



Testimony to the Senate Education Committee

April 12, 2023

Regarding SB 245

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TCTA appreciates the opportunity to provide testimony regarding SB 245, which seeks to strengthen tools for teachers to be able to maintain classroom environments that are safe and conducive to learning.

Key message:

- **Teachers need to be able to fully exercise their right to remove unruly, disruptive, threatening or violent students from the classroom in order to maintain order.**
- **State initiatives should not directly or indirectly limit teachers' ability to remove these students from the classroom under TEC Section 37.002.**
- **Removed students should not be returned to the classroom until appropriate intervention measures have been taken by someone other than the teacher, preferably someone who specializes in addressing the student's identified needs.**

Why student discipline matters

- **Student discipline problems are linked with teacher attrition**
 - Teachers consistently cite student discipline problems as a top reason for leaving the teaching profession, as noted by Commissioner Morath in his PowerPoint presentation to the Senate Education Committee during its May 24, 2022, hearing, as well as numerous studies which have examined this issue. One study found that of the 50% of teachers who leave the field permanently, almost 35% report the reason is related to problems with student discipline.ⁱ
 - Researchers find that “Those schools that do a far better job of managing and coping with and responding to student behavioral issues have far better teacher retention.”ⁱⁱ
- **Student behavioral problems were escalating even before the pandemic**
 - According to the most recent [Report on Indicators of School Crime and Safety: 2021 \(ed.gov\)](https://nces.ed.gov/pubs2022/2022092.pdf) by the National Center for Education Statistics at IES, higher percentages of public schools in 2019–20 than in 2009–10 reported student discipline problems related to teachers and classrooms, including student verbal abuse of teachers (10% vs. 5%), student acts of disrespect for teachers other than verbal abuse (15% vs. 9%), and widespread disorder in the classroom (4% vs. 3%).
<https://nces.ed.gov/pubs2022/2022092.pdf>
- **Student behavioral problems have only increased during the pandemic**
 - According to a recent 2022 report by the American Psychological Association [Violence Against Educators and School Personnel: Crisis During COVID \(apa.org\)](https://www.apa.org/pubs/2022/04/27/violence-against-educators), one-third of teachers experienced at least one incident of verbal harassment or threat of violence from students during the first full

pandemic school year, and 14% were physically attacked. <https://www.apa.org/education-career/k12/violence-educators.pdf>.

- According to a December 2021 EdWeek Research Center monthly survey, nearly half of all school and district leaders (44%) say they are receiving more threats of violence by students now than they did in the fall of 2019.

More generally, two out of three teachers, principals, and district leaders say students are misbehaving more these days than they did in the fall of 2019. [Threats of Student Violence and Misbehavior Are Rising, Many School Leaders Report](https://www.edweek.org/leadership/threats-of-student-violence-and-misbehavior-are-rising-many-school-leaders-report/2022/01), Education Week, January 12, 2022 <https://www.edweek.org/leadership/threats-of-student-violence-and-misbehavior-are-rising-many-school-leaders-report/2022/01>

- Experts point to this rise in student misbehavior as part of the struggle students have had with transitioning back to in-person schooling after spending much of the past couple of years learning from home.

Why teachers are so frustrated with student discipline problems

- **Lack of enforcement of current student discipline laws**

- Chapter 37 of the Education Code comprises the laws governing student discipline. It is comprehensive, and has been revised over the years to move away from more punitive disciplinary provisions to more leniency regarding how student behavior issues can be addressed.ⁱⁱⁱ Even so, from the teacher’s perspective, these existing provisions are too often not followed or enforced, resulting in revolving door situations in which a teacher sends a student to the principal’s office and the student is sent directly back to the classroom with no intervention actions taken.
- As noted in the culminating 2021 report by Sam Houston State University, after conducting a comprehensive assessment of Texas educators’ needs pertaining to safety in partnership with the Office of the Governor’s Public Safety Office, initial findings suggest “considerable reflection on relationships and discipline laws, policies, and procedures are needed. In this regard, participants seemed to recognize that discipline policies were not adequately or equitably enforced. **Many educators bemoaned instances in which a student was removed from a classroom for threatening or disruptive behaviors only to return to the classroom moments later with little or no discipline. This specific occurrence was very prevalent in this code and theme. Educational leaders should feel empowered in disciplining students to ensure effective and safe operations.**”

