

SUBJECT: Annual review of behavior plans for students in special education

COMMITTEE: Public Education — committee substitute recommended

VOTE: 13 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, Dutton, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

WITNESSES: For — Jolene Sanders, Easter Seals Central Texas; Judy Blake; Anna Smith; (*Registered, but did not testify:* Jacquie Benestante, Autism Society of Texas; Chris Masey, Coalition of Texans with Disabilities; Steven Aleman, Disability Rights Texas; Greg Hansch and Alissa Sughrue, National Alliance on Mental Illness Texas; Will Francis, National Association of Social Workers-Texas Chapter; Christine Broughal, and Mara Moskowitz, Texans for Special Education Reform; Amanda List, Texas Appleseed; Linda Litzinger, Texas Parent to Parent; Kyle Ward, Texas PTA; Kyle Piccola, The Arc of Texas; Kristie Cripps; Lisa Flores; Idona Griffith; Julie Ross)

Against — None

On — Paige Williams, Texas Classroom Teachers Association; (*Registered, but did not testify:* Eric Marin, Terri Hanson, and Tammy Percy, Texas Education Agency)

BACKGROUND: Education Code sec. 29.005 requires school districts to develop an individualized education program (IEP) for a student enrolled in a special education program. Sec. 29.005(g) allows a committee that develops the student's IEP to determine that a behavior improvement plan or a behavioral intervention plan is appropriate for a student and should be included as part of the student's IEP and provided to each teacher with responsibility for educating the student.

Some have suggested that student behavior plans should be regularly reviewed to ensure that students in special education programs are not at

risk for unnecessary disciplinary actions.

DIGEST:

CSHB 873 would require the individualized education program (IEP) committee for a student whose IEP included a behavior improvement plan or a behavioral intervention plan to review the plan at least annually. The bill would require school districts to notify parents of certain disciplinary actions. The bill also would require districts to conduct a functional behavioral assessment for a student with a disability who received special education services that constituted a change in placement under federal law.

Behavior plan. CSHB 873 would require that a behavior improvement or behavioral intervention plan included as part of a student's IEP be reviewed by the committee that developed the plan at least annually and more frequently if appropriate to address:

- any changes in the student's circumstances, including placement in a different educational setting, an increase or persistence in disciplinary actions, and a variation in attendance or behavior; or
- the safety of the student or others.

Under provisions in Education Code sec. 37.001 regarding a district's requirements under its student code of conduct to notify parents of a student who was suspended, removed to a disciplinary alternative education program, or expelled, the bill would require that the notification specify whether the student had a behavior improvement or intervention plan. If the student did not have a plan, the notification would have to specify whether the district recommended conducting or was required to conduct a functional behavioral assessment of the student.

Restraint and time-out. Under provisions in Education Code sec. 37.0021(d), involving procedures for the use of restraint and time-out for a student with a disability receiving special education services, the bill would require a school district to provide written notification to the parent of a student for each use of restraint. The notification would have to include certain information, including the name of the district employee or

volunteer or independent contractor who administered the restraint, the date and time of the restraint, the location and nature of the restraint, the behavior that prompted the restraint and any efforts to de-escalate the situation, and information related to whether the student had a behavior plan.

If a student had a behavior plan, the district would have to document each use of time-out prompted by a behavior specified in the student's plan, including a description of the behavior that prompted the time-out.

Behavioral assessment. The bill would add requirements for any disciplinary action regarding a student with a disability who received special education services that would constitute a change in placement under federal law. The district would have to, not later than the 10th school day after the change in placement, conduct a functional behavioral assessment of the student and review any previously conducted functional behavioral assessment of the student and any behavior improvement or intervention plan developed for the student based on that assessment. As necessary, a district would have to develop a behavior improvement or intervention plan if the student did not have one or revise the student's existing plan.

The bill would apply beginning with the 2019-2020 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, 2019.