints that
14 a parent's right has been denied; [-]

15 (2) develop a plan for parental participation in the
16 district to improve parent and teacher cooperation, including in
17 the areas of homework, school attendance, and discipline;

18 (3) [~~(e) Each board of trustees shall~~] cooperate in
19 the establishment of ongoing operations of at least one
20 parent-teacher organization at each school in the district to
21 promote parental involvement in school activities; and

22 (4) provide to a parent of a child on the child's
23 enrollment in the district for the first time and to the parent of
24 each child enrolled in the district at the beginning of each school
25 year information about parental rights and options, including the
26 right to withhold consent for or exempt the parent's child from
27 certain activities and instruction, that addresses the parent's

1 rights and options concerning:
2 (A) the child's course of study and supplemental
3 services;
4 (B) instructional materials and library
5 materials;
6 (C) health education instruction under Section
7 28.004;
8 (D) instruction regarding sexual orientation and
9 gender identity under Section 28.0043;
10 (E) school options, including virtual and remote
11 schooling options;
12 (F) immunizations under Section 38.001;
13 (G) gifted and talented programs;
14 (H) promotion, retention, and graduation
15 policies;
16 (I) grade, class rank, and attendance
17 information;
18 (J) state standards and requirements;
19 (K) data collection practices;
20 (L) health care services, including notice and
21 consent under Section 26.0083(g); and
22 (M) the local grievance procedure under Section
23 26.011.
24 (e) The agency shall develop a form for use by school
25 districts in providing information about parental rights and
26 options under Subsection (d)(4). Each school district shall post
27 the form in a prominent location on the district's Internet

1 website.

2 SECTION 5. Chapter 26, Education Code, is amended by adding
3 Sections 26.0026, 26.0061, and 26.0083 to read as follows:

4 Sec. 26.0026. RIGHT TO SELECT EDUCATIONAL SETTING. A
5 parent is entitled to choose the educational setting for the
6 parent's child, including public school, private school, or home
7 school.

8 Sec. 26.0061. RIGHT TO REQUEST INSTRUCTIONAL MATERIAL
9 REVIEW. (a) The board of trustees of each school district shall
10 establish a process by which a parent of a student, as indicated on
11 the student registration form at the student's campus, may request
12 an instructional material review under Section 31.0236 for a
13 subject area in the grade level in which the student is enrolled.

14 (b) A process established under Subsection (a):

15 (1) may not require more than one parent of a student
16 to make the request;

17 (2) must provide for the board of trustees of the
18 school district to determine if the request will be granted, either
19 originally or through an appeal process; and

20 (3) may permit the requesting parent to review the
21 instructional material directly before the district conducts an
22 instructional material review under Section 31.0236.

23 (c) If the parents of at least 25 percent of the students
24 enrolled at a campus present to the board of trustees of the school
25 district in which the campus is located a petition for the board to
26 conduct an instructional material review under Section 31.0236, the
27 board shall conduct the review, unless, by a majority vote, the

1 board denies the request.

2 (d) Notwithstanding Subsection (c), if the parents of at
3 least 50 percent of the students enrolled at a school district
4 campus present to the board of trustees of the district a petition
5 to conduct an instructional material review under Section 31.0236,
6 the board shall conduct the review.

7 (e) A review conducted under Subsection (c) or (d) shall
8 include a review of instructional materials for each subject area
9 or grade level specified in the petition.

10 (f) The commissioner may adopt rules to implement this
11 section.

12 Sec. 26.0083. RIGHT TO INFORMATION REGARDING MENTAL,
13 EMOTIONAL, AND PHYSICAL HEALTH AND HEALTH-RELATED SERVICES. (a)
14 The agency shall adopt a procedure for school districts to notify
15 the parent of a student enrolled in the district regarding any
16 change in services provided to or monitoring of the student related
17 to the student's mental, emotional, or physical health or
18 well-being.

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

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

25 (2) facilitate a discussion described under
26 Subdivision (1).

27 (c) A school district may not adopt a procedure 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;

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); or

11 (3) prevents a parent from accessing education or
12 health records concerning the parent's child.

