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Small breaches, big penalties

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A middle school student was arrested on felony charges of making a terroristic threat after removing a fire alarm cover.

A high school student was sent to a disciplinary boot camp school after a cigarette butt was found in her car.

Texas public schools have gotten tough on students who step out of line. It's part of the national trend toward zero tolerance ushered in after the deadly shootings at Columbine High School in 1999 and reinforced after 9-11.

A Texas Education Agency report shows that student discipline reports rose 52 percent between the 2000-01 and 2005-06 school years, from 1.7 million to 2.6 million. In the Arlington, Crowley and Fort Worth districts, about 20 percent of all students -- that's one in five -- were removed from the regular academic program for disciplinary reasons.

Students who act up have found themselves banished to disciplinary school programs, and some districts have used fines and criminal charges to punish students for talking on cellphones or chewing gum.

School officials say the student conduct codes are used to keep order in the classroom and to prepare students for life experiences.

"It's not just a school issue," said Mark Thomas, a spokesman for the Birdville school district. "We're teaching them that once you're grown up and out of school and you make bad choices, there will be consequences. Although it seems very harsh to them, there are some big lessons to be learned.

"Nobody ever thinks their punishment is fair."

11-year-old arrested

Of the 2.6 million discipline reports in Texas, the vast majority -- 2 million -- were for nonviolent infractions, such as violating dress code or being late for class.

The Arlington and Fort Worth districts fine students \$15 for using cellphones when they aren't supposed to. That's mild compared with others being given by Texas schools.

In the Tomball school district just north of Houston, 11-year-old Casey Harmeier was charged in October with making terroristic threats, a felony, for removing the cover of a fire alarm at Benkendorf Intermediate School.

Casey had bumped into the alarm, loosening its cover. Dared by another student, he removed the cover, said his father, Frank Harmeier. Then the alarm sounded.

Casey was questioned by administrators and sent to the Tomball Police Department, where he was fingerprinted and photographed. He also signed a felony admission of guilt without parental or legal consultation, Harmeier said.

The felony charge was reduced and ultimately dropped after Casey's parents fought it for several months.

"It's not rational," Harmeier said in a telephone interview. "It doesn't make sense."

Kimberly McLemore of Slaton, near Lubbock, said she received no academic instruction, only exercising,

during the day she spent at a boot camp disciplinary alternative school in nearby Plainview.

McLemore, 16, said she was sent to the program in the fall, after a routine parking lot search at Slaton High School turned up a cigarette butt under the seat of her car.

William McLemore said that his daughter doesn't smoke and that the cigarette butt was probably left behind by a relative who had used the car. Kimberly McLemore was ordered to spend 10 days at the boot camp.

"It's like I was in prison or something," she said. "It was horrible."

After an hourlong bus ride, McLemore was marched into the building with her hands behind her back. Upon entering, an instructor told her to face the wall and not talk, she said.

McLemore said she accidentally replied, "OK," and was sent to a room where she was stood with her hands behind her back in front of "a big poster of a military guy staring at you."

After misinterpreting a command, she said, she was sent to a small closet where she sat staring at a wall for an hour. The rest of the time was spent exercising, McLemore said.

Her father withdrew her from school and began home-schooling her.

The Slaton district, which contracts with the Plainview school district for the boot camp, defends its use as punishment.

"One of the major deals is that we want [students] to make correct choices and not want to go back," said Jim Taliaferro, superintendent of the Slaton school district. "I do not know that it's meant to be pleasant."

Students at the boot camp receive their education by working on computers. But the focus is on academics, Taliaferro said. He denied that all the students do is exercise.

Getting sent away

In 2005-06, there were 136,938 reports of Texas students being sent to disciplinary alternative schools.

These programs were created for students who are violent or seriously disruptive, said Leslie Smith, a program specialist with the Texas Education Agency.

But now, even students who talk back to teachers or fail to do their classwork can trigger a paper trail that could land them in a disciplinary alternative school.

Disciplinary Alternative School Programs have little state oversight, and they are not rated by the Texas Education Agency.

State law requires disciplinary alternative schools only to offer a minimum curriculum of English, math, science, history and self-discipline.

"This is not a complete curriculum that will allow a student to accumulate enough course credits to pass to the next grade," Smith said.

But disciplinary alternative schools can offer more.

In the Birdville school district, for example, teachers teach the core courses. Work for electives such as honors or art classes is sent in from the students' "home" schools, officials said.

