



Invited Testimony to the Senate Education Committee and the Senate Criminal Justice Committee

by Jeanette Moll, Juvenile Justice Policy Analyst, Center for Effective Justice

October 30, 2012

Regarding Interim Charge: Conduct a comprehensive review of school discipline practices. Specifically, review and make recommendations on: The effectiveness of Disciplinary Alternative Education Programs (DAEP) and Juvenile Justice Alternative Education Programs (JJAEP) in reducing students' involvement in further disciplinary infractions and in promoting positive educational achievement; Disproportionate school discipline referrals, including suspension, expulsion and Class C misdemeanor citations; The issue of "Zero Tolerance" in secondary education school discipline, their use of alternative education campuses, and the barriers they create toward graduation. Also include the role that specialized school police departments play in these systems. Consider the impact on the juvenile justice system and the adult prison system; The number of students in the conservatorship of the Department of Family and Protective Services (DFPS) referred to juvenile or municipal courts, suspended, expelled, and placed in Disciplinary Alternative Education Programs (DAEP). Examine data-sharing practices between DFPS, TEA, and local education agencies and make recommendations to increase communication between schools and DFPS to increase educational outcomes for children in foster care; Evidence-based models used for addressing juvenile delinquency prevention that are targeted to non-adjudicated, but at-risk youth, in the school disciplinary system.

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. Our research reveals inefficiencies and ineffectiveness in current zero-tolerance and justice-system based school discipline systems that could be rectified with evidence-based, common sense school discipline models.

The State of the Current System

Zero-tolerance school discipline has been in effect for around 15 years. Originally applicable to very serious offenses, such as bringing guns or deadly weapons on school campuses, these policies now apply to a wide variety of student misconduct including alcohol, drugs, and lesser violence. Texas' zero-tolerance system includes mandatory expulsion for a variety of offenses in Chapter 37 of the Education Code. In addition, schools are given wide latitude to add to the list of offenses that trigger mandatory expulsion in their student codes of conduct.

The Texas school discipline system goes beyond expulsion to also provide other avenues for justice system or justice system-like interventions in schools. Students may be placed in a

Disciplinary Alternative Education Program (DAEP), suspended, or given a Class C misdemeanor ticket. These tickets may be used to punish behavior as simple as disrupting class or emitting an unreasonable amount of noise.

The costs of these policies are very difficult to track—they are spread across a variety of state and local government agencies and departments. We do know, however, that in one year, Texas schools spent \$327 million on security and monitoring services alone, and another \$232 million on DAEPs. This does not include the costs in the judicial system for administering Class C misdemeanor tickets. One other quantifiable cost is the effect on the adult criminal justice system: students who fail to graduate due to expulsion or dropping out of school are at an increased risk of ending up in Texas prisons and jails. In 2011, 40 percent of adult prison inmates had dropped out of school.

Beyond costs taxpayers bear for zero-tolerance and justice system handling of school discipline, taking school misbehavior out of the schools in these ways has been widely studied by academics over the past 15 years. But as the true goal is a safer public school system, the Foundation sought to ascertain whether schools are objectively safer today. What we found, from Bureau of Justice Statistics, is that the percent of all violent crimes that occur on school grounds is the exact same in both 1996 and 2008: 13.3 percent. Furthermore, when looking at victimization rates—which includes crimes not reported to law enforcement—victimizations are still highest on school grounds, as opposed to away from school, and actually are proportionally more likely to occur at school today than in 1996.

Finally, when considering referrals to the Texas juvenile justice system from schools and from law enforcement generally, both types of referrals dropped 27 percent between 1999 and 2010. This suggests that the drop in referrals from schools is due to the drop in crime generally, and not because of stringent school discipline policies that place misbehaving students in the justice system.

An Evidence-Based Model for Texas School Discipline

Given that we have evidence of high costs without evidence of safer schools, it is important that Texas consider alternative ways of handling school discipline that are proven to increase school safety while cutting costs on states and local governments. The key is to distinguish from serious delinquent or criminal activity—which does require immediate removal from the classroom—and low level student misbehavior, which is misplaced in the justice system and more effectively handled in the schools at a lower cost.

The Tiered Model

The evidence points to the tiered model as the strongest alternative school discipline method. Pioneered by Judge Steven Teske in Clayton County, Georgia, the tiered model provides for school-based interventions prior to turning to the justice system. Clayton County selected four offenses—fighting, disorderly conduct, disruption, and failure to follow police instruction (limited to truant students)—and created an alternative system for students accused of those offenses. Upon the first offense, students will be warned or admonished for their misbehavior,

and often parents will be notified as well. The second offense results in a referral to a diversion or mediation program that involves both the student and the parent, and is targeted at correcting the underlying issues causing the misbehavior. Only upon a third offense may the student be referred to the justice system.

The results are extraordinary: juvenile court referrals in Clayton County are down 67 percent, there are 73 percent fewer cases of weapons being brought on campus, and graduation rates have actually increased 20 percent.

Furthermore, school police report more positive interactions with students. As they are no longer constantly leaving campus to transport students guilty of only low level misbehavior to the juvenile justice system, school police are able to build quality rapport with students and focus their efforts on making the school a safer place to learn.

Texas is currently piloting this system in the Waco Independent School District (WISD). WISD implemented peer-to-peer mediation, mentoring, a parent-student program, and teen court to divert misbehaving students from the juvenile justice system. Early results from the first year of use reveal a 27 percent drop in citations from WISD.

The pilot program in WISD was funded by a grant from the Governor's Criminal Justice division, for just over \$600,000 for two years. The first year of the pilot program involved 6,550 students, resulting in a total cost of around \$45 per student involved.

Finally, this tiered model is adaptable to a variety of situations. Schools can follow the Clayton County approach, and specify the offenses which trigger the tiered model. Another option would be to apply the tiered model before a specific type of justice system intervention into school discipline, such as any offense that would otherwise incur a Class C misdemeanor ticket, or even within the DAEP system.