

# Disciplinary Alternative Education Programs in Texas



INTERCULTURAL DEVELOPMENT RESEARCH ASSOCIATION

A 2009 Update

Disciplinary Alternative Education Programs in Texas – A 2009 Update  
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## The Issue

Almost 10 years ago, IDRA gave voice to the thousands of Texas public school students who were being criminalized, ostracized and stigmatized for “offenses” that were formerly managed by a simple timeout or even a visit to the principal’s office with its seminal assessment of Texas disciplinary alternative education programs (DAEPs). Since then, more than three quarters of a million students have been sent to DAEPs. This is not what the Texas state legislature had in mind in 1995 when it required schools to establish the programs.

DAEPs were supposed to be for criminal offenses – drug-related activities, gun violations and assault – all violations that had been punishable by referral to the Texas Juvenile Justice (JJAEP) system. Because not all areas of the state had access to JJAEP facilities, DAEPs were presented as a means for creating options that would remove serious offenders from regular school settings, including many small school districts and those rural communities where no JJAEP facilities existed. That’s what DAEPs were supposed to be...

What has happened is that students as young as six years old have been removed from their kindergarten classes and sent to DAEPs for “discipline” problems. The great majority are enrolled in middle and high school, with referrals peaking at the eighth and ninth grade levels.

“Children do not lose their human rights by virtue of passing through the school gates... Education must be provided in a way that respects the inherent dignity of the child.”  
– UN Committee on the Rights of the Child,  
General Comment 1 Executive Summary,  
Deprived of Dignity

What students referred to DAEPs are “in for” is not an education, but a place where everyone has been labeled a “problem” and is treated as one. They never catch up academically because most of their teachers are not qualified to teach them, and those who are qualified don’t have a clue as to what they were being taught because the curriculum is not aligned, and communication is poor between most DAEPs and “sending” schools.

Think it can’t get worse? Think again.

Guess who is sent most often to DAEPs? If you guessed the most vulnerable, you’re right. One out of two Hispanic students and one out of four African American students make up DAEP classes. Special education students are disproportionately referred, and the majority are low-income. DAEP students score well below their peers in state reading and mathematics assessments, and they drop out at higher rates. There is a growing suspicion that DAEP referrals create and/or exacerbate these problems.



# What needs to be done?

Put simply, DAEPs are a mess. They don't work for kids, they don't work for schools, and they don't work for Texas. Here's what IDRA says the state must do.

1. Use DAEPs only for those students with criminal offenses – the original purpose of the law.
2. Use other proven ways of dealing with discipline problems, such as improving classroom management skills of teachers, peer mediation or even in-school suspensions for the most grievous problems.
3. Short-circuit over-representation of minority, low-income and special education students in DAEPs with early warning triggers at each school and by holding schools accountable for excessive referrals.
4. Require that teachers and support staff at DAEPs have the same credentials as those at regular school campuses and provide specialized professional development.
5. Hold DAEPs to the same performance and accountability standards and requirements as regular schools.
6. Monitor local school and district utilization of DAEPs, including triggers for over-utilization and on-site reviews.
7. Report annual progress for each DAEP, with data disaggregated as required for regular schools and make the reports easily accessible to the public.
8. Provide biennial recommendations for improvement to the state legislature and the governor.



# DAEP Quick Facts

After 10 years... DAEPs may be a lawsuit waiting to happen.  
In the interim...

**There is no easy way to really know how students in DAEPs are doing.** Texas still fails to collect all of the data needed. And for the data it does collect, it is often masked in the datasets, making external analyses extraordinarily difficult.

**There are more students in DAEPs, and one out of three students has been referred to a DAEP multiple times.** There were 105,530 students in Texas DAEPs in 2006, up from 70,958 in 1996 – almost a 50 percent increase. One in three are referred more than once in a year.

