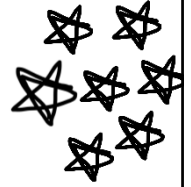


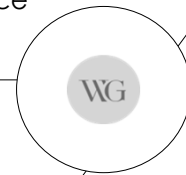
“When a Student Brings a Machete to Show and Tell”

Actions That Can Be Taken to Protect the Safety of Students and Staff

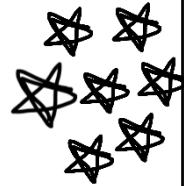


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School Violence



Physical Aggression

Physical Assault and Battery

Weapons Possession

Noncontact Aggression

Fighting

Unwanted Sexual Contact

Bullying

Robbery

Verbal Threats

National Institute of Justice, *The Causes and Consequences of School Violence, A Review* (2022)






Predictors of School Violence

- Strongest Predictor
 - Delinquent / Anti Social Behavior
- Other Strong Predictors
 - Attention Deficit Hyperactivity Disorder (ADHD)
 - Child Maltreatment
 - Peer Rejection
 - Moral Disengagement

National Institute of Justice, *The Causes and Consequences of School Violence, A Review* (2022)



Predictors of School Violence

- 
- Weak Associations of School Violence
 - School attachment or bonds
 - Race and ethnicity
 - Socioeconomic status
 - Immigrant status
 - Participation in extra-curricular activities
 - Presence of an officer at school
 - Use of visible school security devices

National Institute of Justice, *The Causes and Consequences of School Violence, A Review* (2022)

Bullying, Loneliness and Low Self-Esteem

“The consequence most strongly linked to the perpetration of school violence was bullying perpetration.”

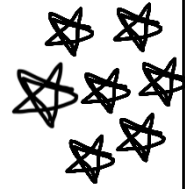
Also – loneliness and low self-esteem

Risk Factors / Warning Signs

“Proximal risk factors and warning signs of **serious school violence** include anger, low resiliency, poor coping skills, low empathy, significant loss or rejection, preoccupation with violence, and bringing weapons to school.”

Over half of past school shooters made threats before the attack, usually in the presence of family or friends.

Threat Assessments

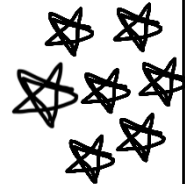


- 2019 Safe and Supportive School Teams Mandate
- Purpose: to conduct behavioral threat assessments and provide support to campuses for addressing harmful, threatening, or violent behavior
- Model established by Texas School Safety Center
- Threat Assessment Team: MHP or school psychologist, counselors, an administrator, SRO, someone from IEP team (if relevant) – Tex. Educ. Code 37.115(d)



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Threat Assessments and Child Find

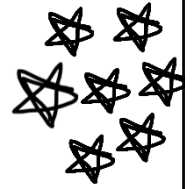


- When threat assessments are conducted, and a child is exhibiting behavior that may indicate a need for special education, be mindful of Child Find obligations
- Also – during the threat assessment process – FAPE must be provided (including during any removals beyond 10 cumulative days in a school year. There must be coordination with the kid’s IEP team. *IDEA Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA’s Discipline Provisions* (July 19, 2022).



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Threat Assessments

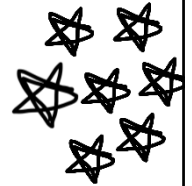


- Let's assume Threat Assessment Team has determined student has made a significant threat to harm others in a violent manner. Can the team send the student home and say the student is not permitted to return until a psychiatric evaluation is completed?
 - No. A threat to cause harm does not allow the Threat Assessment Team to send the student home. Regular disciplinary procedures must be followed. Those processes have due process requirements and limitations.
 - However, if the student poses an imminent and substantial risk of serious harm to themselves or to others, unless the student is immediately restrained a law enforcement officer may transport student to nearest appropriate mental health facility. Tex. Health & Safety Code 573.001.



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Threat Assessments

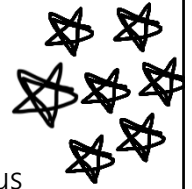


- May the Threat Assessment Team put a stay away agreement and/or safety plan for students with disabilities?
 - Yes. All interventions must be consistent with the Student's IEP and behavior plan
- IEP team needs to be involved in developing any necessary changes to the IEP (additional evaluation, more restrictive setting, residential facility?)



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Armed Security / Other Safety Measures

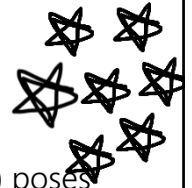


- 2023 – Board must ensure at least 1 armed security offer is at each campus during school hours
- Schools must conduct periodic active shooter training
- All district personnel must complete an evidence-based mental health training on recognition and support of children who experience mental health or substance abuse issues – Tex. Educ. Code 37.0812(a)
- Previous school must provide receiving school district with discipline record and any previous threat assessments – Tex. Educ. Code 22.002(a)



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Duty to Warn?