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

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

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

26 (g) Before the first instructional day of each school year,
27 a school district shall provide to the parent of each student

1 enrolled in the district written notice of each health-related
2 service offered at the district campus the student attends. The
3 notice must include a statement of the parent's right to withhold
4 consent for or decline a health-related service. A parent's
5 consent to a health-related service does not waive a requirement of
6 Subsection (a), (c), or (e).

7 (h) Before administering a student well-being questionnaire
8 or health screening form to a student enrolled in prekindergarten
9 through 12th grade, a school district must provide a copy of the
10 questionnaire or form to the student's parent and obtain the
11 parent's consent to administer the questionnaire or form.

12 (i) This section may not be construed to:

13 (1) limit or alter the requirements of Section 38.004
14 of this code or Chapter 261, Family Code; or

15 (2) limit a school district employee's ability to
16 inquire about a student's daily well-being without parental
17 consent.

18 (j) Not later than June 30, 2024, the agency, the State
19 Board of Education, and the State Board for Educator Certification,
20 as appropriate, shall review and revise as necessary the following
21 to ensure compliance with this section:

22 (1) school counseling frameworks and standards;

23 (2) educator practices and professional conduct
24 principles; and

25 (3) any other student services personnel guidelines,
26 standards, or frameworks.

27 (k) Subsection (j) and this subsection expire September 1,

1 2025.

2 SECTION 6. Section 26.004(b), Education Code, is amended to
3 read as follows:

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

6 (1) attendance records;

7 (2) test scores;

8 (3) grades;

9 (4) disciplinary records;

10 (5) counseling records;

11 (6) psychological records;

12 (7) applications for admission;

13 (8) medical records in accordance with Section
14 38.0095, including health and immunization information;

15 (9) teacher and school counselor evaluations;

16 (10) reports of behavioral patterns; and

17 (11) records relating to assistance provided for
18 learning difficulties, including information collected regarding
19 any intervention strategies used with the child.

20 SECTION 7. Chapter 26, Education Code, is amended by adding
21 Section 26.0071 to read as follows:

22 Sec. 26.0071. COMMUNITY ENGAGEMENT POLICY. Each board of
23 trustees of a school district shall develop a parental engagement
24 policy that:

25 (1) provides for an Internet portal through which
26 parents of students enrolled in the district may submit comments to
27 campus or district administrators and the board;

1 (2) requires the board to prioritize public comments
2 by presenting those comments at the beginning of each board
3 meeting; and

4 (3) requires board meetings to be held outside of
5 typical work hours.

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

8 Sec. 26.008. RIGHT TO FULL INFORMATION CONCERNING STUDENT.

9 (a) Except as provided by Section 38.004, a [A] parent is entitled
10 to:

11 (1) full information regarding the school activities
12 of a parent's child; and

13 (2) notification not later than one school business
14 day after the date a school district employee first suspects that a
15 criminal offense has been committed against the parent's child
16 [except as provided by Section 38.004].

17 (b) An attempt by any school district employee to encourage
18 or coerce a child to withhold information from the child's parent is
19 grounds for discipline under Section 21.104, 21.156, or 21.211, as
20 applicable, or by the State Board for Educator Certification, if
21 applicable.

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

25 (a) An employee of a school district must obtain the written
26 consent of a child's parent in the manner required by Subsection
27 (a-2) before the employee may:

1 (1) conduct a psychological examination, test, or
2 treatment, unless the examination, test, or treatment is required
3 under Section 38.004 or state or federal law regarding requirements
4 for special education; [~~or~~]

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

8 (3) unless authorized by other law:

9 (A) disclose a child's health or medical
10 information to any person other than the child's parent; or

11 (B) collect, use, store, or disclose to any
12 person other than the child's parent a child's biometric
13 identifiers; or

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

16 (a-1) For purposes of Subsection (a), "biometric
17 identifier" means a blood sample, hair sample, skin sample, DNA
18 sample, body scan, retina or iris scan, fingerprint, voiceprint, or
19 record of hand or face geometry.

20 (a-2) Written consent for a parent's child to participate in
21 a district activity described by Subsection (a) must be signed by
22 the parent and returned to the district. A child may not
23 participate in the activity unless the district receives the
24 parent's signed written consent to that activity.