**Four out of five students referred to Texas DAEPs are not there because of serious offenses.** “Local discretion” is the code for disciplinary problems that can range from chewing gum to talking back to a teacher to bringing cold medicine to school. What used to be handled through classroom management is now being managed by removing and exiling students.

**Students spend an average of 36 days in DAEPs – that’s seven school weeks.** The average amount of time that students spend in DAEPs has increased from 20 days to 36 days. That’s almost two months, or one day for every school week, that students are disconnected from their schools, their friends, teachers and classes. Two months are almost impossible for students to make up, especially when they are deemed “disciplinary problems.”

**Hispanic, African American, male and special education students primarily make up Texas DAEPs.** Looking at DAEP student enrollment shows one

out of two students is Hispanic, one out of four is African American, one out of four is White, three out of four are males, and one out of five is in special education. Except for White students, all of the rest are proportionately higher than the state average.

**Eighth and ninth graders are more likely to be referred to DAEPs.** Less than 1 percent of DAEP referrals are first graders compared to 43 percent who are eighth and ninth graders. That translates to 40,890 students who are missing on average seven weeks of their regular classes and school life. Not surprisingly, this is also the time when schools see the beginning of dropout problems.

**Students in DAEPs score poorly in TAKS reading and mathematics.** In 2005-06, the average passing rate in reading for DAEP-referred students was 73 percent – 13 points lower than the state average. Their average passing rate in math was 34 percent, which was 31 points lower than the state average of 65 points. What is not known is how much the DAEP referral and the subsequent lapse in curriculum and instruction causes or contributes to the low passing rate.

**There is no easy way to find out if teachers in DAEPs are certified and teaching in their core content areas.** The state requires teachers to be certified in core content areas, but there are no state-level summaries of credentials for teachers working in DAEPs, so there currently is no easy way to find out if students are being taught by certified, experienced teachers.



In 1999, IDRA published its first assessment of DAEPs in Texas. This report provides an updated assessment of these operations in Texas. A review of available data, related reports compiled by other organizations and discussions with others who have monitored these programs indicates that, while there have been some slight improvements in credentialing and accountability measures, major policy reforms are still needed.



# The Dawning of the DAEP

In 1995, the 74th Texas Legislature required school districts to establish DAEPs to serve students who commit specific disciplinary or criminal offenses (Texas Education Code [TEC] Chapter 37). The statute specifies that the academic mission of a DAEP is to enable students to perform at grade level. Each DAEP must provide for the educational and behavioral needs of students, focusing on English language arts, mathematics, science, history and self-discipline. A student removed to a DAEP must be afforded an opportunity to complete coursework before the beginning of the next school year. And, no later than the beginning of the 2005-06 school year, a teacher in a DAEP must meet all certification requirements established under TEC Chapter 21, Subchapter B.

DAEP assignments may be mandatory or discretionary. TEC Chapter 37 specifies the offenses that result in mandatory assignment to a DAEP. School administrators also may assign students to DAEPs for violations of local student codes of conduct (discretionary offenses). For some student behavior, the type of disciplinary action applicable depends on the circumstances involved.

A student may be assigned to a DAEP or expelled more than once in a school year. In addition, a student may be assigned to a DAEP and expelled in the same school year.

Each school district code of conduct must:

- specify whether consideration was given to self-defense, intent or lack of intent at the time the student engaged in the conduct, a student's disciplinary history or a disability that substantially impairs the student's capacity to appreciate the wrongfulness of his or her conduct as factors in a decision to order suspension, removal to a DAEP, or expulsion;
- provide guidelines for setting the length of a term of removal to a DAEP under TEC §37.006 or expulsion under TEC §37.007; and
- address the notification of a student's parent or guardian of a violation of the student code of conduct by the student that results in suspension, removal to a DAEP or expulsion.



The code of conduct also must prohibit bullying, harassment and making hit lists, and it must ensure that district employees enforce those prohibitions. These codes of conduct provide, as appropriate for students at each grade level, methods and options for

- managing students in the classroom and on school grounds;
- disciplining students; and
- preventing and intervening in student discipline problems, including bullying, harassment and making hit lists.

