

By: Lucio

S.B. No. 1753

A BILL TO BE ENTITLED

AN ACT

relating to positive behavioral interventions and supports for students enrolled in public school who receive special education services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 21.451(d) and (f), Education Code, are amended to read as follows:

(d) The staff development:

(1) may include training in:

(A) technology;

(B) conflict resolution;

(C) discipline strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Section 37.001 and Chapter 37; ~~and~~

(D) positive behavioral intervention and supports or related strategies; and

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

(2) subject to Subsection (e) and to Section 21.3541 and rules adopted under that section, must include training that is evidence-based ~~[based on scientifically based research]~~, as defined by Section 8101, Every Student Succeeds Act ~~[9101, No Child Left Behind Act of 2001]~~ (20 U.S.C. Section 7801), and that:

(A) relates to instruction of students with disabilities; and

(B) is designed for educators who work primarily outside the area of special education; and

(3) must include suicide prevention training that must be provided:

(A) on an annual basis, as part of a new employee orientation, to all new school district and open-enrollment charter school educators; and

(B) to existing school district and open-enrollment charter school educators on a schedule adopted by the agency by rule.

(f) In developing or maintaining the training required by Subsection (d)(2), a school district must consult with persons with expertise in evidence-based [~~research-based~~] practices for students with disabilities. Persons who may be consulted under this subsection include colleges, universities, private and nonprofit organizations, regional education service centers, qualified district personnel, and behavior specialist professionals [~~any other persons identified as qualified by the district~~]. This subsection applies to all training required by Subsection (d)(2), regardless of whether the training is provided at the campus or district level. In this subsection, "behavior specialist professional" means a person who:

(1) is appropriately certified as determined by the commissioner in, is trained in, or has knowledge of:

(A) principles and practices of behavioral

support plan development, implementation, and evaluation;

(B) medications used to assist with behavior management, including the side effects and adverse effects of those medications;

(C) systems used to track treatment effectiveness;

(D) delivery of behavioral services to persons with disabilities; and

(E) characteristics of developmental disabilities; and

(2) has the ability to:

(A) conduct a comprehensive functional behavioral assessment;

(B) develop a behavior support plan that includes positive behavioral intervention and supports or related strategies;

(C) evaluate behavioral and special education program data; and

(D) plan, assign, and supervise the work of others.

SECTION 2. Subchapter A, Chapter 29, Education Code, is amended by adding Section 29.021 to read as follows:

Sec. 29.021. POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS. (a) In this section, "restraint" and "seclusion" have the meanings assigned by Section 37.0021.

(b) 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. The result of student assessments shall be used to develop and provide positive behavioral interventions and supports or related 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;

(2) organizing resources and systems to improve the faithful implementation and sustainability of positive behavioral intervention and supports or related strategies; and

(3) providing training to school district personnel who will be involved in implementing positive behavioral intervention and supports or related strategies.

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

(1) ensures a student's freedom from restraint and seclusion except as provided by Section 37.0021 and rules adopted by the commissioner under that section;

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

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

(4) focuses on the individual in order to determine the most appropriate strategy for each student.

(d) If the student's admission, review, and dismissal

committee determines that the creation or revision of a behavioral intervention plan is necessary, the committee shall create or revise the plan to include positive behavioral interventions and supports or related evidence-based behavioral intervention strategies. The district shall offer training on positive behavioral intervention and supports or related strategies to all school district personnel involved in the implementation of the behavioral intervention plan who have not received training on positive behavioral intervention and supports or related strategies within the preceding two years. The training offered under this subsection must be:

(1) conducted by one or more persons who may be consulted under Section [21.451\(f\)](#); and

(2) to the maximum extent possible, relevant to the behavioral intervention plan.

(e) The student's admission, review, and dismissal committee shall monitor the implementation and results of the behavioral intervention plan and determine the need for any revision of the plan or any additional training for school district personnel.

SECTION 3. Section [37.0021](#), Education Code, is amended by adding Subsections (d-1), (d-2), and (d-3) to read as follows:

(d-1) A school district or a school district employee or volunteer or an independent contractor of a school district may not authorize, order, consent to, or pay for any of the following:

(1) an intervention that is designed to or likely to cause physical pain, including electric shock or any procedure that

1 involves the use of pressure points or joint locks;

2 (2) an intervention that involves the directed release
3 of a noxious, toxic, or otherwise unpleasant spray, mist, or
4 substance near the student's face;

5 (3) an intervention that denies adequate sleep, air,
6 food, water, shelter, bedding, physical comfort, or access to a
7 restroom facility;

8 (4) an intervention that involves subjecting the
9 student to verbal abuse, ridicule, or humiliation or that can be
10 expected to cause the student emotional trauma;

11 (5) a restrictive intervention that employs a device,
12 material, or object that simultaneously immobilizes all four
13 extremities, including any procedure that results in such
14 immobilization known as prone or supine floor restraint;

15 (6) an intervention that impairs the student's
16 breathing, including any procedure that involves:

17 (A) applying pressure to the student's torso or
18 neck; or

19 (B) obstructing the student's airway, including
20 placing an object in, on, or over the student's mouth or nose or
21 placing a bag, cover, or mask over the student's face;

22 (7) an intervention that restricts the student's
23 circulation;

24 (8) an intervention that secures the student to a
25 stationary object while the student is in a sitting or standing
26 position;

27 (9) an intervention that inhibits, reduces, or hinders

1 the student's ability to communicate;

2 (10) an intervention that involves the use of a
3 chemical restraint;

4 (11) an intervention that prevents observation by a
5 direct line of sight or otherwise precludes adequate supervision of
6 the student, including isolating the student in a classroom by the
7 use of physical barriers; or

8 (12) an intervention that deprives the student of the
9 use of one or more of the student's senses.

10 (d-2) For purposes of Subsection (d-1)(11), an intervention
11 that denies the student academic instruction by a certified
12 educator constitutes an intervention that precludes adequate
13 supervision.

14 (d-3) In adopting procedures under this section, the
15 commissioner shall provide guidance to school district employees,
16 volunteers, and independent contractors of school districts in
17 avoiding a violation of Subsection (d-1).

18 SECTION 4. This Act applies beginning with the 2017-2018
19 school year.

20 SECTION 5. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2017.