

Dealing Effectively with the Dangerous Student

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A Place of Special Danger

- "School attendance can expose students to threats to their physical safety that they would not otherwise face."
- "Students may be compelled on a daily basis to spend time at close quarters with other students who may do them harm."

Justice Alito: *Frederick v. Morse* (2007)



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Special Danger and Special Education

- IDEA imposes two requirements that are in tension with each other.
 - Schools have a duty to provide an appropriate education to every student, regardless of the student's behavior.
 - Schools also have a duty to maintain a safe and orderly campus.
 - For the most part, the tension between the competing duties of safety/discipline and special education rights must be resolved INDIVIDUALLY by each student's IEP Team.

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What Do We Do When
We Have Tried it All?!?

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Special Education Students and Aggressive Behaviors

- Least Restrictive Environment
- Educational Change in Placement vs Disciplinary Actions
- Can we get an injunction?

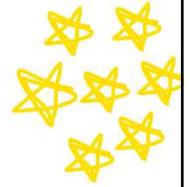


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What is an injunction?



A court order commanding or preventing an action.



To get an injunction, the complainant must show that there is no plain, adequate, and complete remedy at law and that an irreparable injury will result unless the relief is granted.

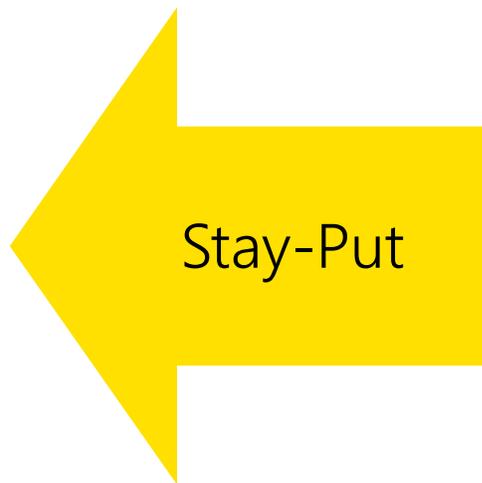
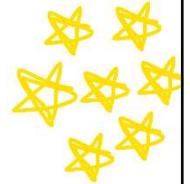


Black's Law Dictionary (11th ed. 2019)



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Why are we talking about injunctions?



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Honig v. Doe (1988)

The dispute grows out of the efforts of the San Francisco Unified School District to expel two emotionally disturbed children from school indefinitely for violent and disruptive conduct related to their disabilities.

In November 1980, respondent John Doe assaulted another student at the Louise Lombard School, a developmental center for disabled children.

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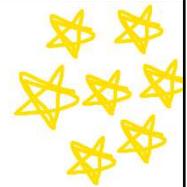
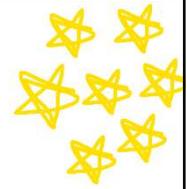
Honig v. Doe (1988)

Petitioner asks us to read a “dangerousness” exception into stay-put based on two essentially inconsistent assumptions:

- First, that Congress thought the residual authority of school officials to exclude dangerous students from the classroom too obvious for comment; or
- Second, that Congress inadvertently failed to provide such authority and this Court must therefore remedy the oversight.

Because we cannot accept either premise, we decline petitioner's invitation to rewrite the statute.

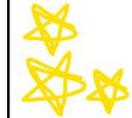
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Honig Injunctions

School districts are entitled to seek injunctive relief under § 1415(e)(2) in appropriate cases.

§ 1415(e)(3) effectively creates a presumption in favor of the student's current educational placement that school officials can overcome only by showing that maintaining the student in his/her current placement is substantially likely to result in injury either to himself/herself or to others.



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Did the school district meet its burden?

We are satisfied that the District Court, in enjoining the defendants from indefinitely suspending respondent or otherwise unilaterally altering his then current placement, properly balanced respondent's interest in receiving a FAPE against the interests of the school district in maintaining a safe learning environment for all their students.

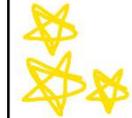
Remember, this was decided in 1980!



