

BILL ANALYSIS

Senate Research Center
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S.B. 426
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the wake of traumatic events like Hurricane Harvey and the Santa Fe shooting, it is more important than ever that students have school counselors available to provide the services they need to process traumatic experiences and return to class successfully. Additionally, counselors play an important role in ensuring students' ability to progress academically, cope with other non-academic issues affecting their performance in school, and plan for graduation and their next steps beyond high school. Unfortunately, many counselors report that they are unable to focus on their important statutory roles of helping students because they are called upon to perform unrelated duties, such as test administration or other clerical tasks. This prevents counselors from concentrating their efforts on helping students deal with academic and behavioral issues, which can have serious or even violent consequences in the classroom.

S.B. 426 prioritizes the wellbeing of students by requiring that school counselors spend no less than 80 percent of their day on the duties that constitute a school counseling program. The bill also recognizes that certain schools need flexibility from their counselors, and allows a broad exemption for schools that determine their staffing needs would make such a requirement untenable, provided they list additional duties a counselor will be expected to fulfil and set their own percentage threshold. By maximizing the enormous potential of the state's counseling resources, S.B. 426 helps counselors remain available to work in the best interest of students.

As proposed, S.B. 426 amends current law relating to the use of public school counselors' work time.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 3 (Section 39.056, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 33.006, Education Code, by adding Subsections (d), (e), (f), and (g), as follows:

(d) Requires the board of trustees of each school district, except as provided by Subsection (e), to adopt a policy that requires a school counselor to spend at least 80 percent of the school counselor's total work time on duties that are components of a counseling program developed under Section 33.005 (Developmental Guidance and Counseling Programs). Provides that for purposes of this subsection, time spent in administering assessment instruments or providing other assistance in connection with assessment instruments, except time spent in interpreting data from assessment instruments, is not considered time spent on counseling. Requires each school in the district to implement the policy. Requires a copy of the policy to be maintained in the office of each school in the district and made available on request during regular school hours to district employees, parents of district students, and the public.

(e) Provides that if a board of trustees of a school district determines that, because of staffing needs in the district or at a school the district, a school counselor must spend less than 80 percent of the school counselor's total work time on duties that are components of

a counseling program developed under Section 33.005, the policy adopted under Subsection (d), the board must:

(1) include the reasons why the counselor needs to spend less than 80 percent of the counselor's work time on duties that are components of the counseling program:

(2) lists the duties the counselor is expected to perform that are not components of the counseling program: and

(3) set the percentage of work time that the counselor is required to spend on components of the counseling program.

(f) Prohibits a school district from including a provision in an employment contract with a school counselor under Chapter 21 (Educators) that conflicts with the policy required by Subsection (d) or, except as provided by Subsection (g), has the effect of authorizing a school principal or school counselor to generally perform duties that are not primarily related to a counseling function.

(g) Prohibits a school district to which Subsection (e) applies from including a provision in an employment contract under Chapter 21 with an affected school counselor that has the effect of requiring the counselor to generally perform a duty that is not primarily related to a counseling function unless the duty is specified in the district's policy under Subsection (e) (2).

SECTION 2. Amends Section 7.028(a), Education Code, as follows:

(a) Authorizes, except as provided by certain sections, including Section 39.056(d-1), the Texas Education Agency (TEA) is to monitor compliance with requirements applicable to a process or program provided by certain entities and the use of funds provided for such a program under Subchapter C (Special Allotments), Chapter 42, only as necessary to ensure certain criteria.

SECTION 3. Amends Section 39.056, Education Code, by adding Subsection (d-1), as follows:

(d-1) Requires the commissioner of education (commissioner), before a monitoring review, to request that the school district scheduled for the review assess the district's compliance with the policy adopted under Section 33.006(d) and provide a written copy of the assessment to TEA on or before the date specified by the commissioner. Requires TEA, as part of each monitoring review, to interview a percentage of district school counselors determined by the commissioner to assess the district's compliance with the policy adopted under Section 33.006(d). Requires the commissioner to adopt rules to implement this subsection.

SECTION 4. (a) Requires each school district to implement a policy under Section 33.006(d), Education Code, as added by this Act, beginning with the 2019–2020 school year.

(b) Makes application of Sections 33.006(f) and (g), Education Code, as added by this Act, apply only to a contract executed on or after the effective date of this Act. Provides that a contract executed before the effective date of this Act is governed by the law in effect on the date the contract was executed, and that the former law is continued in effect for that purpose.

(c) Provides that Section 7.028(a), Education Code, as amended by this Act, and Section 39.056(d-1), Education Code, as added by this Act, apply beginning with the 2019–2020 school year.

SECTION 5. Effective date: upon passage or September 1, 2019.