Author John Grogan tells the story of students caught in the trap of zero tolerance: An honor roll senior is punished for taking Aleve for cramps; a fourth grader is handcuffed, taken to the police precinct and suspended after scissors are found in her backpack; and another honors student is suspended after a steak knife was found in her car (his sister had it used while eating waffles on the way to school). Grogan summarizes:

“There should be no room in schools for harmful behavior of any type. But there should be room for common sense, discretion and intelligence. If we want our kids to respect authority, we owe them that much.”

– “Zero Tolerance Running Amok,” *Bad Dogs Have More Fun*,  
by John Grogan, 2007

## Program Characteristics

Districts have implemented a variety of DAEP programs with different instructional arrangements and behavior management approaches. Some programs provide direct, teacher-oriented classroom instruction, others combine direct instruction with self-paced, computer-assisted programs. Behavior management approaches include “boot camp” systems, as well as “point” systems that reward positive behavior.

Most DAEPs are highly structured. For example, many DAEPs use metal detectors, require students to wear uniforms, maintain small student-to-teacher ratios, and escort students from one area of campus to another.

DAEPs may be housed on home campuses or in separate, dedicated facilities. Several small, rural districts have entered into cooperative arrangements with other districts to provide DAEPs.

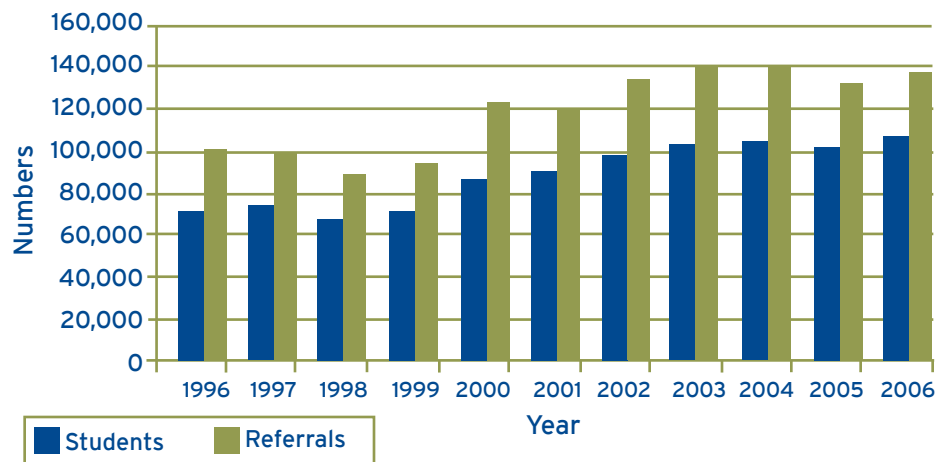


# Updated Findings on Texas DAEPs

For this report, IDRA re-visited the status of DAEPs in Texas to assess what changes had occurred and the extent to which they addressed the many policy reforms suggested in that initial study. What was found was that while a few things had improved, many problematic patterns persisted and some issues became worse rather than better. The following is our latest summary of findings.

- After more than nearly a decade of creation of DAEPs, the state of Texas still fails to collect all data needed to support a comprehensive evaluation of disciplinary alternative education programs.
- The number of students assigned to DAEPs increased to 105,530 in 2005-06, compared to 70,959 students referred in 1996, an increase of 35,000 over the number reported in the program's first year (1996).
- The total number of DAEP assignments, including multiple referrals for students, increased by 37.6 percent, with total statewide placements increasing from 99,391 in 1996 to 136,938 in 2005-06. About one third of all DAEP referrals involve students who had a prior disciplinary related referral in the same year.

