



6201 E. Oltorf, Suite 600, Austin, TX 78741-7509
E-Mail: TCDD@tcdd.state.tx.us
Internet: <http://www.txddc.state.tx.us>

Mary Durheim, Chair
John Morris, Vice Chair
Roger A. Webb, Executive Director

**Public Comment
Senate Education Committee
Interim Charge 7 – School Discipline
October 30, 2012**

Senate Criminal Justice

My name is Belinda Carlton and I am a Policy Specialist with the Texas Council for Developmental Disabilities (TCDD). TCDD is established by federal law and consists of a 27 member board, appointed by the Governor, 60% of whom are individuals with developmental disabilities or family members of individuals with disabilities. The Council's purpose in law is to encourage policy change so that people with disabilities have opportunities to be fully included in their communities and exercise control over their own lives.

Thank you for the opportunity to provide input on the Senate Education Committee's Interim Charge 7 to review the effectiveness of school discipline practices, disproportionate referrals and evidence-based models used for addressing juvenile delinquency prevention for non-adjudicated youth, especially as this relates to students with intellectual, developmental and/or mental health disabilities.

Even though students with intellectual, developmental and/or mental health disabilities represent only 20% of school enrollment, they can account for more than 50% of behavioral incidents. According to research conducted by Texas Appleseed, a public interest law center, two-thirds of students are removed at the discretion of local school districts rather than for behavior for which removal was mandated by state lawⁱ. Texas Appleseed found that almost a third of Texas' school districts—or 412 districts—referred special education students to disciplinary alternative education programs (DAEPs) at rates exceeding their representation in the student bodyⁱⁱ. And, counselors and DAEP principals have indicated referrals are made without addressing the reasons for the behavior.ⁱⁱⁱ Three years after being excluded from school, almost 70% of these youth have been arrested. Research conducted by Disability Rights Texas (DRTX) found students in special education during 2010-11 were given out of school suspension at twice the rate as other students.^{iv} DRTX also found that thirty ISD's used this practice at two to three times the average.

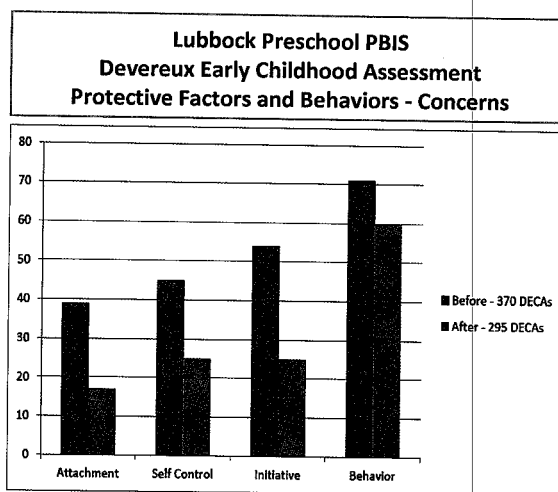
Even though students with extreme problem behavior, such as children with autism, represent only 20% of school enrollment, they can account for more than 50% of behavioral incidents.

Removing students has significant costs. Dallas ISD spent \$11.4 million in 2010-11 removing children from their classrooms because of behavior concerns.^v Research tells us that lifelong problems in learning, behavior, and both physical and mental health can be prevented with appropriate positive behavioral intervention and supports (PBIS) and that the cost would be much less. In a pilot by the

Office of Special Education Programs, U.S. Department of Education, a district with 30 schools could implement school-wide PBIS for around \$3,000 per school.^{vi}

In 2001, SB 1196 required the Texas Education Agency to develop rules related to training on the use of restraint and time-out for students with disabilities and was also designed to build campus level knowledge and skills on the use of Positive Behavioral Interventions and Supports for students with disabilities. Region 4 Education Service Center in Houston provides statewide leadership for TEA positive behavior support efforts. The goal is to create a positive behavior support system in Texas public schools that will enable students with disabilities to receive special education supports and services in the least restrictive environment and to participate successfully in the curriculum and state assessment system.

TCDD currently provides grant funding to ESC 17 to implement two PBIS projects for training on and support for the implementation of positive behavioral interventions. The project focusing on preschool children with developmental disabilities demonstrated decreases in concerns and increases in behavioral strengths. The second ESC 17 project crosses three tiers (universal, at-risk, and intensive) and is being implemented currently in 12 ISDs across all levels: elementary to high school. This past July the project reported having trained 8,771 educators, parents, agency staff and community members. The project focuses on all students, not just students with disabilities, with an emphasis on impacting disproportionality among the racial/ethnic mix of students. Both projects have demonstrated increases in social emotional development, a more critical assessment of self, other people and situations, and fewer referrals, expulsions and suspensions.



Some schools, such as those in the ESC 17 region, have implemented school-wide PBIS with great results, but the evidence demonstrates that many districts have instead increased out-of-school suspensions and referrals to DAEP's for children with developmental disabilities in conflict with their rights under the Individuals with Disabilities Education Act (IDEA).

It is the position of the Council that an elementary-age child should only be referred to disciplinary alternative education programs in extremely rare situations. Children do not enter public education with all the skills they need to recognize and manage their emotions, develop positive relationships, make responsible decisions and handle conflict. A social emotional learning curriculum is equal to academic education in importance to an academic curriculum in the early years. And in addition to the need for basic developmental instruction some of these children have undiagnosed developmental, emotional and/or behavioral health concerns that require referral for diagnosis and appropriate individualized services.

Recommendations:

1. Expand and strengthen effective school-based strategies and interventions, such as school-wide positive behavioral interventions and supports (PBIS) approaches, school counseling curriculum, and Communities in Schools;
 - a. Implement social-emotional learning components within a positive behavioral intervention and supports (PBIS) approach in education settings, including alternative education programs and justice settings;
 - b. Provide teachers with access to behavioral consultations and technical assistance in the classroom to help them manage student behavior.
 - c. Provide school personnel with training through regional Educational Service Centers on recognizing potential developmental, emotional and behavioral concerns and how to make appropriate referrals.
2. Require school districts with disproportionate numbers of students with disabilities in disciplinary settings to implement school-wide PBIS programs;
3. Limit schools from referring elementary-aged students to Disciplinary Alternative Education Programs (DAEPs) for discretionary purposes, instructing them to instead provide for more appropriate early interventions using a PBIS approach.

Thank you for your service to Texans with and without developmental disabilities.

ⁱ *Texas' School-to-Prison Pipeline: Dropout to Incarceration / The Impact of School Discipline and Zero Tolerance*. October 2007. Texas Appleseed. p. 4. Retrieved October 18, 2012 from <http://www.texasappleseed.net/pdf/Pipeline%20Report.pdf>.

ⁱⁱ *Ibid.*, p. 5

ⁱⁱⁱ *Ibid.*, p.67

^{iv} *30 Texas School Districts Disproportionately Rely on Out of School Suspension: Leaving Money Behind and Pushing Students Out of School*. Disability Rights Texas. Retrieved October 22, 2012 from <http://www.disabilityrightstx.org/files/JointOSSReportAug7-2012.pdf>

^v *Breaking Rules, Breaking Budgets: The Cost of Exclusionary Discipline in Dallas ISD*. 2012. Texas Appleseed. Retrieved October 22, 2012 from http://www.texasappleseed.net/index.php?option=com_docman&task=doc_download&gid=692&Itemid=

^{vi} Horner, et al. *What Does it Cost to Implement School-wide PBIS?* Retrieved October 22, 2012 from http://www.pbis.org/evaluation/evaluation_briefs/aug_12.aspx