25 (a-3) For the purpose of obtaining written consent for
26 actions described by Subsection (a)(4) that are determined by a
27 school district to be routine care provided by a person who is

1 authorized by the district to provide physical or mental
2 health-related services, the district may obtain consent at the
3 beginning of the school year or at the time of the child's
4 enrollment in the district. Unless otherwise provided by a child's
5 parent, written consent obtained in accordance with this subsection
6 is effective until the end of the school year in which the consent
7 was obtained.

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

13 (1) include a plain language explanation for the
14 district's collection, use, or storage of the child's information
15 and the district's legal authority to engage in that collection,
16 use, or storage; and

17 (2) be signed by the parent and returned to the
18 district.

19 (d) A school district shall take disciplinary action
20 against an employee responsible for allowing a child to participate
21 in an activity described by Subsection (a)(4) if the district did
22 not obtain a parent's consent for the child's participation in that
23 activity.

24 SECTION 10. Section 26.011, Education Code, is amended to
25 read as follows:

26 Sec. 26.011. LOCAL GRIEVANCE PROCEDURE [COMPLAINTS].

27 (a) The board of trustees of each school district shall adopt a

1 grievance procedure under which the board shall:

2 (1) address each grievance [~~complaint~~] that the board
3 receives concerning a violation of a right guaranteed by Section
4 1.009 or this chapter:

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

8 (B) regardless of whether the grievance was filed
9 during the period prescribed by Paragraph (A) if the grievance was
10 informally brought to the attention of school district personnel
11 during that period;

12 (2) allow a parent at any time before a final decision
13 by the board to provide additional evidence regarding the parent's
14 grievance; and

15 (3) allow a parent to file more than one grievance at
16 the same time.

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

26 (c) The board of trustees of a school district shall ensure
27 a grievance procedure adopted under Subsection (a):

1 (1) authorizes a parent to file a grievance with the
2 principal of the district campus the parent's child attends or the
3 person designated by the district to receive grievances for that
4 campus;

5 (2) requires that a principal or the person designated
6 by the district to receive grievances for a campus:

7 (A) acknowledge receipt of a grievance under
8 Subdivision (1) not later than two school business days after
9 receipt of the grievance; and

10 (B) not later than the 14th school business day
11 after receipt of a grievance described by Subdivision (1), provide
12 to the parent who submitted the grievance written documentation of
13 the decision regarding the issue that gave rise to the grievance,
14 including:

15 (i) an explanation of the findings that
16 contributed to the decision;

17 (ii) notification regarding the parent's
18 right to appeal the decision; and

19 (iii) the timeline for appealing the
20 decision;

21 (3) requires that, if a parent appeals a decision
22 under Subdivision (2) not later than the 14th school business day
23 after receiving notice of the decision, the superintendent or the
24 superintendent's designee provide to the parent not later than the
25 14th school business day after receipt of the appeal written
26 documentation of the decision regarding the issue that gave rise to
27 the grievance, including:

1 (A) an explanation of the findings that
2 contributed to the decision;

3 (B) notification regarding the parent's right to
4 appeal the decision; and

5 (C) the timeline for appealing the decision;

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

12 (5) requires that, not later than the 10th school
13 business day after the date of a board meeting described by
14 Subdivision (4), the board provide to the parent written
15 documentation of the board's decision regarding the issue that gave
16 rise to the grievance, including notice that the parent may appeal
17 to the commissioner in writing under Section 7.057, if applicable.

18 (d) The parties may mutually agree to adjust the timeline
19 for the procedure under this section.

20 (e) Notwithstanding Subsection (d), if a grievance
21 submitted under this section involves an employee who is on
22 documented leave that is scheduled to begin or has begun before the
23 grievance is submitted, the district may alter the timeline for the
24 procedure under this section to make a reasonable accommodation for
25 the employee's leave. The district must provide notice of the
26 change to the parent who submitted the grievance.

27 SECTION 11. Chapter 26, Education Code, is amended by

1 adding Sections 26.0111 and 26.0112 to read as follows:

2 Sec. 26.0111. GRIEVANCE HEARING BEFORE HEARING EXAMINER.

3 (a) This section applies only to a grievance regarding a violation
4 of:

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

7 (2) Chapter 551, Government Code, involving school
8 district personnel.

