

**SUBJECT:** Allowing school employees to communicate with school board members

**COMMITTEE:** Public Education — committee substitute recommended

**VOTE:** 7 ayes — Eissler, Zedler, Delisi, Dutton, Hochberg, Mowery, Patrick  
0 nays  
2 absent — Branch, Olivo

**WITNESSES:** For — Lindsay Gustafson, Texas Classroom Teachers Association;  
(*Registered, but did not testify:* Jennifer M. Canaday, Association of Texas Professional Educators)  
  
Against — None  
  
On — Ted Melina Raab, Texas Federation of Teachers

**BACKGROUND:** Education Code, sec. 11.163 governs the adoption of employment policies in school districts, including the roles of school boards and superintendents in establishing those policies.

**DIGEST:** CSHB 362 would amend Education Code, sec. 11.163 to prohibit school districts from creating employment policies that restricted an employee's ability to communicate directly with school board members regarding matters related to the district. The prohibition would not apply to policies restricting inappropriate *ex parte* communications related to certain hearings, including those governed by Education Code, ch. 21, subch. E (nonrenewal of term contracts) and F (teacher contract termination or suspension without pay).  
  
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 362 is needed to ensure effective communication with school board members and to protect the rights of school employees. Currently, school employees are being confronted with employment policies that either

discourage or prohibit direct communication with school board members. School board members, like other elected officials, are accountable to those who elected them, and restrictive communication policies are inconsistent with the constitutional right of school employees to address their elected representatives.

As policymakers, school board members create policies that directly affect school employees, and those board members should receive unfiltered information about what is occurring on the campuses they represent. CSHB 362 would allow school employees to remain a valuable resource to school board members. Communication from employees can provide a good system of checks and balances within a district when school boards respond properly. Employees often may provide viewpoints to a school board that the “chain of command” cannot.

OPPONENTS  
SAY:

CSHB 362 could impede a principal or superintendent's capacity to resolve problems at the campus level. School board members serve to develop policy and not to address individual employee grievances.

Employment policies discouraging direct communication with school board members are not intended to deny constitutional rights but to honor protocol and allow administrators the opportunity to investigate specific concerns. School board members interfering with this process could create unnecessary management challenges for school administrators.

OTHER  
OPPONENTS  
SAY:

Since no state law denies school employees the right to communicate directly with school board members, CSHB 362 would do no more than codify what already is permissible under the law.

NOTES:

The committee substitute removed a provision in the original version of HB 362 that would have permitted policies to restrict school employees from communicating with school board members during working hours of the district or the operating hours of the campus.

The companion bill, SB 135 by Wentworth, identical to CSHB 382, passed the Senate by 30-0 on March 8 and was reported favorably, without amendment, by the House Public Education Committee on March 27, making it eligible to be considered in lieu of HB 362.