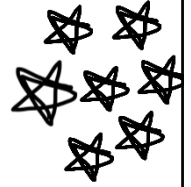
- In Texas, school safety teams require that if a student (or other individual) poses a serious risk of violence to self or others, team must immediately inform the superintendent.
- If the individual is a student, the superintendent shall immediately attempt to inform the parent or person standing in parent relation to the student. Tex. Educ. Code 37.115(h)
- *Threat Assessment Guide* emphasizes the importance of sharing information about a student who may pose a risk of violence (consistent with FERPA).



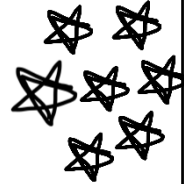
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What are our options for dangerous students?

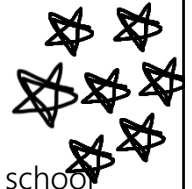
- In-School Suspension / Out of School Suspension
- Chapter 37 Disciplinary Removals
 - DAEP, JJAEP, Expulsion
 - Removal by teachers
 - Emergency Removals
- Law Enforcement
- Special Circumstances and Honig Injunctions
- Private Placements
 - Day placements
 - Residential Facilities
- Other options



Suspension – Tex. Educ. Code 37.005



Reminder: 10 FAPE Free Days

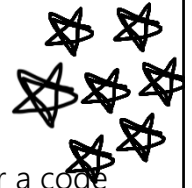


- School can remove a student for a code of conduct violation for up to 10 school days per year without having to provide a FAPE during those days.
 - Ex: 3-day suspension x 3 = 9 days out of placement
 - Ex: 10 day assignment to DAEP
- Once days of removal exceed 10 consecutive days or cumulative removals that constitute a change of placement:
 - Manifestation Determination required
 - FAPE must be provided on any subsequent removals



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ISS and OSS – Tex. Educ. Code 37.005

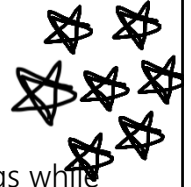


- Removal from the classroom or campus as a disciplinary consequence for a code of conduct violation.
- Limited to 3 school days
- 2nd grade and younger cannot be placed in OSS UNLESS
 - Unlawful carrying of weapons – Penal Code 46.02, 46.05
 - Violent offense (assaults) – Penal Code 22.01, 22.02, 22.021 OR
 - Drugs (possessing, using, being under the influence, selling, giving, or delivering to another student) – Ch. 481 Tex. Controlled Substances Act or 21 USC §801 et. Seq.
 - Marijuana, dangerous drugs, or alcohol



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ISS and OSS – Tex. Educ. Code 37.005

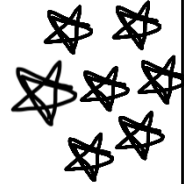


- Cannot place a homeless student in OSS unless weapons, assault, or drugs while at school or on school property / event
- During period of removal
 - Must provide an alternative method of receiving all coursework provided in the classes under foundational curriculum
 - Must provide at least one method for receiving coursework that does not require the internet



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ISS and OSS

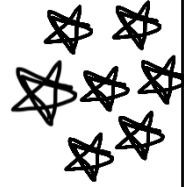


- Very common practice in Texas
- Somewhat Controversial
 - Data do not support that ISS or OSS change student behavior and can have detrimental side effects
 - Removal from instructional time
 - Lack of access to services or supports
 - Drop in standardized test scores
- Limited in Scope
 - No more than 3 school days



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ISS and OSS

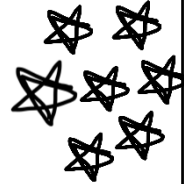


- Days out of placement
 - *What counts as a day out of placement?*
 - Partial days?
 - Principal's office?
 - *Who is responsible for counting the days?*
 - *What happens when we reach beyond 10 FAPE free days?*
 - Procedural protections of Manifestation Determination Review (MDR)
 - Provision of FAPE



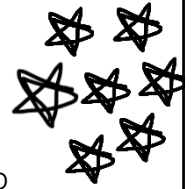
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Removal by Teacher – Tex. Educ. Code Ch. 37.002



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Removal by Teacher

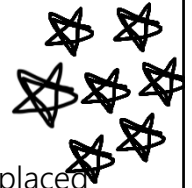


- Teacher may send a student to the campus behavior coordinator (CBC) to maintain effective discipline.
- Teacher may remove student from classroom when student has:
 - Repeatedly interfered with teacher's ability to communicate effectively with students in the class or with ability of other students to learn OR
 - Behavior is so unruly, disruptive, or abusive that is seriously interferes with teacher's ability to communicate effectively with students in the class or with ability of other students to learn



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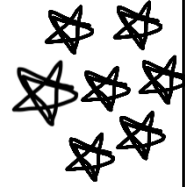
Removal by Teacher



- Student may be placed in another appropriate classroom and cannot be placed back unless a committee establishes that going back to the class is the best or only alternative available.
- If student has assaulted the teacher, teacher does not have to consent to having student back in class.
- Other disciplinary measures are available, including suspension or DAEP.



