

Change requested to Zero-Tolerance policies

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Parent groups and juvenile probation officers asked lawmakers Sept. 20 to intervene in the disciplinary actions of local school districts – saying schools’ zero tolerance policies are too extreme and hurt the children involved.

School children, they say, are being unnecessarily removed from classrooms for minor infractions like chewing gum, sleeping in class, and missing homework assignments.

Chapter 37 of the Education Code, which mandates removal of students for crimes like sexual assault and drug possession, provides school districts wide latitude in determining “discretionary” removal of students who violate a school’s code of conduct.

Students who commit the most serious crimes on school property can be sent to Juvenile Justice Alternative Education Programs (JJAEP), which are run by county juvenile boards. Schools also can send students to JJAEP for discretionary reasons involving “serious and persistent misconduct.”

School districts with “zero tolerance” policies are not using common sense and good judgment, said **David Riley**, chief probation officer of the Bexar County Juvenile Probation Department. While the concept is noble, he said, students are often hurt by its misapplication.

Riley told the committee that a school district had referred a 14-year old asthmatic middle school student – who had never been in trouble before – to the Bexar County JJAEP because she allowed her best friend, also an asthmatic, to use her inhaler. The girl was suspended for one year and charged with a felony for distributing a controlled substance.

After unsuccessfully appealing to the school district, the parents persuaded the school board to reinstate their child in school and clear her record. The student spent 3 months in JJAEP, which is meant for the most violent juvenile offenders.

Riley encouraged lawmakers to intervene and require school districts with zero tolerance policies to consider mitigating factors and special circumstances.

Lonnie Hollingsworth, of the Texas Classroom Association of Teachers, while acknowledging abuses within the system, said his organization group is fairly happy with the provisions of chapter 37. He said the system works by empowering teachers to remove persistently disruptive students.

Gayle Fallon, of the Houston Federation of Teachers, said Chapter 37 “makes our lives livable in an urban school district. We have great fear the Legislature will try and weaken Chapter 37, and that would be a shame because not only would you see an increase in campus crime... or acts of violence, you will see teachers leave” their jobs.

While teacher groups view Chapter 37 as a necessary tool to kick out students with persistent disciplinary problems, **Fred Hink** of Texas Zero Tolerance, a parental rights advocacy group, said school districts are going too far.

“The problem is that parents have been locked out of the disciplinary system,” Hink said. “It has been increasingly apparent that once your child steps foot on school district property, you, as a parent, no longer have rights over your child.”

Hink said students are often accused, found guilty, ticketed, arrested or removed from school before parents are even notified. He advocates immediate parental notification when problems with a student occur. Hink would also like to see a transparent appeals system.

Over 138,000 Texas school children are placed in disciplinary alternative education programs (DAEP) each school year, according to **Marc Levin** of the Texas Public Policy Foundation.

DAEPs are programs to which schools send kids they cannot expel or choose not to expel, many of which have committed serious crimes off-campus. However, nearly 73 percent of the DAEP referrals were discretionary, prompting many to question the widespread practice of removing students for minor behavioral problems.

“We do believe we must tighten up the law on DAEP referrals to ensure students are not unnecessarily relegated to alternative campuses,” said Levin at the Senate Education hearing.

According to **Linda Brooke** of the Texas Juvenile Probation Board, school districts have complete power to determine criteria for referring students. More than 65 percent of children sent to JJAEP are discretionary expulsions.

“There are some school districts that have zero tolerance,” she said, “and I can’t really say we get gum chewers, but we get kids who are truant, we get kids who fall asleep in class, those kinds of things.” However, Brooke said the majority of students sent to JJAEP were due to felony drug-related offenses.

Fallon said that there are widespread discrepancies in how school districts interpret the law in referring students to DAEP. Houston ISD, for example, almost never sends kids with only a single offense to DAEP except for a drug, alcohol, or assault offense. A student must accrue at least nine referrals before being transferred to a DAEP.

The Houston and Dallas independent school districts send approximately 2 percent of their students to DAEP, whereas Pasadena and Katy ISDs send nearly 8 percent.

The length of time a student spends in a DAEP is also entirely up to the school district. An HISD student can spend from 30 to 100 days in an alternative program.

The DAEP program in the Austin ISD has a separate campus to which the majority of students are sent on mandatory referrals. First offenders are sent to DAEP for 30 days; there they receive regular class work instruction along with extensive counseling. “I urge that we retain local control and that we have this tool to use in educating our children,” said **Kathy Felder**, vice principal of an Austin high school.

While school districts like HISD and AISD offer extensive educational programs for students in disciplinary alternative education programs, state statutes only require off-campus DAEPs to offer as little as two hours of instruction a day. In many cases, DAEPs offer only half-day programs amounting to just four hours of instruction.

Chairman **Florence Shapiro** (R-Plano) commented she did not realize that the Legislature repealed a provision in the Education Code that required DAEPs to offer education classes necessary for students to graduate.

“We’ve given them the incentive not to continue with their education rather than the other way around,” Shapiro said.

Levin recommends the Legislature increase academic standards at DAEPs. “Our opinion is, given that these districts are pulling down full state funding for these students... [that] they ought to receive a full seven hours of instruction,” he said.

Fallon said her organization supports increased academic requirements for DAEPs, noting some DAEPs are merely “holding tanks” for students. 