

BILL ANALYSIS

Senate Research Center
87R15559 MEW-F

H.B. 785
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Education
5/3/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, student school behavior intervention plans (BIP) are not reviewed annually. Without frequent reviews, BIPs' efficacy in promoting good behavior and helping students thrive is diminished. Specifically, behaviors may escalate or new behaviors may emerge, leading to more severe disciplinary actions like placements in restrictive settings, missed class time, or interactions with law enforcement. This issue is of particular concern for students receiving special education services, who are subject to disciplinary action at a higher rate.

H.B. 785 would require BIPs to be reviewed at least annually, as needed, or revised if found not to be effective. This bill also would require that a student's BIP be reviewed prior to disciplinary action that recommends more restrictive placements, such as Disciplinary Alternative Education Programs, Juvenile Justice Alternative Education Programs, or expulsion. Requiring a regular review of the BIP would provide safeguards for students, so they do not fall through the cracks, support teachers to implement effective best practices, improve parent awareness and participation, and shape a healthy learning environment in the classroom for all students.

H.B. 785 amends current law relating to behavior improvement plans and behavioral intervention plans for certain public school students and notification and documentation requirements regarding certain behavior management techniques.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 2 (Section 37.0021, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 29.005, Education Code, by adding Subsection (h), as follows:

(h) Requires the committee established to develop a child's individualized education program, if a behavior improvement plan or a behavioral intervention plan is included as part of a student's individualized education program under Subsection (g) (relating to a certain behavior improvement plan as determined by the committee), to review the plan at least annually and more frequently if appropriate to address:

(1) changes in a student's circumstances that may impact the student's behavior, such as the placement of the student in a different educational setting, an increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents, a pattern of unexcused absences, or an unauthorized unsupervised departure from an educational setting; or

(2) the safety of the student or others.

SECTION 2. Amends Section 37.0021(d), Education Code, as follows:

(d) Requires the commissioner of education by rule to adopt procedures for the use of restraint and time-out by a school district employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special

education services under Subchapter A (Special Education Program), Chapter 29 (Educational Programs). Requires that a procedure adopted under this subsection:

(1) and (2) makes nonsubstantive changes to these subdivisions; and

(3) require a school district to:

(A) provide written notification to the student's parent or person standing in parental relation to the student for each use of restraint that includes:

(i) the name of the student;

(ii) the name of the district employee or volunteer or independent contractor of the district who administered the restraint;

(iii) the date of the restraint;

(iv) the time that the restraint started and ended;

(v) the location of the restraint;

(vi) the nature of the restraint;

(vii) a description of the activity in which the student was engaged immediately preceding the use of the restraint;

(viii) the behavior of the student that prompted the restraint;

(ix) any efforts made to de-escalate the situation and any alternatives to restraint that were attempted;

(x) if the student has a behavior improvement plan or a behavioral intervention plan, whether the plan may need to be revised as a result of the behavior that led to the restraint; and

(xi) if the student does not have a behavior improvement plan or a behavioral intervention plan, information on the procedure for the student's parent or person standing in parental relation to the student to request an admission, review, and dismissal committee meeting to discuss the possibility of conducting a functional behavioral assessment of the student and developing a plan for the student;

(B) include in a student's special education eligibility school records a copy of the written notification provided to the student's parent or person standing in parental relation to the student under Paragraph (A); information on the method by which the written notification was sent to the parent or person, and the contact information for the parent or person to whom the district sent the notification; and

(C) if the student has a behavior improvement plan or behavioral intervention plan, document each use of time-out prompted by a behavior of the student specified in the student's plan, including a description of the behavior that prompted the time-out.

Makes nonsubstantive changes.

SECTION 3. Amends Section 37.004, Education Code, by adding Subsection (b-1), as follows:

(b-1) Requires a school district, if a school district takes a disciplinary action regarding a student with a disability who receives special education services that constitutes a change in placement under federal law, to:

(1) not later than the 10th school day after the change in placement:

(A) seek consent from the student's parent or person standing in parental relation to the student to conduct a functional behavioral assessment of the student, if a functional behavioral assessment has never been conducted on the student or the student's most recent functional behavioral assessment is more than one year old; and

(B) review any previously conducted functional behavioral assessment of the student and any behavior improvement plan or behavioral intervention plan developed for the student based on that assessment; and

(2) as necessary develop a behavior improvement plan or behavioral intervention plan for the student if the student does not have a plan or, if the student has a behavior improvement plan or behavioral intervention plan, revise the student's plan.

SECTION 4. Provides that this Act applies beginning with the 2021-2022 school year.

SECTION 5. Effective date: upon passage or September 1, 2021.