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The DAEP at 17: Recent Developments in Student Discipline

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Introduction

Texas school districts have been required to provide disciplinary alternative education programs (DAEPs) as they currently exist since the 1996-97 school year. The adoption of alternative education as a disciplinary technique was intended to provide an alternative to suspension or expulsion so that disruptive students were not shut out of the educational process and sent “out to the streets.” However, in recent years, some advocacy groups and policymakers have voiced concerns that certain student populations, such as minorities and special education students, are overrepresented in DAEP referrals and placements. Those same groups have hypothesized that placement in a DAEP is the first step in a series of disciplinary consequences that can steer a student out of the educational mainstream and into the justice system.

Teachers and other education professionals focus on the importance of protecting the safety and integrity of the learning environment and believe that student removal is sometimes necessary to achieve that goal. They urge school districts to improve the quality of programs and services provided in a DAEP and to offer supportive programs that target at-risk students outside of a disciplinary setting, while keeping the current disciplinary system intact.

Background and History

School districts began implementing alternative education programs and schools in the 1970’s as a means to identify and support students considered to be at risk of school failure or dropping out.¹ Students who engaged in behavior that was sufficiently delinquent or disruptive to warrant removal from the classroom were suspended or expelled.² Alternative education programs were

¹ Texas Education Agency. (2007). *Disciplinary alternative education program practices*. Policy Research Report No. 17 (Document No. GE07 601 11). Austin, TX. Used with permission.

² Id.

initially included in the Texas Education Code in 1984 and school districts were given a mandate to “consider reasonable alternatives, including appropriate discipline management techniques which may include removal to an alternative education program” before suspending the student.³ This form of removal to an alternate setting for disciplinary purposes was the precursor to the more formalized construct that is set out in the statute today.

In 1993, the 73rd Texas Legislature created the Joint Select Committee to Review the Central Education Agency. In its final report, published in 1994, the committee made several findings and recommendations regarding student discipline. Significantly, the Committee found:

Teachers should have the authority to remove an unruly, disruptive, or assaultive student from the classroom and, in severe cases, refuse to allow the student to return to their classroom. Many view suspension and expulsion as the simplest and most effective solutions to the very complex problems posed by students who disrupt classes, get into fights, bring weapons to school, assault school personnel or other students, or commit other criminal offenses. Unfortunately, expulsion from school has become a badge of honor for young people either hoping to join or already involved with gangs. Literally thousands of Texas children are expelled from school and sent to the streets partly because school districts do not have the expertise or resources necessary to provide the services that will get these students back on track....Students should not be allowed to fall out of the education system without being transferred to other appropriate authorities. This will require the creation of alternative settings to which disruptive students at each grade level may be transferred so that school administrators and judges are not forced to simply return the disruptive student to the regular classroom.⁴

The Committee recommended that teachers be given the authority to remove an unruly, disruptive or threatening student from the classroom, and in some circumstances, be authorized to prevent that student from returning to the classroom.⁵

³ Tex. Ed. Code § 21.301(c), Repealed by Acts 1995, 74th Leg.

⁴ Joint Select Committee to Review the Central Education Agency (1994). *Final Report of the Joint Select Committee to Review the Central Education Agency*. Austin, TX: Texas Legislative Council.

⁵ Id. At 19.

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