

## Support Texas Students, Not the School-to-Prison Pipeline

IDRA Written Testimony Against SB 1871, SB 1872, SB 1873 and SB 1874 Submitted by Paige Duggins-Clay, J.D., to the Texas Senate Committee on Education K-16, March 25, 2025

Dear Chair Creighton 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.

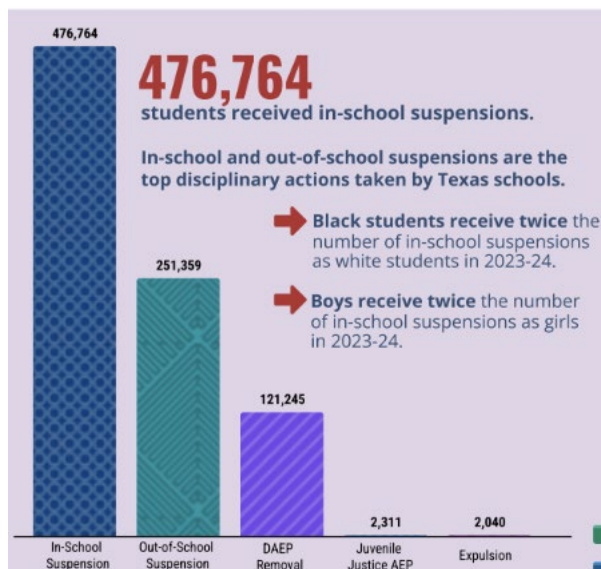
At IDRA, we work to transform education by putting children first. It is with that commitment that IDRA respectfully opposes Senate Bills 1871, 1872, 1873 and 1874, which would unnecessarily expand schools' ability to remove students for vaguely defined behaviors, allow for unlimited student placements in in-school suspension, and reduce accountability for school employees who harm children in the administration of school discipline.

### IDRA Opposes Section 4 of SB 1871 and SB 1873 – Wholesale Removal of Time Limitations for Student Placements in In-School Suspension Are Unfair and Harmful to Student Success and Well-Being

Section 4 of SB 1871 and SB 1873 would remove 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 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.



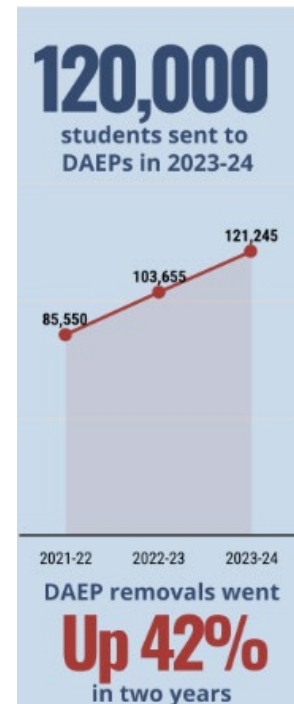
## **IDRA Opposes SB 1871: “Disruptive” Behavior and “Disorderly Conduct” Are Vague Terms Susceptible to Multiple Interpretations and Implicit Bias**

IDRA opposes Section 3 of SB 1871 because it authorizes the removal of students from the classroom to include any time a student “interferes” with teacher communication or student learning, or a student demonstrates even a single instance of “unruly” or “disruptive” behavior. This is a significant expansion of current law, which allows removal when a student “is so unruly, disruptive or abusive that it seriously interferes with” the learning environment (Tex. Educ. Code 37.002) or when a student engages in serious behavior with criminal implications (Tex. Educ. Code 37.006).

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). Section 3 is unnecessary and should be struck because current law provides schools with sufficient grounds to address unsafe or harmful behavior through removal.

Similarly, IDRA opposes Section 5 of SB 1871 because it would require removal of students to disciplinary alternative educational programs (DAEP) for various school-based status offenses that are well-documented to be unfairly applied to Black students, other students of color, and students with disabilities (Fabolo et al., 2011; Fowler, 2010). Specifically, Section 5 would require removal and referral to DAEP for students who allegedly engage in “disorderly conduct,” “disruptive activities” or “disruption of classes.”

To foster fair and supportive learning environments, the committee should reject ambiguous disciplinary terms, such as “disruptive,” “disorderly,” and “unruly,” and instead use clear, objective behavior standards.



## **IDRA Opposes SB 1872: Current Law Provides Sufficient Grounds for Educators to Remove Students Who Exhibit Threatening, Dangerous or Illegal Behavior**

IDRA opposes SB 1872 because it would mandate that students be sent to a juvenile justice alternative educational program (JJAEP) regardless of whether an alleged incident occurs on or off campus. This presents significant due process concerns for students, who will be punished at school for *allegations* of off-campus incidents having no nexus to school and who often must wait months for allegations of criminal misconduct occurring in the community to be prosecuted.

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 school 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.

### **IDRA Opposes SB 1874: Schools Must be Accountable for Unlawful Discipline**

IDRA respectfully opposes Senate Bill 1874 because the bill appears to remove the ability of parents and caregivers to hold school employees that harm children in the administration of school discipline accountable for violations of the law.

IDRA's specific concern arises in relation to the language proposed as Texas Education Code section 22.05121(b)(2), which would shield individual school employees from district-level "disciplinary proceedings" or an action initiated by or in the State Board of Educator Certification if the school employee engages in "an action taken in compliance with Chapter 37."

While we do not oppose strengthening protections for school employees who report in good faith potential violations of Chapter 37 (as proposed in subsection (b)(1) of the same provision), we are concerned that the language in proposed subsection 22.05121(b)(2) is overly broad and will prevent parents and school leaders from taking appropriate action to address concerns that a school employee harmed or violated the legal rights of a student in the administration of discipline under Chapter 37.

For example, we are concerned that if a school employee harms a student in the administration of corporal punishment under Texas Education Code 37.0011 or restraint, confinement or seclusion under Texas Education Code 37.0021, schools will be unnecessarily restricted in addressing the inappropriate and harmful behavior, leaving students vulnerable and families without recourse to seek justice and accountability.

For these reasons, we respectfully request that the committee strike proposed section 22.05121(b)(2) of the bill.

### **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 identified above 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
- Invest in 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

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