



**Texas Center for
Justice & Equity**
SOLUTIONS FOR SAFE, HEALTHY
JUST COMMUNITIES



Joint Testimony in Opposition to Senate Bill 9

Submitted by

IDRA

Texas Center for Justice and Equity

Texas Appleseed

Against

SB 9

House Public Education Committee

May 9, 2023

Dear Chair Buckley and Honorable Members of the House Public Education Committee,

Thank you for this opportunity to provide information and recommendations that seek to create 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, success, and wellbeing of children and their communities – we have been able to coalesce around several issues that matter most to our organizations and bases. We respectfully submit this written testimony in opposition to SB 9.

We urge the committee to eliminate Section 16 of SB 9, which authorizes the removal of students from the classroom any time a student “interferes” with teacher communication or student learning, engages in a single instance of “unruly, disruptive or abusive behavior,” or engages in bullying. This is a significant expansion of current law, which allows removal when a student “is so unruly, disruptive or abusive that it *seriously interferes with*” the learning environment (Tex. Educ. Code 37.0832). Section 16 further prohibits the student’s return to class until an educator has given “written consent” and until a “return to class plan” has been prepared for that student.

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 “unruly” or “disruptive.”

“Zero tolerance” policies were originally adopted in response to calls for more robust drug enforcement in schools. But these policies and practices grew to encompass a constellation of punitive and exclusionary consequences for student infractions, regardless of severity or circumstances. While zero tolerance practices vary, the general approach is the same: removing students who are seen as disruptive to the learning environment. The use of punitive and exclusionary discipline does not lead to positive educational or social outcomes. Instead, these practices have negative consequences for students, including lower academic achievement, higher dropout rates, and increased risk of becoming justice-involved.¹

Section 16 of SB 9 will also 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.² 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

¹ Bishop, S., Craven, M., Galer, D, Wilson, T., & Duggins-Clay, P.. (September 2022). Literature Review - School Discipline. IDRA. <https://www.idra.org/wp-content/uploads/2022/11/Literature-Review-%E2%80%93-School-Discipline-IDRA-2022.pdf>; Castillo, A., Abalogu, J., & Linder, L. (2020). Reversing the Pipeline to Prison in Texas: How to Ensure Safe Schools and Safe Students. Texas Criminal Justice Coalition. <https://texascje.org/system/files/publications/Reversing%20the%20Pipeline%20Report%202020.pdf>

² Sabol T.J., Kessler, C.L., Rogers, L.O., Petittclerc, A., Silver, J., Briggs-Gowan, M., & Wakschlag, L.S. (September 23, 2021). A window into racial and socioeconomic status disparities in preschool disciplinary action using developmental methodology. Annals of the New York Academy of Sciences. <https://pubmed.ncbi.nlm.nih.gov/34554578/>

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.³ This body cannot ignore the grossly disparate impact of these policies on Black and other historically-marginalized children.

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 COVID-19 pandemic, the unprecedented impact of the youth mental health crisis, and the lack of investment in support personnel and resources for educators, Section 16 of SB 9 accelerates children's referral to the school-to-prison pipeline by allowing educators to remove children from the classroom for minimal and first-time disruptions. This is not consistent with research-based strategies designed to create positive and supportive learning environments that effectively address challenging behavior.

As organizations with former educators among our staff, 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 through suspensions or into disciplinary alternative education programs (DAEPs) or juvenile justice alternative educational placements (JJAEPs) that do not offer high-quality education opportunities or provide the critical school-based behavioral support resources students need.

We acknowledge that there are times when a student 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 in the event of serious and severe misbehavior, 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.

For all of these reasons, we urge this committee to remove Section 16 from SB 9. At a minimum, the committee should amend Section 16 to (1) restore current law permitting classroom removals only for a student's "repeated" interference with classroom instruction and peer learning (Texas Education Code 37.002(a)(1)); (2) add language requiring administrators to consider school-based settings for most classroom removals; and (3) ensure that return-to-class plans are completed and implemented as expeditiously as possible (but no longer than three days) in order to minimize disruptions to a student's learning.

Long term, we advise the Texas Legislature to pass legislation that will provide meaningful support to teachers and enable school officials to nimbly employ evidence-based practices to address behavioral

³ IDRA. IDRA. (July 7, 2022). Zero Tolerance Policies Likely Contribute to High Attrition Rates of Black Students and Hispanic Students. https://www.idra.org/research_articles/zero-tolerance-policies-texas-push-black-students-hispanic-students-away-school/; Johnson, R. (October 2016). Zero Tolerance Policies Likely Contribute to High Attrition Rates of Black Students and Hispanic Students. Texas Public School Attrition Study, 2015-16. <http://www.idra.org/wpcontent/uploads/2016/11/IDRA-Discipline-Article-2016.pdf>

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,

Paige Duggins-Clay, J.D., Chief Legal Analyst
IDRA
paige.duggins-clay@idra.org

Alycia Castillo, Director of Policy and Advocacy
Texas Center for Justice and Equity
acastillo@texascje.org

Andrew Hairston, Director, Education Justice Project
Texas Appleseed
ahairston@texasappleseed.org