Both the Number of Students and the Number of Referrals Have Increased Over the Last Decade



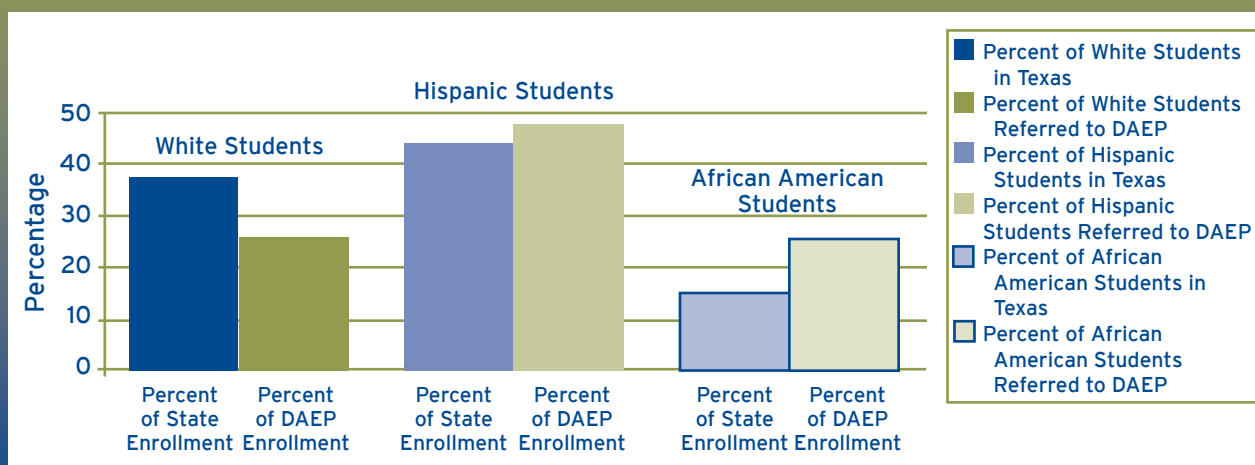
Source: Comprehensive Biennial Report on Texas Public Schools (Austin, Texas: Texas Education Agency, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006).

- Only one out of every five students referred to DAEPs in Texas is removed because of serious offenses specified in the Texas criminal code of conduct; 80 percent of students continue to be referred to DAEPs for violations of the far less serious offenses included in local district codes of conduct. This pattern has persisted since schools were allowed to refer students with less serious misconduct to DAEPs.
- Students assigned to DAEP settings score well below state averages in state assessment measures in reading and mathematics. In 2005-06 state-level percent passing reading scores for DAEP-referred students was 73 percent, 13 points below the state average of 86 for all students. The percent of DAEP students passing state

math assessments was only 34 percent, nearly 50 percent below the state average of 65 percent. It is unclear from the data reported by TEA whether the underachievement preceded referrals to DAEPs, resulted after students returned from a DAEP placement, or emerged from a combination of both factors. Whatever the case, the data reflect that DAEP student academic achievement varies extensively from the state norm and merits immediate and increased state review of these operations.

- The average length of stays to DAEPs has increased over time and now averages about 36 days or approximately seven school weeks. Expanded time makes coordination between sending schools and DAEPs even more crucial than in earlier reports.

## Minority Students are Over-represented in the Numbers of Students Referred in 2005-06



Source: Comprehensive Biennial Report on Texas Public Schools (Austin, Texas: Texas Education Agency, 2006).

- Student referrals to Texas DAEPs vary by race and special education status, with African American elementary students, Hispanic high school students and special education pupils most notably over-represented in the numbers of students referred.
- Males continue to be over-represented in DAEPs, a pattern that has remained constant over 10 years. Trend data indicate, however, that there has been an increasing number of females referred to DAEPs over time.
- DAEP referrals have maintained a historically consistent pattern where referrals are usually very low in the early grades, increase in middle school and peak in the ninth and 10th grade.
- Low-income students continue to be over-represented in Texas DAEPs, this pattern emerged since their inception and there has no visible change in that practice during the program's 10-year span.
- Reporting and accountability requirements in Texas DAEPs are weak and distinct from those applicable to regular schools, though recent state policy reforms may have altered their "special" school status.
- After 10 years of operation, there is still insufficient data available to assess teaching quality available to students placed in DAEPs. Recent policy changes have been modified to require teachers in the core content areas working within DAEPs to be certified. There is no information available on the extent of the districts' progress toward that certified teacher objective.