The authors of the report summarized the findings with a recommendation that “Policies reinforcing teachers/professors and administrators’ authority in disciplining children and taking preventative action should be reviewed or developed.”^{iv} *TCTA is grateful for SB 245 provisions prohibiting a student removed from class by a teacher for certain offenses against a teacher or another student from being returned to the teacher’s class unless the teacher consents.*

- TCTA was hopeful when provisions establishing a campus behavior coordinator at every campus were put into law, so that there would be a designated person who would “take ownership” of student discipline on a given campus and who would “respond by employing appropriate discipline

management techniques consistent with the student code of conduct adopted under Section [37.001](#) that can reasonably be expected to improve the student's behavior before returning the student to the classroom.” Additionally, TEC Section 37.0012 provides that “If the student's behavior does not improve, the campus behavior coordinator shall employ alternative discipline management techniques, including any progressive interventions designated as the responsibility of the campus behavior coordinator in the student code of conduct.” Much of the thought process behind having a CBC at every campus was having a person in a position to be able to scrutinize the landscape of student behavior on a campus, and in doing so, be able to flag concerning behavior that was escalating. *TCTA appreciates SB 245 provisions providing for the CBC to be included on school threat assessment teams under TEC Section 37.115 as well as to report to the threat assessment team students who engage in specified types of conduct.*

- Unfortunately, state law also allows districts of innovation to exempt themselves from most provisions in Ch. 37 including the CBC, which, indeed, over 200 districts have done. *TCTA appreciates SB 245 provisions addressing this.*
- **Lack of proven effective alternatives to traditional discipline practices**
 - Early research showed a correlation between the increased likelihood of dropping out and becoming involved with the juvenile justice system and “exclusionary discipline” practices, the so called “school to prison pipeline.” This research prompted publication of reports calling for limiting the use of “exclusionary discipline” practices, and instead using less punitive, alternative approaches including restorative practices and Positive Behavior Intervention and Supports. However, while in some cases, these alternative approaches have been shown to decrease suspension rates, *racial disparities continue to exist.*
 - Additionally, the most recent studies on the effectiveness of these alternative approaches in reducing racial disparities have found that there was very limited evidence of their effectiveness in this regard, thus meriting further study. According to the first randomized controlled trial study on the effects of using restorative practices in a school, although suspension rates in the district overall declined, most of the decline was at the elementary school levels. In fact, at the middle school level, the use of restorative practices made no difference in suspension rates at all. Although Black students saw bigger declines in suspensions due to the program, they were still much more likely to be suspended than white students. When examining the effects on academic outcomes, **the study found that academic outcomes did not improve; in fact, there was a negative impact on the math component of the state assessment in grades 3–8, as well as negative impacts on the combined assessment score for the African American subgroup and the middle school grades subgroup. In the context of these findings, the authors stated that “it is important to examine whether improvements in behavior and disciplinary actions come at the cost of reduced achievement.”**
 - Finally, in reviewing teacher feedback regarding the use of restorative practices, the authors highlighted a number of significant challenges, most importantly, a lack of time. “Teachers described the immense amount of curriculum they were obliged to cover and the assessments they had to prepare students for,” researchers wrote. “In light of those responsibilities, sparing 20-plus minutes for circles to build community or respond to conflict in the classroom seemed an insurmountable challenge to some.” Additionally, teachers described a lack of meaningful support in helping them implement the program.^v