9 (b) If a parent has exhausted the parent's options under the
10 local grievance procedure established by the board of trustees of a
11 school district under Section 26.011 regarding a grievance to which
12 this section applies, and the grievance is not resolved to a
13 parent's satisfaction, the parent may file a written request with
14 the commissioner for a hearing before a hearing examiner under this
15 section not later than the 30th school business day after the date
16 on which the board of trustees of the district resolved the parent's
17 grievance under Section 26.011. The parent must provide the
18 district with a copy of the request and must provide the
19 commissioner with a copy of the district's resolution of the
20 grievance. The parties may agree in writing to extend by not more
21 than 10 school business days the deadline for requesting a hearing.

22 (c) The commissioner shall assign a hearing examiner to
23 review the grievance in the manner provided by Section 21.254. The
24 hearing examiner has the powers described by Sections 21.255 and
25 21.256 and shall conduct the hearing in the manner provided by those
26 sections as if the parent were a teacher.

27 (d) Not later than the 60th business day after the date on

1 which the commissioner receives a parent's written request for a
2 hearing, the hearing examiner shall complete the hearing and make a
3 written recommendation that includes proposed findings of fact and
4 conclusions of law. The recommendation of the hearing examiner is
5 final and may not be appealed.

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

9 (f) Section 21.258 applies to the State Board of Education
10 in the same manner as if the board were the board of trustees of the
11 school district or board subcommittee.

12 (g) Chapter 2001, Government Code, does not apply to the
13 State Board of Education's actions regarding the recommendation of
14 the hearing examiner.

15 (h) The costs of the hearing examiner, the court reporter,
16 the original hearing transcript, and any hearing room costs, if the
17 hearing room is not provided by the school district, shall be paid
18 by the school district if the hearing examiner finds in favor of the
19 parent.

20 (i) Notwithstanding Subsection (d), if a parent fails to
21 appear at a hearing under this section, the hearing examiner is not
22 required to complete the hearing and may not make a recommendation
23 in favor of the parent.

24 Sec. 26.0112. TESTIMONY BEFORE STATE BOARD OF EDUCATION.
25 If a hearing examiner reviews and finds against a school district
26 under Section 26.0111 in at least five grievances to which that
27 section applies involving the district during a school year, the

1 superintendent of the school district must appear before the State
2 Board of Education to testify regarding the hearing examiner's
3 findings and the frequency of grievances against the district.

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

6 (c-4) The State Board of Education may not adopt standards
7 in violation of Section 28.0043.

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

10 Sec. 28.0043. RESTRICTION ON INSTRUCTION REGARDING SEXUAL
11 ORIENTATION AND GENDER IDENTITY. (a) A school district,
12 open-enrollment charter school, or district or charter school
13 employee may not provide or allow a third party to provide
14 instruction, guidance, activities, or programming regarding sexual
15 orientation or gender identity to students enrolled in
16 prekindergarten through 12th grade.

17 (b) This section may not be construed to limit:

18 (1) a student's ability to engage in speech or
19 expressive conduct protected by the First Amendment to the United
20 States Constitution or by Section 8, Article I, Texas Constitution,
21 that does not result in material disruption to school activities;
22 or

23 (2) the ability of a person who is authorized by the
24 district to provide physical or mental health-related services to
25 provide the services to a student, subject to any required parental
26 consent.

27 SECTION 14. Section 28.02124, Education Code, is amended by

1 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
2 read as follows:

3 (a) Subject to Subsection (c), a parent or guardian may
4 elect for a student to:

5 (1) repeat prekindergarten;

6 (2) enroll in prekindergarten, if the student would
7 have been eligible to enroll in prekindergarten during the previous
8 school year under Section 29.153(b) and the student has not yet
9 enrolled in kindergarten;

10 (3) repeat kindergarten;

11 (4) enroll in kindergarten, if the student would have
12 been eligible to enroll in kindergarten in the previous school year
13 and has not yet enrolled in first grade; or

14 (5) for grades one through eight [~~three~~], repeat the
15 grade in which the student was enrolled during the previous school
16 year.

