

CHAPTER 4

H.B. No. 13

AN ACT

relating to the removal, suspension, or expulsion of a public school student; to discipline management in public schools; and to the excused absence of certain public school students.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 21.301, Education Code, is revised to read as follows:

Sec. 21.301. SUSPENSION OF STUDENTS; REMOVAL TO ALTERNATIVE EDUCATION PROGRAMS. (a) In accordance with rules adopted by the State Board of Education, the board of trustees of a school district or the board's designee may, as

provided by this section, suspend a student for a period not to exceed six school days or remove a student to an alternative education program. Suspension for a total of more than six school days within a semester is considered an expulsion and may occur only as provided by Section 21.3011 of this code.

(b) Before it may suspend a student or remove a student to an alternative education program, the board or the board's designee must determine:

(1) that the student's presence in the regular classroom program or at the home campus presents a danger of physical harm to the student or to other individuals; or

(2) that the student has engaged in serious or persistent misbehavior that violates the district's previously communicated standards of student conduct.

(c) Before suspending a student, the board or its designee shall consider reasonable alternatives, including appropriate discipline management techniques which may include removal to an alternative education program. If the board or its designee determines that suspension is the most appropriate available alternative, the board or the board's designee is not required to precede the suspension with another disciplinary action.

(d) Except as provided by this subsection, removal to a supervised alternative education setting may not extend beyond the end of the semester during which the conduct that directly led to the removal occurred. If the conduct occurred during the final six-week reporting period of a semester, the removal may extend beyond the end of that semester but may not extend beyond the end of the next semester. The board may permit the student to remain in the alternative program for an additional period agreed on by the student, the student's parent or guardian, the supervisor of the alternative program, and the principal of the student's home school if they agree that the additional period would best serve the student's educational interest. This subsection does not apply to the placement of a handicapped student in an alternative program in accordance with the decision of an admission, review, and dismissal committee.

(e) If the decision to remove a student to an alternative education program is made by the board's designee, that decision may be appealed to the board. The student may be removed to the alternative education program pending appeal to the board.

(f) A student's parent or guardian is entitled to notice as soon as reasonably possible of a suspension or removal of a student to an alternative education program and an opportunity to participate in a proceeding before the board under this section. If the board's designee suspends or removes a student to an alternative education program for three or more consecutive school days or five or more accumulative school days within a semester, the designee shall encourage the student's parent or guardian to attend a conference to discuss the designee's action and/or the student's misbehavior. Any decision of the board under this section is final and may not be appealed.

(g) The board or the board's designee shall provide for the continuing education of a student who has been removed to an alternative education program. A district shall provide for one or more alternative education programs such as:

- (1) in-school suspension;
- (2) transfer to a different campus;
- (3) transfer to a school-community guidance center; or
- (4) transfer to a community-based alternative school.

(h) If a student is suspended, the student's absence shall be considered to be an excused absence if the student satisfactorily completes the assignments for the period of suspension within a reasonable time determined by the district. A district may impose a grade adjustment on the work made up by a student who has been suspended.

(i) A student removed to an alternative education program in a supervised educational setting may be counted in computing the average daily attendance of students in the district for the student's time in actual attendance in the program.

(j) The board or the board's designee shall take appropriate disciplinary action against a student who has accrued more than five days of unexcused absence during a semester or more than 10 days of unexcused absence during a school year. A student may not be suspended for being truant or tardy.

(k) A teacher may send a student to the principal's office in order to maintain effective discipline in the classroom. The principal shall respond by employing appropriate discipline management techniques consistent with local policy.

(l) A teacher may remove from class a student who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class. Not later than the third class day after the day on which the student is removed from the class, the principal shall schedule a hearing among the principal or the principal's designee, a parent or guardian of the student, the teacher, and the student. Following the hearing, and whether or not all requested parties are in attendance after valid attempts to require their attendance, the principal shall suspend the pupil for a period consistent with local policy, not to exceed six school days, place the student in an alternative education program, or place the student back in the class. If the student is removed a second time under this subsection within the same semester, the student may be returned to that class only by action of the superintendent at the principal's request. If the student is removed a third or subsequent time under this subsection within the same semester, the student may be returned to that class only by action of the district's board of trustees at the request of the superintendent.

(m) On request of a district, the Central Education Agency shall provide to the district informational material on developing an alternative education program that takes into consideration size, wealth, and existing facilities in determining a program best suited to a district.

(n) It is the intent of the legislature that districts notify the parents or guardians of students suspended under this section or expelled under Section 21.3011 of this code and that after such notification it is the responsibility of the parent or guardian to provide adequate supervision for these students during that period of time.

(o) With the approval of the State Board of Education and as provided under Subsection (g) of this section, two or more school districts jointly may operate a community-based alternative school as provided under Subsection (g)(4) of this section.

SECTION 2. Section 21.3011, Education Code, is revised to read as follows:

Sec. 21.3011. EXPULSION OF STUDENTS. (a) In this section, "expulsion" means suspension of a student from school for more than six school days within a semester. The term does not include removal of a student to an alternative education program.

(b) A student may be removed from class and expelled without resort to an alternative education program under Section 21.301 of this code if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

- (1) assaults a teacher or other individual;
- (2) sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(A) marihuana or a controlled substance, as defined by the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes) or by 21 U.S.C. Section 801 et seq.; or

(B) a dangerous drug, as defined by the Texas dangerous drug law, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes);

(3) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, or commits a serious act or offense while under the influence of alcohol; or on more than one occasion possesses, uses, or is under the influence of an alcoholic beverage;

(4) possesses a firearm as defined by Section 46.01(3), Penal Code, an illegal knife as defined by Section 46.01(6), Penal Code, a club as defined by Section 46.01(1), Penal Code, or a weapon listed as a prohibited weapon under Section 46.06, Penal Code; or

(5) engages in conduct that contains the elements of an offense relating to abusable glue or aerosol paint under Section 4.13, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), or relating to volatile chemicals under Chapter 323, Acts of the 68th Legislature, Regular Session, 1983 (Article 4476-13a, Vernon's Texas Civil Statutes).