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So the District Lost the Argument?

- You are right that the school lost the argument.
- But the school was seeking unilateral authority to declare the student dangerous and remove the student.
- SCOTUS rejected the argument that a principal or school superintendent could simply order the removal of a student due to a perception of danger. Instead, the Court told us that schools would have to apply for help. The school can seek that help from a hearing officer or a judge.



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If the student continues to present a danger or threat to the health and safety of self or others despite behavioral interventions and campus therapeutic behavior classes, does the school have any options?

- In *Honig v. Doe*, the district has the option to seek injunctive relief in a court of competent jurisdiction.
- That option has been expanded to allow districts to seek an expedited special education due process hearing.



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How it Works

- A Honig injunction is only needed when the school is seeking to change the student's placement, the parent does not agree and invokes "stay put."
- To override "stay put" the school must persuade the hearing officer or judge that the student, if allowed to "stay put," is substantially likely to injure someone.
- Don't seek this relief unless you have faithfully implemented the student's IEP.

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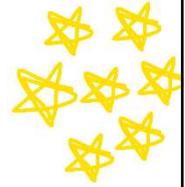
Honig Meets the 21st Century

Although a parent objected to her son's proposed placement in a mental and behavioral health facility, a Texas district could implement that placement while the parent's due process complaint was pending. The U.S. District Court, Southern District of Texas granted the district's motion for a "**Honig injunction**" that allowed it to exclude the student from its schools due to his dangerous behaviors.

Schulenburg Indep. Sch. Dist. v. J.H., 124 LRP 8663 (S.D. Tex. Mar. 7, 2024)

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Schulenburg Indep. Sch. Dist. v. J.H., 124 LRP 8663 (S.D. Tex. Mar. 7, 2024)



FACTUAL BACKGROUND

- Prior to the completion of the FIE, the Student engaged in violent, threatening, and aggressive behaviors between August 2023 and November 2023.
 - Throwing things, kicking his desk, arguing with the teacher, and not complying with directives.
 - Refused to get out of the car, then hit the Assistant Principal and punched her in the face as he was being escorted in.
 - Hit the teacher in the face with a yardstick, purposely slowing down his swing to make eye contact when he hit her face.
 - Kicking teachers, taking the teacher's drink and threatening to throw it at her.
 - Pushed another child and started trying to fight by charging at the child.



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Factual Background



- Entered his classroom and began yelling at a female student who he believed cut in line when he was the line leader, hit, kicked, and pushed the girl before throwing his backpack at her.
- Tried to spit on his teacher for five consecutive minutes before hitting, kicking, elbowing her.
- Targeted his teacher, pushing and shoving her 29 times by 9:40 a.m.
- Hit (closed fist), kicked (knees buckle), and punched the teacher 80 times.
- While in disciplinary classroom, Student hit, kicked, and punched the teacher over five hundred (500) times.



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Factual Background

- Following ARD committee meeting, the Student engaged in violent, threatening, and aggressive behavior in December 2023 and March 2024.
 - On one day, made 33 inappropriate, including racially and sexually charged statements, to his teacher, 46 another day.
 - Pushed his teachers more than 20 times, punched his leg several times, hit another teacher with his shoe.
 - Urinated on the floor of the classroom after telling his teacher, "I'm going to pee in here".
 - Said he wanted to blow up the school and hoped someone was inside when he blew it up.
 - Took sausage from his breakfast into the boy's restroom and shoved them in the urinal clogging the drain.

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Invocation of Stay-Put

During the Student's February 2024, ARD committee meeting, the school district offered the Student placement at a Non-Public Day School

The Parent refused placement and filed for Special Education Due Process with TEA invoking stay put.

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How did the school district get there?



Verified Complaint for Temporary Restraining Order and Motion for Temporary Restraining Order.



Testimony from the Special Education Director who recounted J.H.'s violent and assaultive behavior against her personally and against other teachers within the most recent three school days after filing Verified Complaint.



