



Joint Testimony in Opposition to SB 245

Submitted by
Intercultural Development Research Association (IDRA)
Texas Center for Justice and Equity
Texas Appleseed

Against

SB 245
Senate Education Committee
April 12, 2023

Dear Chair Creighton and Honorable Members of the Senate Education Committee,

Thank you for this opportunity to provide information and recommendations that seek to provide meaningful and long-lasting solutions for supporting students and educators in our state's public schools. Through our combined decades of research and advocacy to improve outcomes for Texans, especially as they relate to the safety and wellbeing of children and their communities, we have been able to coalesce around several issues that matter most to our organizations and bases.

Today, we come together to oppose the harmful and dangerous proposals within SB 245 and urge you to vote in opposition to this unnecessary step backward on progress in protecting youth.

We respect teachers and vocally support policies that increase their pay, offer training and technical assistance on creating safe and culturally sustaining schools, and invest in professional support staff, including counselors and behavioral health specialists, who can support educators in managing challenging student behaviors. However, we do not believe that resorting to zero tolerance exclusionary discipline policies against children is an appropriate or effective response to student misbehavior – especially behavior that is subjectively labeled as “disruptive.”

Young Texans should be given ample opportunities to succeed in their classroom environments, and legislators should prioritize investments in evidence-based strategies that address the root causes of problematic student behavior, proactively build positive school climates, and support educators.

Instead of acknowledging the immense disruption of the coronavirus pandemic, the unprecedented impact of the youth mental health crisis, and the lack of investment in support personnel and resources for educators, SB 245 accelerates children's referral to the school-to-prison pipeline by allowing educators to remove children from the classroom for minimal disruptions and lowers the standards for students to be placed in DAEP or expelled.

As experts on the history and current operation of the school-to-prison pipeline, we feel confident in sharing our belief that the framework created by SB 245 would push even more Black and Brown young Texans, LGBTQ young people, and kids with disabilities out of their classrooms. SB 245 will almost certainly have a disproportionate impact on Black students, other students of color, and students with disabilities, who are more likely to be labeled as “disruptive” because of implicit bias.¹ For example, in 2018-19, Black students represented 13% of public school enrollment in Texas, but 26% of students receiving in-school suspensions. In comparison, white students represented 27% of enrollment but 22% of students receiving in-school suspensions. Similarly, on average, 26% of Black students are suspended compared to 8% of white students.²¹ This body cannot ignore the grossly disparate impact of these policies on Black and other historically-marginalized children.

¹ IDRA. Zero Tolerance Policies in Texas Push Black Students and Latino Students Away from School. 2023. https://www.idra.org/research_articles/zero-tolerance-policies-texas-push-black-students-hispanic-students-away-school/

As some former educators ourselves, we appreciate the intention to provide relief for overburdened and underpaid school teachers; however, that should not come at the price of students' futures. Instead, meaningful support and resources can help teachers better manage classroom behaviors and help students learn from misbehavior, rather than be pushed out of school and into disciplinary alternative education programs (DAEPs) or juvenile justice alternative educational placements (JJAEPs), which do not offer high-quality educational opportunities or provide the critical school-based behavioral support resources students need.

We are particularly concerned about the following sections of the bill:

Section 2:

The standard for removal in this section of the bill is far too low. We fear that this will result in mass removals of students, and potential chaos for an already substandard DAEP system that is not equipped to meet students' educational, mental, and behavioral health needs.²

Section 4:

Increasing the amount of time a student may be removed from school from 3 days to 5 days will be harmful to the child, their family, and their ability to quickly get back on track and succeed once they are in the classroom again.³

Section 5:

Disorderly conduct is an extremely subjective offense which disproportionately impacts students with learning disabilities, and students of color.⁴ Current law already affords districts the option to refer students to DAEP for violations of criminal law.

Section 9:

This section poses a threat to students' civil rights and liberties because it allows students to be referred to DAEP for a single instance of relatively minor misbehavior that may not violate a school's code of conduct. Current law (TEC 37.019) already authorizes a principal to remove a student on an emergency basis.

² Ramon, Ana. Why Disciplinary Alternative Education Programs Do More Harm Than Good. IDRA. 2020. <https://www.idra.org/resource-center/why-disciplinary-alternative-education-programs-do-more-harm-than-good/>

³ American Institutes for Research. An Empirical Examination of the Effects of Suspension and Suspension Severity on Behavioral and Academic Outcomes. 2021. <https://www.air.org/sites/default/files/2021-08/NYC-Suspension-Effects-Behavioral-Academic-Outcomes-August-2021.pdf>

⁴ Blad, Evie. Law Against 'Disorderly Conduct' in Schools Led to Unfair Student Arrests, Judge Rules. 2021. Ed Week. <https://www.edweek.org/leadership/law-against-disorderly-conduct-in-schools-led-to-unfair-student-arrests-judge-rules/2021/10>

Section 10:

This section appears to create immunity for school districts from financial and other sanctions relating to school discipline decisions. It is unclear how the provision will operate in practice. For example, the bill does not explain how districts must report students referred to exclusionary and alternative discipline placements for attendance purposes under this provision. Similarly, the broad prohibition on a “penalty” for the number of students in exclusionary settings is overbroad, may limit state and federal authorities from taking appropriate corrective actions to address discriminatory and disparate outcomes in school discipline actions, and conflict with federal law, which authorizes the Department of Education to revoke federal funding for non-compliance with federal civil rights laws, including discriminatory discipline practices.

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 removals from the school environment altogether. While the former is designed to ensure safety and identify meaningful supports, 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 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.

In conclusion, we urge the Senate Education Committee to vote against SB 245 in its current form. Long term, we advise the Texas Legislature to pass legislation that will provide meaningful support to teachers and allow school officials to nimbly employ evidence-based practices to address behavioral concerns on their campuses, as well as ramp up investments in the mental health supports that are proven to foster supportive school environments.

Thank you for your time and attention to the children of Texas.

Sincerely,

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