

SUBJECT: Establishing and amending provisions on discipline in public schools

COMMITTEE: Public Education — committee substitute recommended

VOTE: 13 ayes – Buckley, Bernal, Ashby, Bryant, Cunningham, Frank, Hinojosa, Hunter, Kerwin, Leach, Leo Wilson, Schoolcraft, Talarico

1 nay – Allen

1 absent — Dutton

WITNESSES: For - Monty Exter, Stephanie Stoebe, ATPE; Gerald Hudson, Cedar Hill ISD; Tonya Knowlton, Community ISD; Tiffany Boortz, Stephanie Howell, Candra Rogers, Corsicana ISD; Douglas Killian, CyFair ISD; Kirby Basham, Grandview ISD; Sherri Ashorn, Leslie Haack, Rahsan Smith, Katy ISD; Brent Ringo, Kerrville ISD; Jo Ann Fey, Killeen ISD; Michael Hope, Robinson ISD; Taylor Williams, Slidell ISD, TARS; Corina Bullock, Gina Zenor, Tijuana Hudson, Lindy Perkins, Texas Educational Policy Institute; Christopher Moran, Texas Association of School Administrators; Matthew McCormick, Texas Public Policy Foundation; David Hodgins, Texas School Alliance; Jessica Branch, Suzi Kennon, David Vinson, Wylie ISD; Tabitha Branum; Matthew Gibbins; Joey Light; Andrew Tatgenhorst (*Registered, but did not testify*: Joel Romo, American Heart Association; Tricia Cave, ATPE; Jay Whitehead, Brazosport Independent School District; Eugene Rogers, Corsicana High School; Maurine Molak, David's Legacy Foundation; Roland Toscano, East Central ISD, Texas Association of School Administrators; Randal O'Brien, Goose Creek CISD; Jenifer Neatherlin, Hutto ISD; Steven Snell, Liberty Hill ISD; Mark Ruffin, Montgomery ISD; John Craft, Northside ISD; Bryan Hallmark, Sealy ISD; Colby Nichols, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Rolinda Schmidt, Texas Association of School Boards; Paige Williams, Texas Classroom Teachers Association; Stephanie Holdren, Texas PTA; HD Chambers, Texas School Alliance; and 7 individuals)

Against - Maia Volk, Disability Rights Texas; Samantha Greenleaf, Educators In Solidarity; Paige Duggins-Clay, IDRA; Debra Liva, In Child's Best Interest; Adrian Fonseca, Renuka Rege, Texas Appleseed; Sarah Reyes, Texas Center for Justice & Equity; Alycia Castillo, Mandi Zapata, Texas Civil Rights Project; Lauren Rose, Texas Network of Youth Services; Sabrina Gonzalez Saucedo, The Arc of Texas; and 6 individuals (*Registered, but did not testify*: Ananda Tomas, ACT 4 SA Action Fund; Robbi Cooper, Decoding Dyslexia Texas; Elisa M. Tamayo, El Paso County; Luis Figueroa, Every Texan; Angel Carroll, Measure; Allen Liu, Demetria L. McCain, NAACP Legal Defense Fund; Nicole Malone, National Association of Social Workers - Texas Chapter; Kristian Caballero, Crystal Tran, Texas Appleseed; Amanda Afifi, Texas Association of School Psychologists; Carrie Griffith, Texas State Teachers Association; Michelle Venegas-Matula, Texas Unitarian Universalist Justice Ministry; Patty Quinzi, TX - American Federation of Teachers; and 24 individuals)

On - Mary Lowe, Families Engaged; Anna Smith, Leander ISD; Jean Mayer, Pflugerville ISD; Andrea Chevalier, TCASE; Lauren McKenzie, Texans Care for Children; Yulissa Chavez, The Coalition of Texans with Disabilities; Alicia Markum; Melissa Ross; Steve Swanson (*Registered, but did not testify*: Eric Marin, Kristin McGuire, Marian Schutte, TEA; Marisa Iannaccone, Texas Council for Developmental Disabilities; Paula Hilliard, Texas Education 911; Rachel Gandy, Texas Juvenile Justice Department; David Ferris; Chrissy Hejny; Latronda Williams)

DIGEST: CSHB 6 would establish and amend various provisions in the Education Code on student discipline, including suspension and expulsion.

Suspension. CSHB 6 would authorize the principal or other appropriate administrator of a school to suspend a student who engaged in conduct for which a student could be subject to an in-school or out-of-school suspension, as identified in the district's student code of conduct. An out-of-school suspension could not exceed three school days, and an in-school suspension could not exceed 10 school days. For a student enrolled in a grade below third grade, the bill would establish that the student could

only be placed in out-of-school suspension if, while on school property or while attending a school-sponsored or related activity, the student engaged in conduct that:

- threatened the immediate health and safety of other students; or
- resulted in repeated or significant disruption to the classroom, as determined by the campus administrator in agreement with the classroom teacher.