Role of data collection/reporting

- Federal law requires states and school districts to report certain disciplinary data.^{vi} Texas law requires school districts to report disciplinary data in addition to what federal law requires.^{vii}
- Texas sets thresholds for districts for certain disciplinary actions (discretionary removals to disciplinary alternative education programs of Black and Hispanic students). If the thresholds are exceeded, the district is identified by TEA, and a determination is made about whether the data reflect a systemic issue within one data collection or a pervasive issue (across data systems), in which case there will be more involvement by TEA and the application of sanctions as necessary and appropriate.^{viii}
- Efforts to address disproportionality in student discipline actions (via requiring alternatives to traditional discipline practices, or required data reporting) have, at times, eroded teachers' ability to remove disruptive students from the classroom, along with other perverse consequences. There are numerous accounts of how limits on the use of traditional discipline have created a "chilling effect" on removals, as well as limiting teachers' ability to discipline students without providing useful alternatives.^{ix}
- ***TCTA appreciates SB 245 provisions prohibiting TEA from imposing penalties on school districts based on student discipline data reporting requirements.***
- Additionally, there are a number of reports of significant deterioration in teacher-reported disruptions and student-reported respect, a decrease in the number of students and staff who feel safe at schools, and increased instances of violence and disorder in schools.^x ***TCTA supports SB 245 provisions providing that a student shall be expelled if the student engages in conduct with the elements of assault against a school employee/volunteer while on or within 300 feet of school or at school event, and that a student shall be removed to a DAEP if the student engages in elements of harassment on/off school campus against any school employee.***
- To address any concerns that the provisions of this bill constitute a return to "zero tolerance" policies, it is important to emphasize that districts retain the duty to use common sense and consider defenses and mitigating factors as provided by Section 37.001(a)(4), Education Code, which allows local decision makers not to suspend, remove to a DAEP, or expel any student to whom they decide the defenses or mitigating factors apply, "regardless of whether the decision concerns a mandatory or discretionary action"^{xi}

Specific examples of student discipline problems from TCTA members

Finally, to further illustrate the reality of some of the situations teachers experience in their classrooms, we collected data from our database on legal calls we received from our members from March 2022 through July 2022 regarding student discipline issues, which we believe you will find compelling and which are attached to our written testimony.

We appreciate this opportunity to testify on this important piece of legislation that speaks directly to the concerns we have heard from our members about concerning student behaviors.