(c) A student who, after having been placed in an alternative education program under Section 21.301 of this code, continues to engage in serious or persistent misbehavior that violates the district's previously communicated written standards of student conduct may be removed from class and expelled.

(d) The board or its designee shall set a term for the expulsion.

(1) The expulsion may not extend beyond the end of the school year unless the conduct directly leading to the expulsion occurred during the final six-week reporting period of the school year, in which case the expulsion may extend beyond the end of the current school year but not beyond the end of the first semester of the next school year.

(2) A pupil who is to be expelled for the first time for possession, use, or for being under the influence of an alcoholic beverage as defined in this section may not be expelled beyond the end of the semester, unless the conduct directly leading to the expulsion occurred during the final six-week reporting period of a semester, which may result in expulsion not to extend beyond the end of the next regular semester.

(e) Before the expulsion, the board or its designee must provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution. If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a state district court of the county in which the school district's central administrative office is located.

(f) A teacher may remove from class and recommend for expulsion a student who engages in conduct for which a student may be expelled under Subsection (b) or (c) of this section. If a teacher recommends a student for expulsion, the board or its designee shall conduct a hearing under Subsection (e) of this section. If the board or its designee decides not to expel the student and the student is again recommended for expulsion by the teacher during the same school year, the hearing under Subsection (e) of this section may be conducted only by the board.

(g) The board or its designee shall deliver a copy of the order expelling the student to the student and the student's parent or guardian. The board or its designee shall also deliver a copy of the order to the authorized officer of the juvenile court in the county in which the student resides. The officer shall determine whether:

(1) a petition should be filed alleging that the student is in need of supervision or engaged in delinquent conduct; or

(2) the student should be referred to an appropriate state agency.

(h) A school district may provide home-based instruction to students expelled under this section.

(i) Each school district shall provide each teacher and administrator with a copy of Section 21.301 and this section of this code and with a copy of the local policies relating to the sections.

(j) If a court orders a student who has been expelled to attend school as a condition of probation, the school district shall readmit the student, but the student is not

immune from suspension, removal to an alternative education program, or expulsion during the term of the probation.

(k) Each school district shall reasonably cooperate with governmental agencies and community organizations providing services within the district to students expelled under this section.

(l) A rehabilitation district that admits handicapped delinquent children shall admit a child referred by a juvenile court located in the district if the ARD committee of the district has determined that the district has sufficient facilities and personnel available.

SECTION 3. Section 11.13(a), Education Code, is amended to read as follows:

(a) Except in cases of student disciplinary actions under Section 21.301 or 21.3011 of this code, persons [Persons] having any matter of dispute among them arising under the school laws of Texas or any person aggrieved by the school laws of Texas or by actions or decisions of any board of trustees or board of education may appeal in writing to the commissioner of education, who, after due notice to the parties interested, shall hold a hearing and render a decision without cost to the parties involved, but nothing contained in this section shall deprive any party of any legal remedy.

SECTION 4. Section 21.702, Education Code, is amended to read as follows:

Sec. 21.702. CONTENT OF APPROVED PROGRAMS. To be approved, a discipline management program must:

(1) encourage the commitment, cooperation, and involvement of school district administrators, teachers, parents, and students in the development of the program;

(2) encourage the use of the regional education service center to assist in developing the program and providing training to teachers and administrators;

(3) require the designation of a person in each school with special training in discipline management to implement and assess the program in that school and to identify and refer appropriate students to school-community guidance programs;

(4) require the development of a student code of conduct that clearly describes the district's expectations with respect to student conduct, including provisions similar to the Attorney General's Proposed Voluntary Student Code of Conduct of 1980, and specifies the consequences of violating the code;

(5) specifically outline the responsibilities of teachers, administrators, parents, and students in the discipline management program; and

(6) make parental involvement an integral part of the discipline management program, requiring:

(A) *one or more [at least two parent-teacher] conferences during each school year between a teacher and the parents of a student if the student is not maintaining passing grades or achieving the expected level of performance or presents some other problem to the teacher or in any other case the teacher considers necessary;*

(B) *parent training workshops for home reinforcement of study skills and specific curriculum objectives conducted for parents who want to participate and based on interest indicated by parents in the community; and*

(C) *a written statement signed by each parent that the parent understands and consents to the responsibilities outlined in the discipline management program.*

SECTION 5. Section 21.035, Education Code, is amended by adding Subsection (g) to read as follows:

(g) The absences of a student who returns to school as a result of a prosecution under Section 4.25 of this code or by order of a court may be excused if the student:

(1) returns to school and attends class regularly and to the satisfaction of the district;

(2) satisfactorily completes assignments for the period of the absence within a reasonable time determined by the district; and

(3) passes an examination at the completion of the class.

SECTION 6. This Act takes effect with the 1986–1987 school year.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on August 15, 1986, by the following vote: Yeas 145, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 13 on August 26, 1986, by the following vote: Yeas 143, Nays 0, 1 present, not voting. Passed by the Senate, with amendments, on August 21, 1986, by the following vote: Yeas 28, Nays 0.

Approved Sept. 15, 1986.

Effective Sept. 15, 1986.