

August 25, 2015

TO THE ADMINISTRATOR ADDRESSED:

SUBJECT: Legislation passed by the 84th Texas Legislature relating to truancy and on-campus discipline

During the recently completed legislative session, the 84th Texas Legislature approved – and Governor Greg Abbott signed into law – legislation that makes changes to current law as it relates to truancy and on-campus student discipline.

Components of House Bill 2398 and Senate Bill 107 will be in effect for the 2015-2016 school year. This letter highlights some of the issues school districts will deal with in implementing the requirements of the bills. House Bill 2398 also applies to open-enrollment charter schools. School districts and open-enrollment charters should consult their own legal counsel for a comprehensive understanding of all the requirements imposed by the legislation.

House Bill 2398

- Repeals the criminal offense of failing to attend school, and instead establishes a civil enforcement procedure.
- The offense of a parent contributing to nonattendance remains a Class C misdemeanor, but a court may now dismiss a charge against a parent for the offense of contributing to nonattendance if the court finds that the dismissal would be in the best interest of justice because there is a low likelihood of recidivism or because sufficient justification exists for the failure to attend school.
- Extends the compulsory age of attendance from 18 to 19.
- A district may revoke a student's enrollment for the remainder of the school year if the student is 19 year old, is voluntarily enrolled in school, and has more than five unexcused absences in a semester. However, the district is first required to issue a warning letter after the student has failed to attend school without excuse three times stating that the student's enrollment may be revoked if he or she obtains more than five unexcused absences in a semester. A district may impose a behavior improvement plan in place in lieu of revocation.
- A student is not to be referred to truancy court if the truancy is a result of pregnancy, foster care, homelessness, or being the principal income earner for the student's family. Instead, a district is to offer the student access to additional counseling services.
- On the third unexcused absence within a four week period, a school must initiate a truancy prevention program for the student.
- A child commits truancy if the student is 12-18 years of age and is required to attend school under Texas Education Code (TEC) Section 25.085; and fails to attend school on 10 or more days or parts of days within a six-month period in the same school year.

- Additionally, school districts' truancy prevention measures must now include at least one of the following:
 - A behavior improvement plan that includes a specific description of required or prohibited behavior, the period the plan will be effective (not to exceed 45 days after the effective date of the contract) or penalties for additional absences;
 - School-based community service; or
 - Referral to counseling, mediation, mentoring, teen court, community-based services or other services to address the student's truancy.
- School districts are also required to employ a truancy prevention facilitator or juvenile case manager to implement its truancy prevention measures. A school district may designate an existing district employee to serve in this position.

HB 2398 applies to compulsory attendance enforcement by open-enrollment charter schools as well as school districts. Additional resources may be available to districts and charters to understand the requirements of the legislation such as those available through the Texas Association of School Boards.

TEA will be adopting rules to create minimum standards for truancy prevention measures, establishing a set of best practices for truancy prevention measures, and providing for sanctions for districts that are not in compliance with TEC Section 25.0915. However, no additional minimum standards for truancy prevention measures beyond those imposed by the legislation will be adopted for the 2015-2016 school year. During the 2015-2016 school year, TEA will use a complaint-based model for issues of non-compliance under Section 25.0915 of the Texas Education Code.

Senate Bill 107

- The ability of a school district to define a knife with a blade length of 5.5 inches or less as a "locally defined illegal knife" in the student code of conduct and expel a student for the possession, use, or exhibition of a "locally defined illegal knife" is revoked by SB 107. The possession, use, or exhibition of a knife with a blade length of 5.5 inches or less is to be handled as local code of conduct violation unless the use of the knife results in another violation covered by TEC Chapter 37 (e.g. 37.006, 37.007).
- Each campus must have a staff person designated as the Campus Behavior Coordinator.
- The person designated as the Campus Behavior Coordinator may be the principal of the campus or any other campus administrator selected by the principal.
- The Campus Behavior Coordinator is primarily responsible for maintaining student discipline.
- The Campus Behavior Coordinator is required to:
 - Promptly notify a student's parent or guardian if a student is placed into in-school or out-of-school suspension, placed in a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer.
 - Promptly contact the parent or guardian by telephone or in person; and
 - Make a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.
- If a parent or guardian entitled to notice of a student's disciplinary removal has not been reached by telephone or in person by 5 p.m. of the first business day after the day the

disciplinary action is taken, the Campus Behavior Coordinator must mail written notice of the disciplinary action to the parent or guardian at the parent's or guardian's last known address.

- If a Campus Behavior Coordinator is unable or not available to promptly provide the required notice to a parent or guardian of a student, the principal or other designee shall provide the notice.

Should you have any questions regarding implementation of these two pieces of legislation, please contact Candace Stoltz, Senior Advisor at 512-463-9286.