- ⁱ Scheinert-Reichl, K.A., Kitil, J.J., & Hanson-Peterson, J. (2017). To reach the students, teach the teachers: A national scan of teacher preparation and social and emotional learning. Report prepared for the Collaborative for Academic, Social, and Emotional Learning. Vancouver, BC: University of British Columbia. <https://files.eric.ed.gov/fulltext/ED582029.pdf> citing Ingersoll, R. M., & Smith, T. M (2003): The wrong solution to the teacher shortage, *Educational Leadership*, 60, 30-33; Allensworth, E., Ponisciak, S., & Mazzeo, C. (2009) *The schools teachers leave: Teacher mobility in Chicago Public Schools*. Chicago, IL: Consortium on Chicago School Research—University of Chicago https://consortium.uchicago.edu/sites/default/files/2018-10/CCSR_Teacher_Mobility.pdf; Susan Moore Johnson, Jill Harrison Berg, and Morgaen L. Donaldson. 2005 [Who Stays in Teaching and Why: A Review of the Literature on Teacher Retention](#);
- Ladd, H. F. (2011). Teachers' perceptions of their working conditions. *Educational Evaluation and Policy Analysis*, 33(2), 235–261 <https://eric.ed.gov/?id=EJ927621>; Marinell, W. H., & Coca, V. M. (2013). Who stays and who leaves? Findings from a three part study of teacher turnover in NYC middle schools. New York, NY: Research Alliance for NYC Schools https://steinhardt.nyu.edu/sites/default/files/2021-01/TTPSynthesis_Report_March2013.pdf; Ingersoll, R. M., & May, H. (2011). Recruitment, retention and the minority teacher shortage. Philadelphia, PA: Consortium for Policy Research in Education https://www.cpre.org/sites/default/files/researchreport/1221_minorityteachershortagereportrr69septfinal.pdf
- ⁱⁱ Ingersoll, Richard and Perda, David. (2009). The Mathematics and Science Teacher Shortage: Fact and Myth. CPRE Research Reports. Retrieved from https://repository.upenn.edu/cpre_researchreports/51;
- Why do Teachers Quit?, *The Atlantic*, October, 2013 <http://www.theatlantic.com/education/archive/2013/10/why-do-teachers-quit/280699/>; At the request of the Education Commission of the States, the Rand Corporation reviewed empirical studies of teacher recruitment and retention between 1980 and 2003 and reached several conclusions, including that “Working conditions matter as well: schools with lower rates of turnover offered mentoring and induction programs, provided teachers with greater autonomy and support and gave teachers discretion in setting discipline policies.” http://www.rand.org/content/dam/rand/pubs/technical_reports/2005/RAND_TR164.pdf
- ⁱⁱⁱ Acts 2009, 81st Leg., R.S., Ch. 897 (H.B. [171](#)), Sec. 1, eff. June 19, 2009 (providing that the following mitigating factors must be considered in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action: self-defense; intent or lack of intent at the time the student engaged in the conduct; a student's disciplinary history; a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct; a student's status in the conservatorship of the Department of Family and Protective Services; or a student's status as a student who is homeless); Acts 2017, 85th Leg., R.S., Ch. 696 (H.B. [674](#)), Sec. 2, eff. June 12, 2017 (prohibiting out-of-school suspension for students younger than grade 3, except in instances in which a student engages in expellable behavior); Acts 2011, 82nd Leg., R.S., Ch. 948 (H.B. [968](#)), Sec. 1, eff. June 17, 2011 (removing the ability to expel a student placed in a DAEP for engaging in persistent misbehavior that violates the district's student code of conduct).
- ^{iv} Fuller, M.B., Ingram, J., Szaal, S., Awuor, D. C., Gaal, S., Linn, K. (2020). Texas Educators' Needs Assessment Regarding School Safety and Victims Services: Improving the Safety of Texas Academic Institutions. Huntsville, TX: Sam Houston State University. <https://www.shsu.edu/centers/cares/documents/OOG%20FINAL%20REPORT.pdf>
- ^v Cruz RA, Firestone AR, Rodl JE. Disproportionality Reduction in Exclusionary School Discipline: A Best-Evidence Synthesis. *Review of Educational Research*. 2021;91(3):397-431. doi:10.3102/0034654321995255; https://journals.sagepub.com/doi/pdf/10.3102/0034654321995255?casa_token=q1GwKzxWPxUAAAAA:Kx8FKBXLn3K3Pykfl1pbUTbTpUeLt2kPbYUIdPuqXLJYhA6WUHQ1cJ825-u655mPN-nE1e5K70oiwA
- ^{vi} 20 U.S.C. Section 1418; 20 USC 6301 et seq. Sec 1111(h)(1)(C)(xiii)(1); Sec 1111(g)(12)(1)(C); Sec 1112(B)(11) <https://www.congress.gov/114/plaws/publ95/PLAW-114publ95.pdf>
- ^{vii} Texas Education Code Section 37.020 <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.37.htm#37.020>; Annual State Summary (texas.gov) https://rptsvr1.tea.texas.gov/adhocrpt/Disciplinary_Data_Products/Download_State_Summaries.html; Discipline Action Group Summary - State (texas.gov)



https://rptsvr1.tea.texas.gov/adhocrpt/Disciplinary_Data_Products/DAG_Summaries/Download_State_DAG_Summaries.html

viii TEA 2022 Discipline Data Validation Manual [2022 Discipline DV Manual \(texas.gov\)](#)