The Court finds that Plaintiff has carried its *very heavy burden* of overcoming the "stay-put" requirement and proven its entitlement to a "Honig" injunction.



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The District Court's Findings



The Student is a dangerous disabled child and for him to continue in his current placement is substantially likely to result in injury either to himself, or to others, or both.



Schulenburg ISD has done all that reasonably can be done to reduce the risk that the Student will cause serious injury to others while it provides education for him in his present placement.



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The District Court's Findings

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Plaintiff's teachers, staff, and other students face an extreme risk of suffering immediate and irreparable harm if J.H. is not restrained from entering any premises owned or used by Plaintiff or attending school related events.

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Schulenburg ISD is likely to succeed on the merits of its claim for injunctive relief to enjoin J.H. from attending school at its facilities pending the outcome of the defendant's due process hearing before a TEA hearing officer.



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The District Court's Findings

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Significant public interest in maintaining school safety. Allowing the Student to maintain current placement seriously compromises physical safety of others at school. Public interest favors entry of TRO restraining him from attending school to protect physical safety of school staff and students from threatening, violent, and assaultive behavior.

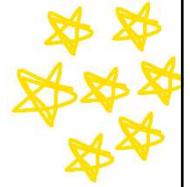
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Given the gravity of the findings, the balance of equities is decidedly in favor of Schulenburg ISD's request for issuance of a temporary restraining order until an evidentiary preliminary injunction hearing can be held within the next 14 days.



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Honig Meets the 21st Century



A district seeking to override the IDEA's stay-put protections cannot simply show that a student with a disability harmed someone at school. Under *Honig v. Doe*, the school district must demonstrate that maintaining the student's current placement is substantially likely to result in physical injury.



Schulenburg Indep. Sch. Dist. v. J.H., 124 LRP 8663 (S.D. Tex. Mar. 7, 2024)



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Sanford School Department v. Doe, 125 LRP 2367 (D.C. Me. 2025)



The district proposed a change of placement for a student who had a number of disruptive behaviors, including assaults of others. The parents asked for a due process hearing, which invoked “stay put.” The district believed that keeping the student in the “stay put” placement presented a substantial risk of injury and sought an expedited hearing to override the “stay put” placement in favor of an IAES (Interim Alternative Educational Setting).



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The hearing officer denied the request due to a provision in state law that seemed to limit such relief to cases involving a disciplinary removal. The district then sought an injunction from the federal court and got it.

The court noted that the hearing officer's interpretation of state law was debatable, but regardless of that, federal law authorized the district to seek an expedited hearing and an injunction.



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Gonzales ISD v. J.C., Case No. SA-25-CA-01240-XR (10/14/25)



Following an evaluation, the District determined that the LRE for the young student was placement in a residential care and treatment facility.

The district proposed placement at a Residential Treatment Center outside of Houston, approximately 144 miles from the student's home. In support, the District cited an emergency need for a highly structured environment due to J.C.'s history of murder, terroristic threats, and severe behavioral issues.



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The student's grandmother has objected and filed a request for a special education due process hearing with the Texas Education Agency. The Special Education Hearing Officer concluded that the District must provide services as set forth in the student's IEP as his stay-put placement. A full due process hearing at the TEA is expected to occur in January 2026.

The District sought a Temporary Restraining Order from the district court. The District court judge applied the factors noted in earlier cases and granted the TRO in part, finding "the threatened injury outweighs any harm that the injunction might cause to the Defendant, and the injunction will not disserve the public interest." The District was ordered to continue virtual instruction for the student but the request to temporarily remove the student to the RTC was denied.



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INJUNCTIONS ARE A **VERY HIGH STANDARD.**
WHERE DO WE START ON ADDRESSING STUDENT BEHAVIOR THAT
IMPEDES LEARNING?



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The information in this presentation was prepared by Walsh Gallegos Kyle Robinson & Roalson P.C. It is intended to be used as general information only and is not to be considered specific legal advice. If specific legal advice is sought, consult an attorney.

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