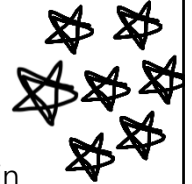
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DAEP, JJAEP, Expulsion – Tex. Educ. Code Ch. 37



Removals

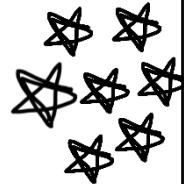


- Removals to a DAEP (and/or JJAEP) must follow the procedures outlined in Chapter 37
- Know the difference between placement and expulsion as different standards / procedures apply
- Regardless of the conduct, MDR is required for students with disabilities and will trump any Chapter 37 provisions
- Any removal to DAEP for students in special education
 - requires the District seek consent from parents for an FBA if one hasn't been conducted or FBA is older than 1 year; and
 - Review the BIP or develop a BIP as necessary



Removals

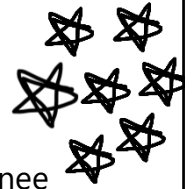
- Regardless of whether the student is sent...
 - DAEP, JJAEP, or to the street
- Students with IEPs are entitled to receive a FAPE
- What FAPE looks like is decided by the ARD committee



Emergency Placement or Expulsion – Tex. Educ. Code Ch. 37.019



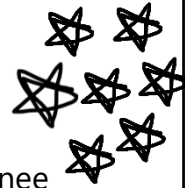
Emergency Placement



- "This subchapter does not prevent the principal or the principal's designee from ordering the immediate placement of a student in a disciplinary alternative education program if the principal or the principal's designee reasonably believes the student's **behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.**"
- Tex. Educ. Code 37.019(a).



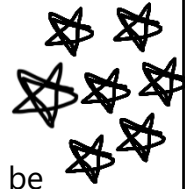
Emergency Placement



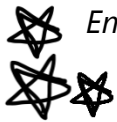
- "This subchapter does not prevent the principal or the principal's designee from ordering the immediate expulsion of a student if the principal or the principal's designee reasonably believes that **action is necessary to protect persons or property from imminent harm.**"
- Tex. Educ. Code 37.019(b).



Emergency Placement



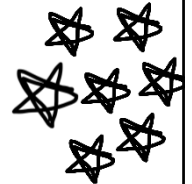
- "At the time of an emergency placement or expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a nonemergency basis. Within a reasonable time after the emergency placement or expulsion, **but not later than the 10th day after the date of the placement or expulsion, the student shall be accorded the appropriate due process** as required under Section 37.009.
- If the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, **the emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability.**" Tex. Educ. Code 37.019(c).



Emphasis added.

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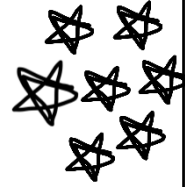
Emergency Placement



- Specific conditions must be present
- Student must be given oral notice of reason
- Must be conduct that could otherwise result in placement in accordance with Code of Conduct
- Document that all statutory conditions were met
- Must still comply with IDEA requirements for MDR
- Consider for SERIOUS offenses that involve safety issues
- Ensure due process procedures and IDEA procedures followed



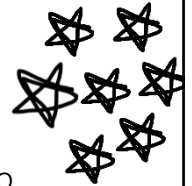
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Report to Local Law Enforcement – Tex. Educ. Code Ch. 37.0151



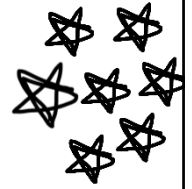
Reports to Law Enforcement



- IDEA specifically allows schools to contact law enforcement in response to criminal activity of a student with disabilities. 20 USC 1415(k)(6); 34 CFR 300.535
- If student's behavior does not pose a threat of harm to self or others, schools should use BIP before calling police.
- US DOJ – provide training to SROs regarding students with disabilities; TX - A school district may not assign (or require as a duty) routine student discipline or school administrative tasks of a school district peace officer, a school resource officer, or security personnel.