ix DeVos' Team Hears Criticisms of Obama-Era Guidance on Student Discipline, By Andrew Ujifusa on November 17, 2017 12:38 PM, http://blogs.edweek.org/edweek/campaign-k12/2017/11/devos_criticisms_obama_student_discipline_guidance.html?cmp=eml-ebpopweek+11242017&M=58286223&U=1191315 ; DeVos Meets With Supporters, Critics of Discipline Rules as GAO Says Racial Disparities Persist, By Evie Blad on April 4, 2018 6:07 PM, http://blogs.edweek.org/edweek/rulesforengagement/2018/04/devos_critics_of_school_discipline_guidance_GAO_racial_disparities.html ; Secretary DeVos Hosts School Safety and Climate Listening Sessions, APRIL 4, 2018 , <https://www.ed.gov/news/press-releases/secretary-devos-hosts-schoolsafety-and-climate-listening-sessions> ; As national debate over discipline heats up, new study finds discrimination in student suspensions, by Matt Barnum on November 28, 2017, <https://www.chalkbeat.org/posts/us/2017/11/28/as-national-debate-over-discipline-heats-upnew-study-finds-discrimination-in-student-suspensions/>

x A study of New York City schools found that during the years in which principals were required to seek permission from district administrators to suspend a student, teachers reported less order and discipline, and students reported less mutual respect among their peers, as well as more violence, drug and alcohol use, and gang activity. School Discipline Reform and Disorder: Evidence from New York City Public Schools, 2012-16, Max Eden, March 2017. <https://media4.manhattan-institute.org/sites/default/files/R-ME-0217v2.pdf>;

Five years ago, the San Diego Unified School District shifted away from discipline policies perceived to be punitive, instead moving to a more therapeutic approach called Restorative Justice. In the process, the district eliminated several mandatory expulsion offenses, including bringing a dangerous weapon to school, student brawls, and assaulting teachers or staff. However, student violence in the district's schools increased, involving numerous violent instances resulting in injuries to teachers and other students. Students involved in most of these instances were given short-term suspensions and allowed to return to school. Discipline Policies Complicate Response to Violent Episodes at Lincoln High, Mario Koran, March 28, 2018.

<https://voiceofsandiego.org/2018/03/28/discipline-policies-complicate-response-to-violent-episodes-at-lincoln-high/>;

According to an article in the National Review, in Chicago, researchers found a statistically significant deterioration in teacher-reported disruptions and student-reported respect. In Los Angeles, the portion of students who said they felt safe in their school dropped from 72 percent to 60 percent. In Virginia Beach, the percent of teachers who said their school was disorderly and unsafe doubled. On School Discipline, Fix the Problem, Not the Statistics, Max C. Eden, November 13, 2017.

<https://www.nationalreview.com/2017/11/school-discipline-federal-rules-not-helping/>

xi Texas Education Code Section 37.01(a)(4) <https://statutes.capitol.texas.gov/Docs/ED/htm/ED.37.htm#37.001>



Student discipline examples from TCTA

The following are examples from phone calls to TCTA's Legal Department between March 2022 and July 2022 from TCTA members regarding student behavior.

Given the unique circumstances surrounding disciplinary issues with special education students, those calls are not included. The calls that did not relate to students with disabilities fall into several general categories.

Students who are violent to teachers or others

(PSJA ISD) Teacher was attacked by a student today and would like to know how to handle the situation.

(Donna ISD) Teacher was hit by a student today, and he would like to know his rights in this situation.

(PSJA ISD) A student punched a teacher and hit her with a trash can today.

(Lubbock ISD) A student assaulted a teacher on Friday.

(Abilene ISD) The campus has one to two fights a day. The teacher and other staff have concerns for their safety and administration isn't doing anything about it.

(Lamar Cons ISD) Teacher has a violent student and today the student hit two teachers. The mom blames the teachers. One of the teachers pressed charges. She wants to have this student removed. What can she do?

(Lamar Cons ISD) A teacher was trying to deescalate a fight and in doing so, she was injured. She has spoken with campus police and filed an incident report.

