



## **Zero Tolerance Discipline Has Not and Will Not Help Texas Students, Families or Teachers**

**IDRA Testimony Against HB 6, submitted by Paige Duggins-Clay, J.D., to the Texas House Committee on Public Education, March 18, 2025**

Dear Chair Buckley, Vice Chair Bernal, and Honorable Members of the Committee:

My name is Paige Duggins-Clay, J.D. I am the Chief Legal Analyst at IDRA, an independent, non-partisan non-profit committed to achieving equal educational opportunity for every child through strong public schools that prepare all students to access and succeed in college.

At IDRA, we work to transform education by putting children first. It is with that commitment that IDRA respectfully opposes House Bill 6, which would unnecessarily expand schools' ability to remove students for vaguely defined behaviors and create new legal systems and education settings that are not research-based nor designed to support our state's most vulnerable children.

As an initial matter, IDRA supports the repeal of the mandatory disciplinary alternative educational placement (DAEP) referral for students found in possession of an electronic cigarette or vape device and strongly encourages this committee to follow through with this proposal.

In addition, we have identified the following major concerns with the proposed legislation.

### **Wholesale removal of time limitations for student placements in ISS are unfair and harmful to student success and well-being.**

Section 1 of the bill removes any time limits to a student's placement in in-school suspension ("ISS"). IDRA opposes efforts to lower the bar for schools to push children out of class, particularly considering the overwhelming evidence on the harmful impact of exclusionary discipline, like suspensions, on children's education, mental health and social development (Loomis, et al., 2021; Meek & Gilliam, 2016). Having no limits on a disciplinary placement also raises significant due process, academic success and civil rights concerns.

In-school suspension was established to provide a temporary setting for students to reset and receive interventions to correct problematic behavior that is negatively impacting the learning environment. These settings were not intended to provide long-term academic or behavioral health support to students, let alone to meet the needs of students with disabilities, emergent bilingual students, or students in at-risk situations.

Current law appropriately balances the need for schools to temporarily remove a student from the classroom for the purpose of de-escalation, creating a behavior management plan, and/or implementing another evidence-based intervention alongside the rights of students and parents.

**“Disruptive” behavior is a vague term susceptible to multiple interpretations and implicit bias.**

Section 1 of the bill would also allow schools to impose out-of-school suspension on young students who engage in “repeated or significant *disruption*.” When used in student discipline codes, the term “disruptive” often leads to subjective interpretations that disproportionately affect marginalized student populations.

Research indicates that exclusionary discipline practices, such as suspensions and expulsions, do not enhance school safety or student outcomes. Instead, they contribute to higher dropout rates and increased involvement with the criminal justice system (Lyons, 2023; Craven, 2022; González et al., 2022).

To foster fair and supportive learning environments, the committee should reject ambiguous disciplinary terms, such as “disruptive,” and instead use clear, objective behavior standards. Section 1 is unnecessary because current law provides schools with sufficient grounds to address unsafe or harmful behavior through removal.

**Current law provides sufficient grounds for educators to remove students who exhibit threatening, dangerous or illegal behavior.**

Chapter 37 contains several provisions allowing educators to remove students for a variety of behaviors, including options for removing students on an emergency basis for threatening, dangerous or illegal behavior. For example, TEC 37.006 allows for the removal of students for alleged felony behavior; assault; possession, use or distribution of controlled substance; public lewdness; harassment; and a variety of criminal behaviors.

Schools can and frequently do charge students with student code of conduct violations when they become aware of alleged criminal activity, even when such behavior is not connected to the school environment. The legislature should reject efforts to further enable schools to push students out of class and into exclusionary education settings without appropriate due process and evidentiary support.

**There is no evidence suggesting “virtual DAEP” will serve as an effective intervention for challenging student behavior.**

Sections 5-7 of the bill would authorize the creation of a “virtual disciplinary alternative education program.” Alarmingly, there are no data supporting the necessity of this bill nor evidence justifying removal to virtual education as an appropriate response to challenging student behavior.

To the contrary, disconnecting students from the school community and isolating them with no support or safeguards will make our schools and communities less safe. Disconnection and isolation from school prevent students from learning and practicing important positive social behaviors. This limits opportunities to build trusting relationships and reduces adult supervision (David-Ferdon, et al., 2016).

Even more concerning, recent research has confirmed that children subjected to social isolation are more likely to experience high rates of depression and anxiety during and after enforced isolation (Abrams, 2023). Forcing a child into virtual education setting denies them the benefit of

critical developmental opportunities and the protective factors that schools provide and could, instead, put them in challenging environments that exacerbate underlying issues. To the extent that virtual education is a viable option for a student, the Texas Virtual School Network already provides ample opportunities for families to pursue this educational setting.

