



7800 Shoal Creek Blvd., Suite 171-E  
Austin, TX 78757  
voice/tdd: 512.454.4816  
intake: 800.252.9108  
fax: 512.323.0902  
drynders@advocacyinc.org  
www.advocacyinc.org

**Testimony on SB 38**  
**Senate Education Committee**  
**March 3, 2009**

My name is Dustin Rynders. I am an attorney with Advocacy, Inc, the statewide Protection & Advocacy (P&A) system for Texans with disabilities. Advocacy, Inc. fully supports Senate Bill 38, which would effectively address the great need for more accurate and accessible reporting of disciplinary removal data, including information specific to students receiving special education services.

My legal practice at Advocacy, Inc. focused almost exclusively on school discipline cases for two years in the greater Houston area and has continued with cases and technical support to our staff throughout the state. As you know, Chapter 37 of the Education Code gives districts great discretion in how they handle disciplinary removal. Texas Appleseed's groundbreaking report on Texas's School to Prison Pipeline revealed how great the disparities are between disciplinary removal numbers by school district, especially for certain groups.<sup>1</sup> Without the ability to break down the data as clearly as SB 38 would allow, the report still found 79 Texas school districts disproportionately referred students receiving special education to Disciplinary Alternative Education Programs (DAEPs) annually for the five-year period between 2001-2006. In some districts, the DAEP referral rate of special education students was over five times that of their presence in the student body. For example, in Katy ISD, 9% of the student body received special education services, but 52% of those referred to DAEP's received special education services.

SB 38 improves the availability of accurate information on all school disciplinary referrals, which is important for at least three main reasons:

1. It empowers parents, especially parents of children with mental illness, autism, and other behavioral health needs, by giving them access to vital information about where they can live to decrease the likelihood that their child will be inappropriately removed from school for disability related behavior and pushed through the school-to-prison pipeline.
2. It empowers the Texas Education Agency (TEA) to do more to live up to its responsibilities for monitoring compliance under the Individuals with Disabilities Education Improvement Act (IDEA). Under IDEA, as a condition of accepting federal assistance, TEA must take primary responsibility for ensuring that local districts provide students with disabilities a free appropriate public education and comply with IDEA.<sup>2</sup> Federal law forbids removal of special education students for disability related behavior for longer than 10 days except in a narrow set of

circumstances.<sup>3</sup> The Texas Appleseed report data and Advocacy, Inc's case work indicate that TEA is falling short of its obligations to assure uniform compliance with this important aspect of IDEA. Improved data would provide the agency an important resource for monitoring compliance with disciplinary removal laws so that more meaningful enforcement can occur.

3. It empowers Advocacy, Inc. and other community groups to identify districts that are unlikely to be complying with federal law, so we can educate parents, youth and school district staff on the effectiveness of positive behavior supports and inappropriateness of disciplinary removal for many youth.

While SB 38 is a strong step forward in improving reporting on an issue of particular importance to students with disabilities, please note that other performance data collected under Section 39.051(b) would also benefit from disaggregation based on special education status as well. For example, it would be useful to disaggregate the data already collected on dropout rates and graduation rates by special education status as well.

Thank you for the opportunity to testify. I am willing to answer any questions you may have.

**Dustin Rynders**

Policy Specialist/ Attorney

Advocacy, Inc.

7800 Shoal Creek Blvd, Suite 171-E

Austin, TX 78757-1024

Voice/TDD: (512) 454-4816

Fax: (512) 323-0902

---

<sup>1</sup> See, Texas Appleseed. Texas's School-to-Prison Pipeline: Dropout to Incarceration, available online at: [http://www.texasappleseed.net/content/index.php?option=com\\_content&task=view&id=21&Itemid=106](http://www.texasappleseed.net/content/index.php?option=com_content&task=view&id=21&Itemid=106) (last accessed March 2, 2009).

<sup>2</sup> 20 U.S.C. § 1212(a)-(b)b; 34 C.F.R. §§ 300.110-157, 300.500-515, 300.600-662. As a result of the 1997 amendments to the IDEA, the only exception to this obligation is that states may shift the general supervisory responsibility for children with disabilities who have been convicted as adults and are confined to adult prisons to another state agency.

<sup>3</sup> See, 20 U.S.C. § 1415(k),