17 (a-1) Subject to Subsection (c), for courses taken for high
18 school credit, a parent or guardian may elect for a student to
19 repeat any course in which the student was enrolled during the
20 previous school year. A parent or guardian may not elect for a
21 student to repeat a course under this subsection if the school
22 district or open-enrollment charter school determines the student
23 has met all of the requirements for graduation.

24 (a-2) A parent or guardian may make an election under
25 Subsection (a)(5) or (a-1), or both.

26 SECTION 15. The heading to Section 28.022, Education Code,
27 is amended to read as follows:

1 Sec. 28.022. NOTICE TO PARENT OF UNSATISFACTORY
2 PERFORMANCE; CONFERENCES.

3 SECTION 16. Section 28.022(a), Education Code, is amended
4 to read as follows:

5 (a) The board of trustees of each school district shall
6 adopt a policy that:

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

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

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

21 SECTION 17. Subchapter B, Chapter 31, Education Code, is
22 amended by adding Section 31.0236 to read as follows:

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

1 the material:

2 (1) complies with the instructional materials adopted
3 by the school district; and

4 (2) is appropriately rigorous for the grade level in
5 which it is being used.

6 (b) A review conducted under this section may only be
7 conducted using a rubric developed by the agency and approved by the
8 State Board of Education.

9 (c) The agency, in developing a review process under
10 Subsection (a):

11 (1) shall minimize, to the extent possible, the time a
12 classroom teacher is required to spend complying with a review
13 conducted under this section;

14 (2) may not require a teacher to spend more than 30
15 minutes on a single review conducted under this section unless the
16 teacher determines that spending more than 30 minutes on the review
17 is necessary; and

18 (3) shall permit a regional education service center
19 to conduct the review for a school district, if the center has
20 completed the training offered by the agency under Subsection (d).

21 (d) The agency shall provide to regional education service
22 centers training relating to appropriately conducting a review
23 under this section.

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

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

2 (1) a provision of this title establishing a criminal

3 offense;

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

5 and

6 (3) a prohibition, restriction, or requirement, as

7 applicable, imposed by this title or a rule adopted under this

8 title, relating to:

9 (A) the Public Education Information Management

10 System (PEIMS) to the extent necessary to monitor compliance with

11 this subchapter as determined by the commissioner;

12 (B) criminal history records under Subchapter C,

13 Chapter 22;

14 (C) reading instruments and accelerated reading

15 instruction programs under Section 28.006;

16 (D) accelerated instruction under Section

17 28.0211;

18 (E) high school graduation requirements under

19 Section 28.025;

20 (F) special education programs under Subchapter

21 A, Chapter 29;

22 (G) bilingual education under Subchapter B,

23 Chapter 29;

24 (H) prekindergarten programs under Subchapter E

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

26 classes imposed under Section 25.112, which do not apply;

27 (I) extracurricular activities under Section

1 33.081;

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

4 (K) health and safety under Chapter 38;

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

6 (M) public school accountability and special
7 investigations under Subchapters A, B, C, D, F, G, and J, Chapter
8 39, and Chapter 39A;

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

11 (O) intensive programs of instruction under
12 Section 28.0213;

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

15 (Q) bullying prevention policies and procedures
16 under Section 37.0832;

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

20 (S) the right under Section 37.0151 to report to
21 local law enforcement certain conduct constituting assault or
22 harassment;

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

26 (U) establishment of residency under Section
27 25.001;

1 (V) school safety requirements under Sections
2 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,
3 37.207, and 37.2071;

4 (W) the early childhood literacy and mathematics
5 proficiency plans under Section 11.185;

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

8 (Y) [~~X~~] parental options to retain a student
9 under Section 28.02124;

10 (Z) parental access to instructional materials
11 and curricula under Section 26.0061;

12 (AA) the adoption of a community engagement
13 policy as provided by Section 26.0071; and

14 (BB) parental rights to information regarding a
15 student's mental, emotional, and physical health-related needs and
16 related services offered by the school as provided by Section
17 26.0083.