(Hutto ISD) Teacher does not feel safe in her classroom. She has a violent student. Administration is doing nothing about it.

(Garland ISD) Teacher was given the responsibility to monitor the upstairs hallway and redirect students. In one instance a few weeks back, he was redirecting a student, but the student refused to listen and pushed him. The student became verbally aggressive towards him. The school resource office looked over the security footage and confirmed that the student did push him.

(East Central ISD) Teacher was assaulted by a student.

(Arlington ISD) A student has been hitting the teacher and the teacher wants to know about assault leave.

(Pasadena ISD) There are a lot of fights happening on campus on the teacher's and his wife's campus. This morning there was a fight in the hall and he has been told not to break up any fights because then he will lose his right to press charges.

(Seguin ISD) Teacher has a student who is violent towards other students and adults.

(Borger ISD) Last week a teacher had to restrain a student. Now, she is being forced to meet with this student to 'listen to his apology.' She wants nothing to do with this student and doesn't want to be forced to sit with him. She pressed assault charges against the student and believes that the district is going to try to force her to drop the charges.

Students who threaten to harm teachers or others

(Killeen ISD) Teacher found out there is a student being placed in her classroom that brought a knife to school. This student has threatened to kill another teacher. She does not feel comfortable having this student in her classroom.



(Hays Cons ISD) Teacher had students tell her about another student who said that he wanted to kill himself and he wants to kill his friends. He also said he wants to kill her baby - she is currently pregnant. She's been in communication with administration but they said they cannot do anything about it because the student did not confess to anything.

(North East ISD) 2nd grader threatened to bring a gun to school and kill students.

(Galena Park ISD) Student threatened a teacher. Teacher informed local enforcement that is on campus and would like to file charges. He also turned in a statement to admin. He would like to know how he can protect himself.

(Midland ISD) A couple weeks ago, a student made a threat against the teacher and charges were filed. She needs to file paperwork and needs help filling it out.

(McAllen ISD) A student fell backwards while standing in line. The teacher asked the student if he was ok and he accused her of hitting him. She is worried that the student will tell this to the parents and cause a bigger problem.

Unruly, disruptive students

(Killeen ISD) Teacher has a disruptive student who constantly cusses at the teachers.

(Killeen ISD) Teacher has a disruptive student and she wants to refuse to have this student back in her class.

(Vernon ISD) Teacher has two students in her classroom that have constant behavior problems. One student has a parent that sent her a message saying that the teacher 'isn't allowed' to discipline the student. The parent also posted 'slanderous' things on Facebook. The second student is an athlete that 'refuses to do or turn in' the school work. The student's parent is threatening to contact TEA.

(Belton ISD) Teacher has a disruptive student and she would like to know what is her right to have this student removed.

(Goose Creek ISD) Teacher wants to know what rights she has to remove a student. She has a very disruptive student.

(Carrizo Springs ISD) Teacher has a disruptive student in her class and would like to have the student removed.

(New Caney ISD) Teacher had a disruptive student during class today. She reprimanded the student, but now the parent is requesting to view the video of what happened.

(Flatonia ISD) Teacher has questions about removing a disruptive student from her classroom.

(Birdville ISD) Teacher teaches pre-school and administration placed a kindergarten student in her class due to being held back. This student is disruptive and she cannot teach her classroom. She discussed her concerns with administration and they are not providing any support.

(Lamar Cons ISD) Teacher teaches pre-k and has a disruptive student in his class. He is not receiving any support from administration. He brought up the possibility of removing the student but he was told that is not possible.

(Killeen ISD) Teacher would like some clarification on student removal. There's a four-year-old that is a 'terror' in her class and she wants him removed. The administration seems to allow the student back into the room mere minutes after taking him out. The student is a constant distraction.

(La Porte ISD) Teacher has a disruptive student in her classroom and would like to have the student removed. She would like to know what the steps are to do so.

(Columbus ISD) Teacher has a student that is bullying another student. She wants the student removed from classroom.