

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 132  
By: Bivins  
Education  
2-27-97  
Committee Report (Substituted)

### **DIGEST**

Currently Section 37.009(a), Education Code, provides for a hearing within three days after a student has been removed from class under Sections 37.002(b) and (d), Education Code. Sections 37.002(b) and (d) concern teacher removals, and therefore Section 37.009(a), Education Code, does not require a hearing for removals by principals or other school officials. As in *Nevaras v. San Marcos C.I.S.D.*, the statute violates due process. S.B. 132 amends Section 37.009(a) to clarify that hearings are required for all removals from the student's regular classroom.

### **PURPOSE**

As proposed, C.S.S.B. 132 sets forth requirements regarding placement of a public school student in an alternative education program.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 37.009, Education Code, by amending the heading and Subsection (a), as follows:

Sec. 37.009. New heading: CONFERENCE; HEARING; REVIEW. Requires the principal or other appropriate administrator to schedule a conference, rather than a hearing, among the principal or other appropriate administrator, rather than the principal's designee, a parent or guardian of the student, the teacher removing the student from class, if any, and the student, not later than the third class day after the day on which a student is removed from class by the teacher or by the school principal or other appropriate administrator under Section 37.006. Provides that, at the conference, a student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. Prohibits the student from being returned to the regular classroom pending the conference, rather than the hearing. Requires the principal to order the placement of the student as provided by Section 37.002 or 37.006, as applicable, following the conference. Authorizes a student to appeal the principal's or other administrator's decision to the board of trustees or the board's designee. Provides that a decision of the board or the board's designee is final and may not be appealed. Makes conforming and nonsubstantive changes.

SECTION 2. Provides that this Act applies beginning with the 1997-1998 school year.

SECTION 3. Emergency clause.  
Effective date: 90 days after adjournment.

### **SUMMARY OF COMMITTEE CHANGES**

Amends SECTION 1, Section 37.009, Education Code, regarding the placement of a public school student in an alternative education program.