



Testimony to the House Public Education Committee

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April 30, 2012

Regarding Interim Charge: Review and make recommendations on the effectiveness of Disciplinary Alternative Education Programs (DAEPs) and Juvenile Justice Alternative Education Programs (JJAEPs) in reducing students' involvement in further disciplinary infractions. Determine the appropriate role of disciplinary alternative placements in promoting education achievement and how technology could be used to supplement education services. Consider appropriate placements in DAEPs or JJAEPs and consistent funding models for those programs. Consider options for counties without a JJAEP or inefficiently few placements in a JJAEP. Identify positive behavioral models that promote a learning environment for teachers to appropriately instruct while addressing any behavioral issues and enforcing student discipline.

The Texas Public Policy Foundation is a 501(c)3 nonprofit, non-partisan research institute guided by the core principles of individual liberty, personal responsibility, free markets and limited government. We believe there are three distinct ways to increase the efficiency and effectiveness of DAEPs and JJAEPs.

Performance Measures for DAEPs

It is difficult to evaluate whether DAEPs adequately educate students during their placement in the program due to the limited amount of data available. According to the Texas Education Agency's (TEA) 2010 Discipline Data Validation Manual, the only performance-based monitoring data the agency collects from schools is, "Unauthorized DAEP Placement: Students under Age 6, High Number of Discretionary DAEP Placements, African American Discretionary DAEP Placements, and Hispanic Discretionary DAEP Placements."¹ Other data collected through the Performance Based Monitoring Analysis System only studies special education students in DAEPs.²

Additionally, TEA releases TAKS testing results for students in DAEPs, which can provide a comparison to other populations of students. However, those results are indicative of a student's performance as a whole, not whether there has been any change in performance while in the DAEP.* Yet another example: while TEA should be commended for releasing dropout rates for

* In 2011, 46.1 percent of students in a DAEP passed the mathematics portion of the TAKS assessment, while 67.7 percent passed the reading portion. ("[2011 Statewide Reading Tests: Counts for Students with Disciplinary Records](#)," "[2011 Statewide Mathematics Tests: Counts for Students with Disciplinary Records](#)," Texas Education Agency.) In comparison, in 2011, 10th Graders in Texas passed the reading portion at a rate of 91 percent and the

students in DAEPs—which is more than twice that of other students (4.5 percent versus 2.0 percent)*—this does not necessarily relate to DAEP quality. Without pre- and post-placement assessments that specifically monitor progress, or lack thereof, while in the DAEP, there is no way to evaluate this program.

When it comes to JJAEPs, there is more data available to judge their effectiveness. For instance, every other year, the Texas Juvenile Justice Department releases almost 100 pages of analysis and review of JJAEPs, including detailed information on expenditures and outcomes for youths.³ Performance measures include assessment results at the time of entry and exit from the JJAEP, a county-by-county comparison of those assessments, the change in disciplinary referrals before and after a student's placement in a JJAEP, and subsequent referrals to the juvenile justice system. In the 2008-2009 school year, after placement in a JJAEP, 60 percent of students had a decrease in discipline referrals, 23 percent had no change, and 17 percent of students had an increase in disciplinary referrals.⁴ This kind of information would be very valuable for DAEPs as well. As Texas students assigned to a DAEP spend, on average, 34.2 days in the program, it is important to know whether this significant portion of the school year is being efficiently used.⁵

To remedy this issue, TEA should follow the Texas Juvenile Justice Department's lead and use the Iowa Test of Basic Skills and Iowa Test of Educational Development to assess students, statewide, pre- and post-placement as the Legislature has already ordered. This will permit for evaluations of the specific effectiveness of DAEPs as well as comparisons between DAEPs. This would be in line with House Bill 2532, passed in 2007 by the 80th Texas Legislature. House Bill 2532, among other things, required school districts to assess the academic growth of students placed in DAEPs for 90 school days or longer with a pre- and post-placement test.⁶

The Legislature sought such assessments to be either comparable to those given to students placed in JJAEPs or a new instrument developed by the TEA. Under TEA rules promulgated in response to House Bill 2532, school districts currently use either the TAKS test or local benchmarks, derived from state benchmarks. However, there is neither continuity amongst these standards nor comparison to each other, and thus no ability to determine the quality or efficiency of a DAEP program. Using a pre- and post-placement testing regime as is done in JJAEPs would improve the ability to assess DAEPs.

Other information the Legislature may find useful relates to the financing of DAEPs. While the Legislature had previously capped the amount of funding for DAEPs to 18 percent of each district's compensatory education allotment,⁷ this cap has been lifted.⁸ The Public Education Information Management System Budget and Actual Financial Reports⁹ do include information on DAEP expenditures, but only at the district level—and only in the aggregate, without descriptions of what the monies were expended on. This prevents any programmatic analysis or statewide analyses.

mathematics portion at a rate of 75 percent. ("[2010-11 State Performance Report](#)," Texas Education Agency Division of Performance Reporting.)

* It should be noted that approximately 80 percent of Texas adult inmates are dropouts—so whether or not DAEPs are contributing to dropout rates is of vital importance.