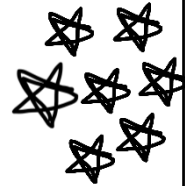
Reports to Law Enforcement



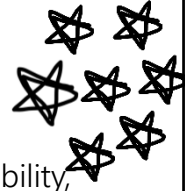
- Avoid unnecessary and inappropriate arrests
- School can be held responsible for actions of SROs
- *Denton ISD / OCR (2024)*
 - SROs were routinely involved in restraints without appropriate training
 - Some students were restrained multiple times without having been referred for 504 or special education evaluation
 - Disproportionality in restraint of students with disabilities
 - Failure to appropriately document restraints



Special Circumstances and Honig Injunctions



Special Circumstances



- Even in situations where the conduct IS a manifestation of the child's disability, the school may remove the student to an alternative disciplinary setting for not more than 45 school days.
 - Drugs
 - Weapons
 - Serious Bodily Injury

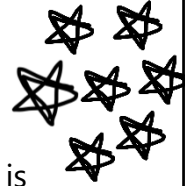
34 CFR 300.530(g)

MDR is still required.



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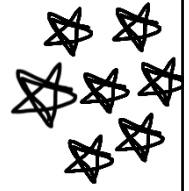
Honig Injunctions



- If the district believes that maintaining the student's current placement is **substantially likely to result in injury to the student or others**, it may seek a court order to change the student's placement while the underlying IDEA action is pending.
 - Judge may order a disciplinary placement for up to 45 school days
 - Intent of student plays no role in the assessment
 - Student still has a right to a FAPE



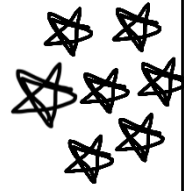
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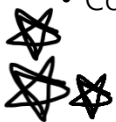
Private Placements



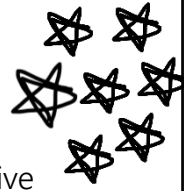
Continuum of Services



- Consider supports on campus
 - Behavioral support in general education
 - Social skills training
 - Instruction and behavioral support in special education setting
 - Counseling
 - Social work services
 - Consultation by school psychologist or other skilled provider
 - Behavior Intervention Plan and other positive behavior strategies
- Consider off campus supports (centralized program)



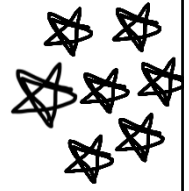
Continuum of Services



- Positive Behavior Strategies to Consider before moving to a more restrictive setting
 - Updated FIE (includes psychological)
 - Exchange information with private providers and agencies
 - FBA / BIP
 - Teacher training
 - Counseling
 - Behavior specialist
 - Data collection
 - Significant monitoring



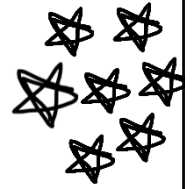
Private Day Placements



- IEP team determination
- Settings where students receive specialized intensive supports not necessarily available at home school.
 - Availability?
 - What is different from the FAPE proposal in the District?



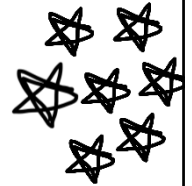
Residential Placements



- IEP team determination
- Settings where students live to address specialized needs that cannot be handled in their home school district.
- Review state guidance on accredited options
- Conduct additional research if an out-of-state placement is needed



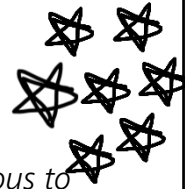
Residential Placements



- Factors to consider:
 - Review all existing data (FIE, FBA, behavior data in lesser restrictive settings, number of restraints)
 - Injuries to other students, staff, or harm to self
 - Involvement of other community supports (CRCG)
 - Previous placements or hospitalizations
 - In-home training
 - Training for staff
 - Consultation with specialists
 - Threat assessments



Other Options

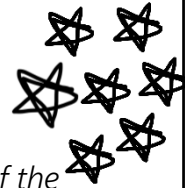


- *Can we provide the student instruction in the home if they are too dangerous to come to school?*
 - IEP team makes decision about where a student receives a FAPE
 - Is the home setting actually safer?
 - Are we planning for a more long-term solution?
 - Consider LRE and FAPE
 - May not be able to receive funding for that student
 - Proceed with caution



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Other Options

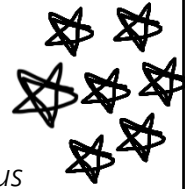


- *Can we remove a student to DAEP even if the conduct is a manifestation of the disability?*
 - Maybe.
 - Do we have documented agreement of all the members of the IEP team?
 - Parent and district must agree to the change in placement as part modification of the student's BIP.
 - Do any special circumstances apply?



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Other Options



- *Can we refer a student to other agencies to assist with managing dangerous students?*
 - Yes. With parental consent, assistance may be available for the student to receive additional supports and services through groups like local mental health and cognitive disability services.
 - Student may be receiving services or supports from local or state agencies. If student is already involved with community supports, consider referral to Community Resource Coordination Group (CRCG).
 - If student is on probation, attempt collaboration with probation officer or petition juvenile court for access to records.
 - Don't forget mandatory reporting requirements if a students is believed to be neglected or abused.

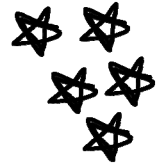


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