- The state of Texas continues to provide inadequate guidance on how schools referring pupils to DAEPs and receiving DAEP sites can communicate and coordinate on student academic and behavioral improvement progress. Despite persistent recommendations to expand communication and coordination between referring schools and receiving DAEP staff, the state of Texas continues to provide no direction or leadership for creating those mechanisms. This lack of direction requires schools to create such mechanisms on their own, with no state support, or to simply ignore such coordination activities in the absence of any state requirements or direction on how to develop and implement those efforts.

### DAEP Referrals Peak in the Ninth and 10th Grade, 2005-06

Grade Level	Percent State Enrollment	Percent DAEP Enrollment	Number in DAEP
1	9.06	.71	684
2	8.69	.84	808
3	8.59	1.07	1,025
4	8.32	1.61	1,545
5	8.50	3.02	2,891
6	8.17	7.76	7,429
7	8.54	13.46	12,883
8	8.46	16.25	15,556
9	9.89	26.68	25,334
10	8.14	13.91	13,316
11	7.09	8.92	8,538
12	6.55	5.76	5,511
Total			95,720

Source: Comprehensive Biennial Report on Texas Public Schools (Austin, Texas: Texas Education Agency, 2006).

# Summary and Recommendations

IDRA's major conclusions are that, despite early evidence that DAEP sites required expanded local and state monitoring, improved academic support, more effective counseling to facilitate transitions back to the regular campus, and processes to address over-representation of sub-groups of minority, low-income and special education pupils, there have been insufficient improvements related to the operation and oversight of most DAEP operations. The most disturbing constant has been persistent increases in the number of students being referred.

Given the general lack of substantive improvement in Texas DAEP operations, IDRA recommends immediate reforms designed to reduce the over-utilization of these dysfunctional operations and/or improve the operations of those that remain in existence. Our major recommendations include the following.

## **Recommendation 1: Limit DAEP referrals to students who have committed offenses specified in the Texas criminal code.**

Texas should recognize that the DAEP concept was sold and expected to provide an option to deal with serious offenses that were seen as endangering students and staff. The expansion of what was intended to be a limited mandate to include actions previously considered student misbehavior has not led to improvements in student discipline. To the contrary, the DAEP programs currently in place in the state of Texas contribute to reductions in academic achievement and increased dropout rates among students referred to these centers.

## **Recommendation 2: Modify local code of conduct provisions to require use of in-school suspension or other on-campus disciplinary actions in any disciplinary action not involving a violation of Texas Criminal Code provisions.**

The major contributor to increased DAEP referrals was caused by the expansion of the program to allow for referrals based on local codes of conduct that include a large array of offenses that were not included in the Texas criminal code as violations. This in turn has facilitated the

over-utilization of DAEP placements as a means to deal with issues that may arise from ineffective instruction that leads to students acting out, ineffective classroom management skills among a small subset of teachers, and most disturbing, a tendency by some administrative staff to "rid themselves" of students who they prefer not to have on their campuses. Limiting referrals to most serious offenses provides an opportunity for schools to develop or re-instate effective, school-based discipline management systems.

## **Recommendation 3. Provide mechanisms to address and short-circuit minority, low-income and special education student over-representation in DAEP referrals, including early warning triggers at the school or district levels.**

Data on DAEP referrals confirms what many critics had feared, that these off-campus operations would be over-populated with students that schools have been least successful with – low-income, minority pupils and even special education pupils. Despite evidence that suggests discriminatory tendencies in DAEP referrals both at the elementary and secondary levels, no mechanism exists to trigger TEA reviews and intervention of such abuses.

