

Paul Clore
Superintendent
Gregory-Portland ISD
Portland, Texas 78374

Senator Zaffirini,
District 21

SB 66
Testifying - "For"

Current Language in Section 25.035. TRANSFER OF STUDENT.:

Sec. 25.036. TRANSFER OF STUDENT. (a) Any child, other than a high school graduate, who is younger than 21 years of age and eligible for enrollment on September 1 of any school year may transfer annually from the child's school district of residence to another district in this state if both the receiving district and the applicant parent or guardian or person having lawful control of the child jointly approve and timely agree in writing to the transfer. (b) A transfer agreement under this section shall be filed and preserved as a receiving district record for audit purposes of the agency.

Currently, the only language stemming from the Texas Education Code that addresses enrollment and retention of out of district transfer students is found in a letter published annually by the Texas Education Agency Office of Legal Services titled *Re: Attendance, Admission, Enrollment Records and Tuition*. This year's letter was dated August 7, 2010. Page 7 paragraph 3 of this document references Texas Education Code 25.036, noting that, "a transfer is an annual agreement." Footnote 16 on that same page states,

"Other than tuition, the Education Code does not impose any condition on the annual agreement and does not grant general authority to revoke the agreement during its term nor is such authority inferred. Therefore, in the opinion of the TEA Office of Legal Services, the failure to pay lawfully required tuition is the only basis for a district to terminate a tuition agreement during the school year to which the agreement applies. With regard to other issues that may arise during the applicable school year, such as unsatisfactory grades or disciplinary infractions, transfer students are subject to the same consequences as the district's other students."

The language in TEC 25.306 simply states, "Students may transfer annually." It further states, "A transfer agreement under this section shall be filed and preserved as a receiving district record..." The language of the law makes no statement one way or the other that transfer agreements are to encompass a school year, nor does it state that revocations for reasons other than non-payment of tuition fees prohibit a receiving district from revoking a transfer agreement before a school year has ended. These are interpretations of the Texas Education Agency Office of Legal Services.

We contend that we, as a school district, and other school districts that accept out of district transfer students should have the same right to exercise revocation of a transfer agreement for failing grades, lack of attendance as defined in the district's Transfer Agreement Application or serious disciplinary infractions - as a district may that revokes such an agreement for non-payment of tuition. While the language in the current law does not specifically authorize such revocations, neither does it exclude them. To insure that students are protected from revocations tied to minor disciplinary infractions, we propose that revocation for disciplinary infractions be limited to the infractions found in TEC 37.001, 37.006 and 37.007. Highlights of the language therein are listed below.

Sec. 37.001. STUDENT CODE OF CONDUCT

As required in this section of 37.001, school districts shall develop a Student Code of Conduct that:

- (1) specifies the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, or disciplinary alternative education program or have out of district transfer agreements revoked;
- (2) specifies conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program or recommend revocation of an out of district transfer agreement;

Sec. 37.006. REMOVAL FOR CERTAIN CONDUCT

Out of district transfer agreements may be revoked for a student who:

engages in conduct involving a public school that contains the elements of the offense of false alarm or terroristic threat, or within 300 feet of school property, or while attending a school-sponsored or school-related activity on or off of school property:

- (A) engages in conduct punishable as a felony;
- (B) engages in conduct that contains the elements of the offense of assault;
- (C) sells, gives, or delivers to another person or possesses or uses or is under the influence of:
 - (i) marihuana or a controlled substance,
 - (ii) a dangerous drug,
- (D) sells, gives, or delivers to another person an alcoholic beverage, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;
- (E) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical
- (F) engages in conduct that contains the elements of the offense of public lewdness.