

SUBJECT: Handling of certain complaints regarding school extracurricular activities

COMMITTEE: Public Education — favorable, without amendment

VOTE: 10 ayes — Huberty, Allen, Bohac, Deshotel, Dutton, Gooden, K. King,  
Koop, Meyer, VanDeaver

0 nays

1 absent — Bernal

WITNESSES: For — Juan Cruz, United ISD; (*Registered, but did not testify*: Amy Beneski, Texas Association of School Administrators; Dax Gonzalez, Texas Association of School Boards; Tracy Ginsburg, Texas Association of School Business Officials; Colby Nichols, Texas Rural Education Association; Curtis Culwell, Texas School Alliance)

Against — Steve Swanson; (*Registered, but did not testify*: Steven Aleman, Disability Rights Texas)

On — (*Registered, but did not testify*: Von Byer and Eric Marin, Texas Education Agency)

BACKGROUND: Education Code, ch. 26 establishes certain parental rights related to their students' education. Section 26.011 requires a district board of trustees to adopt a grievance procedure to address complaints concerning those rights.

Education Code, sec. 11.1511(b)(13) requires a district board of trustees by rule to adopt a process for district personnel, students or their parents or guardians, and members of the public to obtain a hearing from district administrators and the board regarding a complaint. Sec. 7.057 establishes a process for a person aggrieved by the school laws of Texas or actions or decisions by any school district board of trustees that violate those laws to appeal in writing to the Commissioner of Education.

**DIGEST:** HB 1669 would allow a school district board of trustees to decline to use the district's established grievance procedure to address a complaint concerning a student's participation in an extracurricular activity that did not violate a right guaranteed by Education Code, ch. 26.

District administrators and the board of trustees also would not be required to provide a hearing regarding a frivolous complaint, which would be defined as a complaint brought by a parent or student that is without merit and brought with the intent to harass, annoy, threaten, or vex the district, a member of the board of trustees, a district employee, or a parent of a student enrolled in the district.

The bill would allow the Commissioner of Education to determine that an appeal brought by a parent or student against a district was frivolous and to order the parent or student to pay the district's reasonable attorney's fees. If an appeal involved a complaint concerning a student's participation in an extracurricular activity that did not violate a right guaranteed by Education Code, ch. 26, the commissioner would be required to order the parent or student to pay the district's reasonable attorney's fees.

The bill would take effect September 1, 2017 and would apply only to an appeal or complaint brought on or after that date.

**SUPPORTERS SAY:** HB 1669 would help reduce the time and costs that some school districts expend on complaints involving extracurricular activities. These complaints may be brought by parents unhappy about their child's status on an athletic or dance team and are not an appropriate use of a school board's time. The bill would clarify that a school board is not required to address a complaint concerning a student's participation in an extracurricular activity that does not involve a fundamental right guaranteed by the Education Code.

Some schools boards are fielding a growing number of trivial complaints from parents regarding their child's participation in extracurricular activities. Districts may need to consult with attorneys about responding

to these complaints, which results in the spending of tax dollars on legal fees instead of student instruction. The bill would not prevent a district from investigating a complaint involving a serious issue such as discrimination or harassment of a student participating in an extracurricular activity.

Concerns about the bill's requirements for deeming certain complaints frivolous and the awarding of attorney fees for a frivolous complaint could be addressed by removing those provisions in the bill.

OPPONENTS  
SAY:

HB 1669 could set a dangerous precedent for school boards and the Commissioner of Education to decide what constitutes a frivolous complaint and for the commissioner to order attorney fees for a complaint determined to be frivolous. Under the bill's definition of a frivolous complaint, school officials would be allowed to decide that a complaint was brought with intent to harass the district when it could have been brought with no ill intent due to the complainant's misunderstanding of the grievance process.

NOTES:

According to the Legislative Budget Board's fiscal note, HB 1669 could have a positive fiscal impact for some school districts if the commissioner ordered attorney's fees to be paid by a parent or student.

The author intends to offer a floor amendment to remove language that would define a frivolous complaint and would state that district administrators and the board of trustees were not required to provide a hearing regarding a frivolous complaint. The amendment also would remove the authority for the Commissioner of Education to determine that appeals were frivolous and order attorney's fees and the requirement for the commissioner to order attorney's fees in certain complaints involving extracurricular activities.