The bill would remove conduct that contains the elements of a violent offense, such as assault or sexual assault, from the types of conduct that could lead to the out-of-school suspension for a student in a grade below third grade.

On a student's return to the classroom after removal, the teacher would be required to employ appropriate classroom management techniques that could reasonably be expected to improve the student's behavior and document the student's behavior that the teacher determined either:

- repeatedly interfered with the teacher's ability to communicate with the class or with the ability of the class to learn; or
- was so unruly, disruptive, or abusive that it seriously interfered with the teacher's ability to communicate with the class or with the ability of the class to learn.

Expulsion. CSHB 6 would remove a requirement that conduct requiring a student's expulsion had to occur on school property or while attending a school-sponsored or related activity on or off school property.

The bill would authorize a school district to place an expelled student in a virtual or in-person disciplinary alternative education program or a juvenile justice alternative education program. The bill also would authorize the board of trustees of a school district or the board's designee to place a student expelled for a felony offense in a virtual or in-person disciplinary alternative education program.

For a juvenile court in a county that operated a juvenile justice alternative education program, the bill would authorize the court to order an expelled student to attend a school district's virtual disciplinary alternative education program if:

- the district had established such a virtual education program; and
- the county's juvenile justice alternative education program had no available positions for the grade level of the expelled student.

Virtual disciplinary alternative education. CSHB 6 would authorize a school district's board of trustees or the board's designee to place an expelled student in a virtual disciplinary alternative education program established by the district and provide virtual instruction and instructional materials for remote learning to the student. A student placed in such a program would be required to be counted toward the district's average daily attendance for purposes of Foundation School Program funding. The education commissioner would be required to adopt necessary rules, including rules providing for a method of taking attendance for students placed in such programs.

Removal for certain conduct. CSHB 6 would remove the requirement for a student to be removed from class for possessing, using, selling, giving, or delivering to another person an e-cigarette. The bill would amend the list of offenses for off-campus conduct for which a student would be required to be removed from class and placed in a disciplinary alternative education program to include, if the student received deferred prosecution for such conduct:

- deadly conduct;
- disorderly conduct involving a firearm; and
- unlawfully carrying weapons, except for an offense punishable as a Class C misdemeanor (maximum fine of \$500).

Discipline for special education students. If a special education student was the subject of a threat assessment, the team conducting the assessment would be required to include at least one of the following professionals

who had specific knowledge of the student's disability and the disability's manifestations:

- a special education teacher assigned to the student;
- a licensed behavior analyst;
- a licensed clinical or licensed master social worker; or
- a licensed specialist in school psychology.

Suit for temporary alternative placement for certain students. If, pursuant to a threat assessment conducted on a special education student, the school district in which the student was enrolled determined that the student's continued placement in the student's current educational setting was substantially likely to result in physical harm to the student or another person, the district could file a civil action for injunctive relief in a district court to authorize the district to immediately remove the student from the current educational setting and place the student in an alternative education setting. The district requesting injunctive relief would be required to show that:

- the district had made reasonable efforts to maintain the student's current educational setting and minimize the likelihood of physical harm to the student or another person; and
- despite the district's efforts, maintaining the student's current educational setting was substantially likely to result in physical harm to the student or another person.

By the fifth calendar day after the date a school district filed a civil action, the district court would be required to determine whether the school district had provided sufficient evidence to satisfy the aforementioned requirements, and, if so, could order the school district to remove the student from the student's current educational setting and place the student in an alternative educational setting for no more than 60 instructional days. In making the determination, the court would be required to consider the results of the threat assessment, any recommendations or findings made by the student's admission, review, dismissal (ARD) committee or team if the student has a disability, and any

other relevant information.

On the expiration of an order to remove a special education student, the school district could file another civil action to extend the student's alternative educational setting placement if the district determined, pursuant to an additional threat assessment, that the student's return to the previous educational setting was substantially likely to result in physical harm to the student or another person.

The bill would require a school district to ensure that a student with a disability who was placed in an alternative educational setting continued to receive all required educational services.

A school district that had filed a civil action for the removal of a student would not be subject to the requirements to schedule a conference, following the removal of a student from class, between certain administrators, the student's parent or guardian, the student's teacher, and the student.

Charter schools. CSHB 6 would amend provisions on student discipline at open-enrollment charter schools. The bill would prohibit discrimination in admission policy on the basis of a student's discipline history. The bill would allow a charter to provide for the exclusion of a student who was currently:

- placed in a disciplinary alternative education program or juvenile justice alternative education program; or
- subject to an order of expulsion from a school district or charter school.

