

BILL ANALYSIS

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S.B. 1584
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Special needs students who present disruptive behavior challenges in schools need to be redirected in a way that minimizes harm and leads to more positive behavior outcomes in the future. Positive Behavior Interventions and Supports (PBIS) is a research-based intervention framework that prevents or reduces the need for unproven, dangerous, and harmful interventions and disciplinary referrals. PBIS is based on positive reinforcement, prevention of misbehavior, and corrective feedback, rather than punishment as a reaction to misbehavior. Unfortunately, many teachers are not trained in the use of the PBIS framework, and instead use unhelpful and often harmful discipline techniques, such as physical restraint and time-out. Research shows that using these negative techniques without reflection on their effectiveness does little to improve students' behavior. On the contrary, some of these current disciplinary practices can stigmatize and harm special needs students who are subject to them.

S.B. 1584 provides guidance and training for developing and implementing PBIS plans, to be used by teachers, districts, and others statutorily involved in the education of special needs students. The bill as filed provides for the use of behavior assessments to be used in the development of behavior plans for disruptive special needs students. At the same time, however, S.B. 1584 maintains the flexibility to tailor individualized behavior plans to each unique child. It also clarifies the rare circumstances when a school may use negative disciplinary measures (i.e., restraint or time-out), and requires that the use of such punishments be recorded as part of a student's behavior assessments. Most importantly, S.B. 1584 adds PBIS training to required educational staff development sessions to ensure that all educators and related personnel are properly equipped to implement these behavior plans.

As proposed, S.B. 1584 amends current law relating to positive behavioral interventions and supports for students enrolled in public school who receive special education services.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 2 (Section 21.451, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.021, as follows:

Sec. 29.021. POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS.

(a) Defines "behavior specialist professional," "licensed specialist in school psychology," "restraint," and "time-out."

(b) Provides that it is the policy of this state that each school district to the maximum extent possible should provide functional behavioral assessments to a student whose behavior interferes with the ability of that student or of another student to learn. Requires that the result of student assessments be used to develop and provide positive behavioral interventions and supports and other strategies to enhance academic and social behavioral outcomes for students by:

(1) emphasizing the use of data to inform decisions regarding selecting, implementing, and monitoring the progress of evidence-based behavioral practices; and

(2) organizing resources and systems to improve the faithful implementation and sustainability of positive behavioral interventions and supports strategies.

(c) Requires a school district to provide positive behavioral interventions and supports and related strategies under this section in a manner that:

(1) ensures a student's physical freedom and social interaction;

(2) respects human dignity and personal privacy and does not cause pain or trauma to a student; and

(3) ensures a student's right to placement in the least restrictive educational environment.

(d) Authorizes a school district, in the case of a student enrolled in a special education program under this subchapter, to use restraint or time-out as an emergency intervention only if:

(1) preventive or verbal techniques or techniques to de-escalate the situation have been ineffective; and

(2) use of restraint or time-out is immediately necessary to prevent:

(A) imminent probable death or substantial bodily harm to the student because the student is attempting to commit suicide or inflict serious bodily harm; or

(B) imminent physical harm to another person.

(e) Prohibits a school district from using restraint or time-out as a substitute for or as part of a behavioral intervention plan developed under Section 29.005(g) (authorizing a certain committee to determine that a behavior improvement plan or a behavioral intervention plan is appropriate for a student).

(f) Prohibits a school district from using restraint or time-out after the student stops engaging in the behavior described by Subsection (d).

(g) Requires the school district, not later than the end of the school day on which a school district has used restraint or time-out for a student, to notify the student's parent or person standing in parental relation to the student of the use of restraint or time-out and provide the information described by Subsections (h)(1)-(8).

(h) Requires the school district to complete a behavioral emergency report concerning the use of restraint or time-out and to maintain the report in the student's eligibility folder and cumulative record. Requires that the report include:

(1) the name, age, and grade level of the student;

(2) the beginning and ending time of the restraint or time-out;

(3) the location and setting of the restraint or time-out;

(4) the name of district personnel or any other person involved in the incident;

- (5) a description of the incident, including the precipitating factors;
- (6) the specific type of restraint or time-out used;
- (7) a statement as to whether the student currently has a behavioral intervention plan;
- (8) details of any injury sustained by the student or another person as a result of the incident, including the restraint or time-out, and any medical care provided; and
- (9) the time the district notified the parent or person standing in parental relation to the student regarding the use, including details of the use, of the restraint or time-out.

(i) Requires the principal of the school, not later than the third school day after the date of the incident, to submit a copy of the behavioral emergency report for review to a school district administrator designated by the district superintendent as the responsible official for that purpose.

(j) Requires the designated responsible official, subject to the notice requirements for an admission, review, and dismissal committee, to schedule a meeting of the student's admission, review, and dismissal committee to occur not later than the 10th school day after the date of the incident. Requires the committee to determine the need for:

- (1) a functional behavioral assessment, regardless of whether a functional behavioral assessment was previously conducted; and
- (2) an interim or modified behavioral intervention plan.

(k) Requires the school district attended by the student, if the student's admission, review, and dismissal committee determines that the student needs a functional behavioral assessment, to ensure that the functional behavioral assessment is conducted by a behavior specialist professional. Requires the student's admission, review, and dismissal committee to review the functional behavioral assessment conducted under this subsection and determine whether individualized positive behavioral interventions and supports need to be included in the student's individualized education program under Section 29.005 (Individualized Education Program).

(l) Requires the committee, if the student's admission, review, and dismissal committee determines that a behavioral intervention plan or a modified behavioral intervention plan is necessary, to develop the plan and determine the need for school district personnel who will implement the plan to participate in training with a behavior specialist professional. Requires the committee to monitor the implementation and results of the plan and determine the need for any modification to the plan or any additional training for school personnel.

SECTION 2. Amends Section 21.451(d), Education Code, as follows:

(d) Provides that the staff development:

(1) may include training in:

(A) and (B) Makes no change to these paragraphs;

(C) discipline strategies, including positive behavioral intervention and supports strategies, classroom management, district discipline policies,

and the student code of conduct adopted under Section 37.001 (Student Code of Conduct) and Chapter 37 (Discipline; Law and Order); and

(D) protecting students from bullying, including preventing, identifying, responding to, and reporting incidents of bullying;

(2) subject to Subsection (e) (requiring a school district to provide the training described by Subsection (d)(2) to an educator who works primarily outside the area of special education only under certain circumstances) and to Section 21.3541 (Appraisal and Professional Development System for Principals) and rules adopted under that section, must include training based on scientifically based research, as defined by Section 9101, No Child Left Behind Act of 2001 (20 U.S.C. Section 7801), that:

(A) Makes no change to this paragraph; and

(B) Makes a nonsubstantive change to this paragraph; and

(3) must include training to ensure that adequately trained school district personnel are available to work effectively with the positive behavioral intervention and support needs of students eligible for the district special education program.

SECTION 3. Provides that this Act applies beginning with the 2015-2016 school year.

SECTION 4. Effective date: upon passage or September 1, 2015.