### **The committee should not further complicate Chapter 37 through the expansion of judicial proceedings for student discipline.**

Section 8 creates a new statutory framework for school districts to pursue court-initiated removals of students to “alternative educational settings” if the district believes (with no enumerated standards) that a student is “substantially likely” to cause physical harm to themselves or another person. The provision suggests that school districts may seek “immediate removal” of a student through this process, despite the fact that the bill also specifies that a court may take up to five days to make a determination of whether the district can move forward with the removal.

IDRA opposes this provision because involving courts will unnecessarily drive up the costs of discipline and behavior management through increased school district attorney fees and litigation expenses. The proposed policy would force families into an unfair and inequitable adversarial system with no resources (such as assigned pro bono counsel or professional advocates) to help families navigate the complex legal system. Further, courts already have robust caseloads relating to child development and welfare. Inviting school districts to flood courts with petitions of this nature would unnecessarily strain the court system. Rather than pushing students and families into court, we should address issues of student behavior through methods that rely on educational, child development, and mental or behavioral health experts.

### **Recommendations**

We acknowledge that there are times when a child may need to be temporarily removed from the classroom for the safety of themselves, their classmates and their educators. But temporary and limited removals from the classroom are not the same as indefinite removals to in-school suspension or from the school to a DAEP or a virtual learning environment. While the former is designed to ensure safety and identify meaningful interventions, the latter harms student learning and may exacerbate real challenges that young people experience.

Removals must be temporary, be implemented in conjunction with appropriate supports and applicable civil rights laws and include a plan to transition back into the learning environment once the student and family have received appropriate interventions and educators have received appropriate support.

This committee should set aside the harmful provisions of HB 6 and instead:

- Eliminate the mandatory referral to DAEP for possession of an electronic cigarette;
- Strengthen student and parent due process protections in school disciplinary proceedings;
- Invest in professional development for teachers on behavior management; and
- Provide evidence-based academic and behavioral support that address root causes of challenging student behavior and value all children in our schools.

IDRA is available for any questions or further resources that we can provide. Thank you for your consideration. For more information, please contact Paige Duggins-Clay, J.D., IDRA's chief legal analyst, at [paige.duggins-clay@idra.org](mailto:paige.duggins-clay@idra.org).

## Resources

- Abrams, Z. (January 1, 2023). Kids' Mental Health Is in Crisis. Here's What Psychologists Are Doing to Help. American Psychological Association. <https://www.apa.org/monitor/2023/01/trends-improving-youth-mental-health>
- Craven, M. (June 16, 2022). What Safe Schools Should Look Like for Every Student – A Guide to Building Safe and Welcoming Schools and Rejecting Policies that Hurt Students, IDRA Issue Brief. <https://idra.news/SafeSchoolsIB>
- David-Ferdon, C., Vivolo-Kantor, A., Dahlberg, L.L., Marshall, K.J., Rainford, N., & Hall, J. (2016). A Comprehensive Technical Package for the Prevention of Youth Violence and Associated Risk Behaviors. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Division of Violence Prevention. <https://stacks.cdc.gov/view/cdc/43085>
- González, T., Etow, A., & De La Vega, C. (2022). A Health Justice Response to School Discipline. American University Law Review Vol. 71:1927. [https://aulexreview.org/wp-content/uploads/2022/07/GED.to\\_Printer\\_FINAL.pdf](https://aulexreview.org/wp-content/uploads/2022/07/GED.to_Printer_FINAL.pdf)
- Loomis, A., Davis, A., Cruden, G., Padilla, C., & Drazen, Y. (2021). Early Childhood Suspension and Expulsion: A Content Analysis of State Legislation. *Early Childhood Education Journal*, 1-18. [https://www.researchgate.net/publication/349139687\\_Early\\_Childhood\\_Suspension\\_and\\_Expulsion\\_A\\_Content\\_Analysis\\_of\\_State\\_Legislation](https://www.researchgate.net/publication/349139687_Early_Childhood_Suspension_and_Expulsion_A_Content_Analysis_of_State_Legislation)
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- Meek, S., & Gilliam, W. (2016). Expulsion and Suspension In Early Education as Matters of Social Justice and Health Equity. NAM Perspectives. Discussion Paper National Academy of Medicine. <https://nam.edu/wp-content/uploads/2016/10/Expulsion-and-Suspension-in-Early-Education-as-Matters-of-Social-Justice-and-Health-Equity.pdf>

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