The Legislative Budget Board estimated that schools across Texas spent \$232 million on DAEPs in the 2008-2009 school year.¹⁰ But without a clear understanding of whether this quarter of a billion dollars was spent on administrative expenses, teacher salaries, physical plant costs, or other expenses, DAEP evaluation remains very difficult.

Technology in DAEPs and JJAEPs

Especially for smaller school districts, administration of DAEPs and JJAEPs can be very expensive on a per student basis. For example, the JJAEP in Smith County costs \$555.59 per day, largely due to the small number of students referred to the program.¹¹ Virtual education may assist in bringing down those costs. The cost for a full-time student in a virtual school is statutorily limited to \$4,800 on an annual basis,¹² and given that students on average spend about 34 days in a DAEP, costs would be much lower than that per seat.

Some schools have begun experimenting with virtual education. For instance, Southside Independent School District in San Antonio began using virtual education for some of its DAEP students this year. Southside has deemed this component of the DAEP very successful, as it permits students at different levels and in different classes to continue receiving education at their specific levels. Students and staff in Southside's DAEP have reported more student ownership in their education, and increased stability and continuity when transferring between home districts and the DAEP. The use of virtual education has been considered so successful at Southside that the school district is determining if they can move all DAEP students into a virtual education program in the coming years.

The Legislature and TEA should capitalize on the cost savings possible with virtual education in DAEPs by expanding virtual classes in DAEPs and permitting virtual classes outside of the Virtual Schools Network. Schools employing this ever-growing technology could not only provide a better education at a lower cost, but also ensure continuity of education for students removed from their home schools and placed in DAEPs.

Appropriate Placements in DAEPs and JJAEPs

DAEPs and JJAEPs are vital components of the public school system in Texas, providing increased structure for misbehaving youths while preserving a safe learning environment for other students. However, it is imperative that schools do not overly rely on DAEPs and JJAEPs. Minor misbehavior may not warrant disruption of the normal education routine, and traditional disciplinary tactics may be more effective. Currently, schools can remove a student to a DAEP for any conduct so specified in the student code of conduct.¹³ And this option is exercised often. In the 2010-2011 school year, 87,553 students were removed to a DAEP 112,580 times. The overwhelming majority of referrals to DAEPs are for violations of codes of conduct—48,381 students and 60,502 incidents in the 2010-2011 school year.¹⁴ Further, two-thirds of DAEP referrals, or 75,257, were discretionary, and 61 percent of JJAEP referrals were discretionary.¹⁵

By reducing discretionary and code of conduct removals, schools could increase the quality of education for these students and cut down on disciplinary costs, all while preserving safe schools. For example, schools could be required to document at least three separate disciplinary

violations prior to discretionary referral for conduct that does not involve a crime under state or local law, violence, or the threat of violence. This would ensure that isolated, minor bouts of misbehavior alone are not sufficient cause to uproot a child from school and place him or her in a DAEP.

Another subject of concern is whether conduct triggering a mandatory removal is serious enough to warrant such removal. Schools *must* remove a student to a DAEP for false alarms, assault within 300 feet of campus, an offense relating to an abusable volatile chemical, public lewdness, among other crimes. The Legislature may not find all such offenses to be worthy a mandatory removal.¹⁶

¹ [“Discipline Data Validation Manual,”](#) Texas Education Agency (2010).

² [“Texas State Government Effectiveness and Efficiency,”](#) Legislative Budget Board (Jan. 2011), pg. 539.

³ [“Juvenile Justice Alternative Education Programs Performance Assessment Report School Year 2008-2009,”](#) Texas Juvenile Probation Commission (May 2010).

⁴ *Ibid.*, pg. 50.

⁵ [“2010 Comprehensive Annual Report on Texas Public Schools,”](#) Texas Education Agency (Dec. 2010), pg. 71.

⁶ [House Bill 2532](#), 80th Legislature.

⁷ See [Senate Bill 702](#), 77th Legislature, amending Tex. Educ. Code 42.152(c)(1), signed into law 6/13/01.

⁸ [Tex. Educ. Code Ann. § 42.152\(c\).](#)

⁹ [PEIMS Financial Standard Reports](#), Texas Education Agency.

¹⁰ [“Texas State Government Effectiveness and Efficiency,”](#) Legislative Budget Board (Jan. 2011), pg. 537.

¹¹ [“Juvenile Justice Alternative Education Programs Performance Assessment Report School Year 2008-2009,”](#) Texas Juvenile Probation Commission (May 2010), pg. 63.

¹² [Tex. Educ. Code Ann. § 30A.105.](#)

¹³ [Tex. Educ. Code Ann. § 37.001\(a\)\(2\).](#)

¹⁴ [“Count of Students and Incidents by Discipline Action Reasons and Discipline Action Groups,”](#) Texas Education Agency, PEIMS 2010-2011 Data.

¹⁵ [“Count of DAEP and JJAEP Placement Reason Types By Ethnicity and Gender,”](#) Texas Education Agency, PEIMS 2010-2011 Data.

¹⁶ [Tex. Educ. Code Ann. § 37.006.](#)