18 SECTION 19. Section 28.004(i-3), Education Code, is
19 repealed.

20 SECTION 20. 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 21. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

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

ADOPTED

MAY 22 2023

Lately Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: B. W. Kelleher

1 Amend C.S.H.B. No. 890 (senate committee report) in SECTION
2 9 of the bill, amending Section 26.009, Education Code, as follows:

3 (1) In the recital to the SECTION (page 6, line 33), strike
4 "(c), and (d)" and substitute "(a-4), (c), (d), and (e)".

5 (2) In amended Subsection (a)(1) (page 6, lines 37 and 38),
6 strike "examination, test, or treatment" and substitute "or
7 psychiatric examination or [7] test [7] or psychological or
8 psychiatric treatment".

9 (3) Strike added Subsection (a-1) (page 6, lines 52 through
10 55) and substitute the following:

11 (a-1) For purposes of Subsection (a):

12 (1) "Biometric identifier" means a blood sample, hair
13 sample, skin sample, DNA sample, body scan, retina or iris scan,
14 fingerprint, voiceprint, or record of hand or face geometry.

15 (2) "Psychological or psychiatric examination or test"
16 means a method designed to elicit information regarding an
17 attitude, habit, trait, opinion, belief, feeling, or mental
18 disorder or a condition thought to lead to a mental disorder,
19 regardless of the manner in which the method is presented or
20 characterized, including a method that is presented or
21 characterized as a survey, check-in, or screening or is embedded
22 in an academic lesson.

23 (3) "Psychological or psychiatric treatment" means the
24 planned, systematic use of a method or technique that is designed
25 to affect behavioral, emotional, or attitudinal characteristics of

1 an individual or group.

2 (4) In added Subsection (a-2) (page 6, line 57), between "be"
3 and "signed", insert "obtained for each separate activity in which
4 the child participates, and each written consent must be".

5 (5) Immediately following added Subsection (a-3) (page 7,
6 between lines 1 and 2), insert the following:

7 (a-4) Subsection (a) does not require an employee of a school
8 district to obtain the written consent of a child's parent before
9 verbally asking the child about the child's general well-being,
10 and for purposes of Subsections (a) and (a-1)(2), the term "check-
11 in" does not include such an inquiry.

12 (6) Immediately following added Subsection (d) (page 7,
13 between lines 17 and 18), insert the following:

14 (e) Nothing in this section may be construed to affect:

15 (1) a child's consent to counseling under Section
16 32.004, Family Code; or

17 (2) the duty to report child abuse or neglect under
18 Chapter 261, Family Code, or an investigation of a report of abuse
19 or neglect under that chapter.

ADOPTED

MAY 22 2023

Lately Law
Secretary of the Senate

FLOOR AMENDMENT NO. _____

BY: _____

Paul Bessner

1 Amend C.S.H.B. No. 890 (senate committee report) in SECTION
2 18 of the bill, amending Section 12.104(b), Education Code, as
3 follows:

4 (1) In added Subdivision (3)(AA) (page 11, line 55), strike
5 "and".

6 (2) In added Subdivision (3)(BB) (page 11, line 59), between
7 "26.0083" and the period, insert the following:

8 ; and

9 (CC) establishing a local school health advisory
10 council in which members are appointed by the governing body of the
11 school and health education instruction complies with Section
12 28.004

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 24, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB890 by Bell, Keith (Relating to parental rights and public school responsibilities regarding instructional materials.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 701 Texas Education Agency

LBB Staff: JMc, CMA, KSk, SL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 19, 2023

TO: Honorable Brandon Creighton, Chair, Senate Committee on Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB890 by Bell, Keith (relating to parental rights and public school responsibilities regarding instructional materials.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 701 Texas Education Agency

LBB Staff: JMc, KSk, SL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 17, 2023

TO: Honorable Brandon Creighton, Chair, Senate Committee on Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB890** by Bell, Keith (Relating to a process adopted by a school district regarding complaints and hearings on complaints.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: JMc, KSk, ASA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 27, 2023

TO: Honorable Brad Buckley, Chair, House Committee on Public Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB890** by Bell, Keith (relating to a process adopted by a school district regarding complaints and hearings on complaints.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: JMc, KSk, ASA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 13, 2023

TO: Honorable Brad Buckley, Chair, House Committee on Public Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB890 by Bell, Keith (Relating to school district hearings regarding complaints.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: JMc, KSk, ASA