The bill would remove the authorization for a charter to provide for the exclusion of a student who had a documented history of a criminal offense, a juvenile court adjudication, or certain discipline problems.

CSHB 6 would authorize a charter to provide for the exclusion of a student from a charter school campus that included a child-care facility

based on the student's conviction for a criminal offense that would preclude the student from being admitted to a school district campus that included a child-care facility.

Repeals. CSHB 6 would repeal Education Code provisions on school district student codes of conduct and expulsion for serious offenses. It would remove a provision that requires that certain student discipline methods provide that special education students not be disciplined for certain behavior until an ARD committee meeting reviews the conduct. It also would repeal a provision that authorizes the expulsion of a student who engages in certain conduct from school by his or her district if the student engages in that conduct at another school district or while attending a school-sponsored or related activity of another school district.

The bill would make conforming changes throughout.

The bill would apply beginning with the 2025-2026 school year and 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, 2025.

**SUPPORTERS
SAY:**

CSHB 6 would help make Texas classrooms safer for both students and teachers by expanding the authority of teachers to discipline students when necessary and allowing them to take better control of their classrooms. There has been a substantial rise in severe behavioral problems occurring in schools, and current law does not adequately serve the best interests of students and teachers. A majority of teachers have experienced at least one student being physically aggressive in class, and there has also been a rise in violence against school district employees. Classroom disruptions primarily impact the children who are already behaving and learning. The uncorrected behavioral issues of students exhibiting violence can lead to other students fearing coming to school, diminishing the positive learning outcomes they experience from their classroom environment.

By expanding the situations during which suspensions, removals from

class, and expulsions could be used, the bill would give teachers and administrators the flexibility they need to keep their classrooms safe and productive learning places. Currently, many students are not adequately disciplined for severely disruptive and sometimes dangerous behavior. By prioritizing the authority of teachers to maintain discipline in their classrooms, the bill also would encourage more people to remain in the profession or pursue teaching as a career.

For many students with severe behavioral issues, the problems begin at home. By extending the maximum period for an in-school suspension to 10 days, CSHB 6 would allow teachers and administrators to remove troublesome students from class while still keeping that student at school. While out-of-school suspensions would still be needed in some cases, in-school suspensions could help keep students in a positive learning environment at school, even if not in their classrooms. In the event of out-of-school suspensions, the bill would allow for virtual disciplinary alternative education programs. These would help students participating in these programs keep up with their peers by learning at home. This also would help involve parents in the student's education and in improving behavioral issues.

By eliminating the requirement to remove a student from class for possession of an electronic cigarette, the bill would keep students who had not had any other behavioral problems from being punished and having their learning experience disrupted.

**CRITICS
SAY:**

CSHB 6 would not improve discipline in Texas schools and could instead make schools more hostile environments for many students. The bill would expand in-school and out-of-school suspensions, both of which have been shown to have harmful effects on suspended students. Children in the early grades of school are often more disruptive than their older counterparts. Exclusionary disciplinary actions, including suspensions and expulsions, can result in students missing valuable learning time, experiencing lower graduation rates, and developing feelings of mistrust and detachment from school. Additionally, suspension does not address the underlying causes behind a child's misbehavior. Instead, suspension

would serve to remove a young child from the classroom during a critical time of intellectual, social, and emotional development. By expanding the use of suspensions, the bill could result in more children being labeled as “problem children” and start these students down the path of further disciplinary actions and, potentially, the school-to-prison pipeline. Some of the bill’s language would be too vague, and the bill would not adequately define what constituted a severe enough disruption to warrant a suspension or standards for rehabilitation and reintegration.

The bill should not include off-campus offenses for consideration in the removal of a student from class into a disciplinary alternative education program (DAEP) or for the expulsion of a student. Serious offenses committed off campus would already be dealt with by the legal system, the decision of which would determine if the student could return to the classroom. Additionally, the virtual DAEPs established by the bill would not help correct behavioral issues. As shown during the pandemic, virtual education was not adequate to meet the academic needs of most students and left many feeling socially and emotionally isolated. Likewise, a student placed in virtual DAEP could face similar struggles.

CSHB 6 could disproportionately harm special education students, racial and ethnic minorities, homeless students, or students from other vulnerable groups who are already more likely to be the recipients of disciplinary actions in school. For example, if a student’s misbehavior stems from an unsafe home environment, an out-of-school suspension could place that student in that unsafe environment for up to three days. The bill would undermine due process for students by giving teachers and administrators too much authority to determine the disciplinary action in a given situation. The bill should include more accountability mechanisms and safeguards to protect due process and ensure equitable treatment, especially for special education students.

To improve classroom discipline, the Legislature should instead fund enhanced teacher training in behavior management and de-escalation so that teachers could better resolve behavior issues before needing to remove a student from the classroom.

