

- SUBJECT:** Revising provisions for discipline of public school students
- COMMITTEE:** Public Education — favorable, without amendment
- VOTE:** 8 ayes — Grusendorf, Oliveira, Branch, Dawson, Dutton, Jr., Eissler, Griggs, Hochberg
- 0 nays
- 1 absent — Madden
- SENATE VOTE:** On final passage, April 30 — voice vote
- WITNESSES:** For — Harley Eckhart, Texas Elementary Principals and Supervisors Association; David Hodgins, Texas Association of School Administrators, Texas Association of School Boards
- Against — None
- BACKGROUND:** Education Code, ch. 37, the Safe Schools Act, sets forth conditions for discipline in public schools, from the use of time-out and restraint to suspensions and expulsions. SB 1196 by Truan, enacted by the 77th Legislature in 2001, banned the use of seclusion and regulated the use of time-out and restraint.

Each school district adopts a student code of conduct, but the state's "zero-tolerance policy" makes certain offenses subject to mandatory expulsion under state law. Two settings exist for students who are suspended or expelled. For violations of a district's student code of conduct, students may be suspended for three days or removed for a longer period of time to an alternative education program (AEP), a program within the school district that can be either on or off campus. Education funding for discretionary expulsions comes from local school districts.

For a major offense such as arson, murder, selling drugs, or aggravated assault, a student must be expelled. In a county with a population of more than 125,000, students expelled mandatorily are sent to a juvenile justice

alternative education program (JJAEP), a cooperative venture between counties and school districts. Smaller counties may elect to have a JJAEP but are not required. Education funding for mandatory expulsions comes from the state.

DIGEST:

SB 1548 would amend provisions for when and how time-out and restraint of students could be used, as well as specifying certain behaviors that would trigger suspension, expulsion, and mandatory use of AEPs.

State policy. The bill would declare as state policy that all students be treated with dignity and respect, including students with disabilities who qualified for special education services under the federal Individuals with Disabilities Education Act (IDEA).

Seclusion, time-out, and restraint. A student could not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. The bill would redefine “time-out” to mean that a student could not be physically blocked into a room behind a closed door that was held shut from the outside in any way. Restraint would be redefined to mean the use of physical force or a mechanical device that significantly restricts the free movement of all or a part of a student’s body.

Exceptions to restraint and seclusion. Students who were court-ordered to an educational setting outside the school district would not be subject to ch. 37 rules on restraint and seclusion, but instead would be governed by the rules of the court-ordered placement. A peace officer performing law enforcement duties, a juvenile probation, detention, or corrections officer, or an educational services provider at a judicial educational placement outside the school district also would be exempt from ch. 37 rules on restraint and seclusion.

Placement of special education student. If a teacher refused the return of a special education student to the teacher’s class, the child’s placement review committee would have to take into account all federal and state laws and agency requirements relating to special education when making its determination for placement.

Grounds for suspension. A principal or other administrator could suspend a student for any conduct identified as worthy of suspension by the school district in its student code of conduct.

Retaliatory conduct. If a student engaged in retaliatory conduct against any school employee, on or off school property, that student would have to be removed from class and placed in an AEP.

Firearms at school. A student younger than six years of age could be removed from class and placed in an AEP for bringing a firearm to school.

Mandatory and discretionary expulsions. Three offenses would be added to the list of those that require mandatory expulsion: aggravated robbery, manslaughter, and criminally negligent homicide. JJAEPs would have to provide timely educational services to any student who had been expelled to the program, regardless of the student's age or whether juvenile court had jurisdiction over the student. A student who engaged in deadly conduct would be subject to a discretionary expulsion. Jurisdiction for a discretionary expulsion would be expanded to an offense committed within 300 feet of school property.

Notice to teachers and law enforcement. A school district would have to inform each teacher who had regular contact with a student through a classroom assignment if that student had engaged in expellable conduct. The school principal would have to notify local law enforcement if he or she had reasonable grounds to believe that a student had engaged in conduct that constituted a criminal offense.

Notice to parents. A school district could not deny unreasonably the written request of a noncustodial parent to be notified of his or her child's expellable misconduct, but the school would have to comply with a court order denying the parent access to such information.

The bill would repeal a requirement that teachers file written reports documenting every student violation of the student code of conduct and that school administrators send copies of those reports to a student's parent or guardian within 24 hours of receiving them.

Appeals. If a school district policy allowed a student to appeal a principal's or other administrator's decision to the board of trustees or the board's designee, the decision of the board would be final and unappealable.

Posting the code of conduct. The student code of conduct would have to be prominently posted at each school campus in the principal's office.

Miscellaneous. A specific reference to abusable glue and aerosol paint would be replaced with a more general reference to "abusable volatile chemicals."

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

NOTES:

The House companion, HB 2707 by Dawson, was set on the General State Calendar for May 12.