

SUBJECT: Procedures for placement of special education students in JJAEPs

COMMITTEE: Public Education — committee substitute recommended

VOTE: 5 ayes — Eissler, Hochberg, Mowery, Olivo, Patrick
0 nays
4 absent — Zedler, Branch, Delisi, Dutton

WITNESSES: For — (*Registered, but did not testify:* Deborah Fowler, Texas Appleseed; William P. Holmes, Bexar County Juvenile Probation Department, Bexar County Juvenile Justice Academy; Elena Lincoln, Association of Texas Professional Educators (ATPE); Dustin Rynders, Advocacy, Incorporated; Mike Griffiths; Randy Turner; Marihelen Wieberg)

Against — Bill Carpenter, Texas Council of Administrators of Special Education

BACKGROUND: The 26 Texas counties with populations greater than 125,000 are required to work with school districts to establish Juvenile Justice Alternative Education Programs (JJAEPs) for certain students expelled from school for serious on-campus or school-related offenses listed in Education Code, sec. 37.007. These students often are referred to as “mandatory” students. Schools have discretion about expelling and referring additional “discretionary” students. Other students may attend JJAEPs as ordered by a juvenile court, by choice, or under other circumstances.

Under Education Code, sec. 37.008, each school district must provide a disciplinary alternative education program (DAEP). These are out-of-classroom placements of students who have committed serious off-campus offenses that are not school-related, those who commit violations of the student code of conduct, and those who commit certain other misdemeanor offenses on campus. Some DAEPs are on regular campuses, and some are off campus. Placements in DAEPs are required by Education Code, sec. 37.006 for some students or may be at the discretion of the school district according to the local student code of conduct.

DIGEST: CSHB 1324 would establish procedures to review the placement of certain students with disabilities into JJAEPs. The bill would apply to discretionary expulsions to JJAEPs.

School districts considering whether to expel a student with a disability who received special education services to a JJAEP would have to give the JJAEP administrator reasonable notice of the meeting of the student's admission, review, and dismissal committee to discuss the proposed expulsion. A representative of the JJAEP could participate in the meeting to the extent that it related to the student's JJAEP placement.

If a JJAEP program administrator had concerns that one of these students' educational or behavioral needs could not be met in the JJAEP, the administrator would have to notify the student's school district. The student's admission, review, and dismissal committee would have to meet to reconsider the placement of the student in the JJAEP. School districts would have to give the JJAEP administrator notice of the meeting, and a representative of the JJAEP could participate in the meeting to the extent it related to the student's JJAEP placement.

School districts would have to certify to TEA that each student determined to be eligible for special education services and who was placed in a disciplinary alternative education program had an individualized education program. The current requirements for disciplinary alternative education programs would be revised so that they had to include the implementation of a special education student's individualized education program.

CSHB 1324 would apply beginning with the 2007-2008 school year. 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, 2007.

**SUPPORTERS
SAY:**

CSHB 1324 is necessary to reinstate into the Education Code procedures that previously were used when placing certain special education students into JJAEPs. A significant number of students with disabilities are sent to JJAEPs on discretionary placements, and the unique needs of these students make it important that their placements in JJAEPs be especially well thought out.

CSHB 1324 would help ensure careful consideration of these placements by reinstating the procedures that worked well until their expiration in

2005. Under the procedures in the bill, JJAEP administrators would be kept informed about potential placements and have a way to raise concerns if a student's needs were not being met by a JJAEP. This would promote full consideration of the placement of these students in JJAEPs, benefiting the students, the schools, and JJAEPs.

The original provisions establishing these procedures had an expiration date because it was unclear if they would work. They worked well, and their reinstatement would not burden school districts. They simply would have to restart the procedures they used before. Having the JJAEP administrator's concerns automatically trigger a meeting with school officials would be necessary to get all parties to consider the concerns. CSHB 1324 would not require that the meeting be held within a time limit in order to allow school officials the necessary flexibility to have the meeting when all parties could attend. It would be appropriate to limit the administrator's participation in the meeting to topics dealing with the student's JJAEP placement because this is what concerns the administrator and other information might be private.

The bill also would make sure that DAEPs considered students with disabilities individualized education programs. This requirement would help make sure that the program received attention and that its implementation did not get put aside when the student was sent to a discretionary alternative education program.

OPPONENTS
SAY:

The raising of concerns by a JJAEP administrator about the placement of a special education student should not automatically trigger a meeting of school officials to reconsider the placement. It is possible that the concerns could be addressed informally instead of going through the burden of calling school officials, family, and others to a formal meeting, and CSHB 1324 should provide that flexibility.

If JJAEP administrators raised concerns about a placement, their presence at a meeting of school officials should be mandatory and not limited. CSHB 1324 would not require their presence and would limit their participation in the meeting, which could result in their concerns not being considered adequately.

NOTES:

The committee substitute removed a requirement that school districts provide certain special education students with the special education

services required by their individualized education program during a placement in a DAEP.