In the absence of such data, external groups have had to launch their own investigations and issue reports confirming discriminatory activities in many school systems. While informative, these studies do not have TEA's ability to conduct in-depth reviews of local DAEP operations. Lack of effective state oversight coupled with these discriminatory trends invites litigation to correct this long-standing practice.

**Recommendation 4: Provide expanded opportunities for regular campus and DAEP teachers and administrators to acquire professional development support related to effective student behavior management.**

IDRA contends that the tendency for teachers and school administrators to over-utilize mechanisms that remove students from schools and classrooms is attributable to limited classroom management skills or similarly limited school-level behavioral management skills (impacted by the recent state emphasis on content knowledge over development of related classroom management). Development and implementation will address the need to deal with student behavioral issues without resorting to strategies that remove rather than resolve student behavioral issues at the classroom level.

**Recommendation 5: Subject DAEPs to the same accountability requirements applicable to regular school settings.**

Among the most onerous consequences of the DAEP movement in Texas was the tendency to develop alternative accountability mechanisms to assess the effectiveness of these efforts. Lacking a provision for a comprehensive state evaluation of these new alternative

settings, school leaders predictably lobbied for permission to use accountability measures that were different from regular school settings. At the time, the state leadership did not raise the question of why campuses that served students on the basis of disciplinary (and not academic issues) should need special dispensation. (Perhaps school leaders' own recognition of the sub-standard staffing of DAEPs that tended to be staffed first with uncertified staff, and with increased state requirements with certified teachers who were asked to teach classes outside the areas in which they had been certified were a factor in the push for alternative accountability measures described in our earlier policy brief on this issue.) Whatever the previous rationale, the legislature adopted notable DAEP accountability requirements in 2007. What changes actually result from those more stringent accountability measures remain to be seen.

**Recommendation 6. Create school level "triggers" to signal over-utilization of DAEP referrals at the local level.**

A notable hole in current oversight efforts is the lack of any mechanisms that trigger local and state reviews of local district DAEP operations. Over-representation of minority student and special education referrals, a 3 to 1 ratio of male vs. female referrals, the increasing time that students have been referred to DAEPs all with no reaction at local or state levels attest to the need for flags that requires some type of reviews and mandated changes in DAEP operations.

**Recommendation 7: Analyze DAEP performance and progress and make recommendations for improvement to the state legislature and governor annually.**

DAEP proponents would argue that TEA already compiles a report on DAEP efforts that aggregates the data at the state level and provides an electronic system that enables community members and other interested parties to review local practices. These claims ignore the fact that the state-level report is buried within the comprehensive state of public schools document developed by TEA, rather than as a stand-alone product that would facilitate access to this important information.

A second problem with the existing report is that it aggregates data, thereby masking both failures and successes that may be occurring in local schools whose data is blended together for analysis and reporting purposes. The major limitations with the current formats and summary generating capabilities of the DAEP school-level database make real understanding of local program operations impossible for other than a handful of experts in the use of computers for data compiling and analysis. One non-profit group that wanted to get a sense of DAEP operations in the state of Texas had to hire a full-time consultant to gather the data, analyze the information gathered and summarize the major findings. That level of effort to enable communities to assess local DAEP operations does not make for transparency in local disciplinary program operations

**Recommendation 8: Given their apparent lack of effectiveness, relegate DAEP placement to an option of last resort.**

Given the dismal academic performance level among students referred to DAEPs, the 30 percent DAEP recidivism rates, the disturbing disparity of disciplinary referrals of protected student groups, the persistent lack of coordination between sending schools and off-site DAEP centers, and the higher dropout rates for students referred to DAEPs in Texas, short of total elimination, the state should require that referrals to these sites be an option of last resort. Prior to such referrals, schools would be required to exhaust at a minimum, other discipline management avenues to include parent conferences, in-school based programs focused on behavior management, in-school suspensions and focused student counseling.



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