State law requires disciplinary alternative schools to give students "a fair chance" to complete needed courses and advance to the next grade without making parents pay for summer school or correspondence courses. But schools are not required to announce that these options are available, Smith said.

The quality of education can also suffer for students who are sent to in-school suspension programs.

In 2005-06, Texas schools made 1.7 million referrals to in-school suspension programs. There are 4.7 million students in the state; some students received multiple suspensions.

"Most [in-school suspension] programs lack a substantial amount of instruction and are not staffed by a certified teacher," said Austin attorney Marc Levin, who is also a director for the Center for Effective Justice, Texas Public Policy Foundation. "While they are theoretically study halls, many anecdotal reports suggest there is often more chaos than studying."

The only time a certified teacher is required for in-school suspension programs is when a student is in such a program for at least six consecutive weeks.

Students can be suspended for a wide range of school infractions, often at the discretion of teachers or administrators.

Lewisville High School student Adrian Boykin was suspended in March for refusing to face the American flag during the Pledge of Allegiance. He said his beliefs as a Jehovah's Witness prevent him from "worshipping false objects."

There is no state cap on the number of times that a student can be suspended, officials said.

Adrain Johnson, associate commissioner of school district services for the Texas Education Agency, said all school districts need to apply common sense when disciplining students.

Johnson said the state provides on-going training to help schools interpret the laws.

"What we want to train administrators to do is look at the intent of the student," he said.

He cited the 2002 incident at L.D. Bell High School in Hurst, in which a 16-year-old honor student was expelled for having a bread knife in the bed of his pickup.

His original punishment was a 1-year expulsion. But after a public outcry, the expulsion was reduced to five days.

Johnson said schools need to make sure they're applying the rules fairly to all student groups. Another challenge is making sure that districts are properly categorizing offenses when they are reported, he said.

The TEA hopes to get the word out to school officials through regular training sessions at area service centers, Johnson said.

This article includes material from Star-Telegram archives.

If your child gets in trouble

What parents can do in response to each disciplinary action:

Action by school	Parental recourse
In-school suspension (three days at a time)	None
Out-of-school suspension (three days at a time)	None, unless student is in special education; then, a hearing is required under Individuals with Disabilities Education Act if suspensions for the school year total 10 days or more
Suspension to Disciplinary Alternative Education Program	In some cases, a parent may appeal to the school board, whose decision is final. IDEA requirements apply to special-education students.
Expulsion to Juvenile Justice	Parent may appeal to the school board and then further appeal to state district court. IDEA requirements apply to special-education students. Parents may also file grievances against teachers with the State Board of Educator Certification, may report abuse of students at school to the Texas Department of Family and Protective Services and may file a civil lawsuit if they believe that their child's constitutional rights have been violated.

Source: Texas Public Policy Foundation Center for Effective Justice

The punishments

A discipline record is generated whenever a student is removed from any part of the regular academic program. Punishments, from least severe to the most severe, include in-school suspension, out-of-school suspension, assignment to a Disciplinary Alternative Education Program, expulsion from school, or

assignment to a Juvenile Justice Alternative Education Program. The requirements for each punishment vary depending on state law or the decision of the school district.

In-school suspension: The student is sent to a separate area of the school during the school day.

Out-of-school suspension:

The student is barred from school for up to three days. There is no limit on the number of times that a student can be suspended.

Assignment to a DAEP: A school for students who commit disciplinary violations and certain crimes.

Expulsion to a JJAEP:

A program for students judged by a juvenile court to have engaged in delinquent behavior, usually a felony. The juvenile boards of counties with populations larger than 125,000 are required to develop JJAEPs; doing so is optional for smaller counties. Twenty-six counties, where about 60 percent of the state's population lives, have JJAEPs.

The state does not collect data on students who are sent to detention programs before or after school or on weekends, and they are not represented in the discipline report, officials said.

Source: Texas Education Agency

Proposed changes

New state legislation, if signed into law, would revise how schools discipline students and how disciplinary alternative schools operate.

Schools would no longer be able to issue criminal citations for breaking school conduct rules if the offense isn't part of the penal code.

Disciplinary Alternative Education Program schools would be required to give a diagnostic test to students who are placed there for 90 days or more. Currently, there is no way to gauge whether students in disciplinary alternative schools are progressing academically.

Source: Texas Public Policy Foundation Center for Effective Justice