

BILL ANALYSIS

C.S.H.B. 1813
By: Bucy
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Due process hearings are formal legal processes used to resolve disagreements between parents and schools regarding the provision of special education services to a student. The bill author has informed the committee that non-attorney representatives in these hearings are not currently required to have training in special education law specifically, despite special education law being a unique subset of law requiring an efficient and effective process to ensure disputes are solved in an efficient manner for the benefit of the student. C.S.H.B. 1813 seeks to address this issue by establishing special education law training requirements for non-attorney representatives in a due process hearing.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1813 amends the Education Code to require the Texas Education Agency (TEA) to collaborate with regional education service centers to develop and offer a training course on special education law for persons serving as non-attorney representatives for students. The course may include a final exam, as approved by TEA, but must include information on the following:

- state and federal laws, rules, and regulations related to special education;
- state and federal rules and procedures that apply to due process hearings, including specified federal rules relating to due process procedures and appeal;
- the federal Family Educational Rights and Privacy Act of 1974; and
- accepted standards for ethics.

C.S.H.B. 1813 requires TEA to do the following:

- in developing the special education law training course:
 - consult with relevant stakeholders, including representatives of public school districts and parents of students who have participated in a special education due process hearing; and
 - make a good faith effort to accurately represent the interests of districts and parents of students who are the subject of a special education due process hearing;

- as soon as practicable after the conclusion of each legislative session, collaborate with regional education service centers to develop and offer a biennial update training course to persons who have completed the special education law training course; and
- offer to individuals who have demonstrated a financial need options to take both training courses for free or at a discounted price.

The bill authorizes TEA to charge a fee for a person to participate in such training courses.

C.S.H.B. 1813 requires a person to have taken the following actions before they may accept payment from a student's parent to serve as the student's non-attorney representative in an impartial due process hearing brought under appropriate federal law:

- completed the special education law training course or another training course developed or adopted by TEA;
- if applicable, completed the most recent biennial update training course or another update training course developed or adopted by TEA not later than one year after the update training is offered;
- not engaged in a false, misleading, or deceptive act or practice actionable under the Deceptive Trade Practices-Consumer Protection Act; and
- presented proof of the person's eligibility to serve as a non-attorney representative under the bill's provisions to the student's parent.

The bill authorizes TEA to adopt an existing statewide or nationwide special education law training course that such a person may complete as an alternative to the training course developed under the bill's provisions.

C.S.H.B. 1813 requires TEA to post on its website a list of training courses developed or adopted for purposes of training individuals to serve as a student's non-attorney representative in a special education due process hearing and requires each district to post that list of training courses on their website. The bill authorizes TEA to use any federal funds received under applicable portions of the federal Individuals with Disabilities Education Act (IDEA) to administer the bill's provisions relating to special education law training courses.

C.S.H.B. 1813 requires the rules adopted by the commissioner of education regarding additional qualifications and requirements for a non-attorney representative in an impartial due process hearing to do the following:

- prohibit an individual from being such a representative opposing a district if the individual has been determined to have engaged in a false, misleading, or deceptive act or practice actionable under the Deceptive Trade Practices-Consumer Protection Act; and
- require, if the representative is not a parent of or person with a familial relationship with the student being represented in an impartial due process hearing, that the representative complete a special education law training course in accordance with the bill's provisions before the hearing.

The bill revises the requirement for those rules to require a representative who receives monetary compensation to agree to abide by a voluntary code of ethics and professional conduct during the period of representation by removing the specification that the code is voluntary.

C.S.H.B. 1813 expands the required contents of the document produced and provided by TEA to districts that explains the process by which an individualized education program is developed for a student in a special education program and the rights and responsibilities of a parent concerning the process to include information regarding the following:

- the right to representation by an attorney or other representative in a special education due process hearing; and
- how to file a consumer complaint related to the service provided by an individual who is eligible to serve as a non-attorney representative in a special education due process hearing and accepts payment for services from a parent.

The bill requires TEA to include this information in the notice of procedural safeguards provided to a parent or legal guardian under applicable federal law.

C.S.H.B. 1813 requires the following as soon as practicable after the bill's effective date:

- the commissioner, in collaboration with regional education service centers, as appropriate, to adopt rules necessary to implement the bill's provisions; and
- TEA, in collaboration with those service centers, to develop the special education law training course.

The bill requires the commissioner to adopt rules to implement the training requirements for non-attorney representatives under the bill's provisions not later than one year after TEA has developed the training course.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1813 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute require TEA to collaborate with regional education service centers to develop and offer a training course on special education law for persons serving as non-attorney representatives for students. However, the introduced also made this training course applicable to persons serving as hearing officers for impartial due process hearings, whereas the substitute does not.

The substitute includes provisions that were not in the introduced that do the following:

- require TEA, in developing the special education law training course, to:
 - consult with relevant stakeholders, including representatives of public school districts and parents of students who have participated in a special education due process hearing; and
 - make a good faith effort to accurately represent the interests of districts and parents of students who are the subject of a special education due process hearing;
- authorize TEA to charge a fee for a person to participate in the training courses under the bill's provisions; and
- authorize TEA to adopt an existing statewide or nationwide special education law training course that a non-attorney representative may complete as an alternative to the training course developed under the bill's provisions.

The substitute does not include the introduced version's provisions that did the following:

- authorized a public school district employee to request a non-attorney representative to attest to the employee's eligibility to serve as a non-attorney representative;
- required TEA to post on its website a list of individuals who are eligible to serve as a student's non-attorney representative in a special education due process hearing and request to be included on the list; and
- required information regarding how to access the website listing such individuals to be included in a certain TEA document regarding the individualized education program process and in the notice of procedural safeguards provided to a parent or legal guardian under applicable federal law.