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TEA Responds to Legal Complaint That Students with Disabilities are Being Pushed Out of School, Finds Districts Failed to Meet Their Obligations

The Texas Education Agency (TEA) has found that Texas school districts violate appropriate procedures for addressing attendance issues of students with disabilities in every district where TEA conducted an investigation.

The investigations were triggered by an administrative complaint accusing the districts of using truancy courts to force students with disabilities out of school. One additional district agreed to bring its procedures into compliance with state and federal law without an investigation.

The complaint was brought in May of this year, against 13 school districts and TEA by Disability Rights Texas, the National Center for Youth Law (NCYL) and Texas Appleseed, on behalf of all students with disabilities who have been funneled into the truancy courts and then forced out of school. Abilene, Austin, Clear Creek, Conroe, Ector County, Fort Bend, Fort Worth, Galena Park, Galveston, Houston, Pasadena, San Antonio, and Victoria Independent School Districts (ISD) were the districts named in the complaint. The complaint asserted, and TEA agreed, that absenteeism triggers the district's legal obligation under the federal "child find" mandate to identify, locate and evaluate all children with disabilities.

"It is very important that TEA has acknowledged the responsibility of school districts to evaluate and where appropriate, provide services to students with disabilities," said Dustin Rynders, Supervising Attorney with Disability Rights Texas. "This a critical first step towards ending the practice of denying services by referring students to truancy court."

The TEA investigation of Clear Creek ISD found it "very troubling" and "concerning" that school staff recommended a court-ordered General Education Development (GED) program for a student with a disability, without any evidence that the student would be able to successfully obtain a GED certificate or any approval from the student's Admission, Review, and Dismissal (ARD) committee. In response to the finding, TEA is requiring Clear Creek to create procedures that will ensure that no school staff recommend a GED or other alternative school program for a student with a disability, unless the student's ARD committee determines the program to be appropriate for the student.

In its investigation of Pasadena ISD, TEA found that "The student's chronic absenteeism was a behavioral problem that warranted some type of intervention other than the filing of truancy complaints". TEA has directed the district to provide relief to the student named in the complaint as well as to review and revise school and district policies and procedures, and to provide training to district personnel to ensure future compliance with applicable law. Likewise in Fort Bend, TEA found that the attendance issues of the student named in the complaint were addressed solely through the disciplinary process and truancy procedures despite a long standing diagnoses of ADHD and other significant behavioral problems. TEA has mandated similar remedies to those in Pasadena.

In investigating student complaints in Houston ISD, TEA not only found the same violations but went further and determined that the district had violated the right of two students to a free and adequate public education by failing to inform their parents of the students' right to re-enroll in school.

Galena Park ISD took a different tack in response to the complaint. Rather than wait for an investigation, the district voluntarily initiated a review of its practice, revised its policies and has initiated a robust training program to ensure future compliance with state and federal mandates.

"The districts' refusal to address the needs of students with disabilities were directly linked to truancy prosecutions and school pushout," said Deborah Fowler, Executive Director of Texas Appleseed. "We are pleased with the relief for the students identified in our complaint and the consistency of the findings across these districts. More importantly, we hope that the corrective actions required by TEA will end the abuse of the truancy process."

While the complaint named 13 districts, TEA limited its investigation to those where individual students were identified. "The findings of the investigations confirm the pattern we alleged using student data in the other districts," said Michael Harris, Senior Attorney at NCYL. "We hope other districts will see the writing on the wall and follow the lead of Galena Park, by voluntarily bringing their policies and procedures into compliance with the law. In the meantime we will continue to identify individual students across the state in order to trigger further investigations."

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Disability Rights Texas is a nonprofit legal firm and is federally designated as the protection and advocacy agency for people with disabilities in Texas. Its mission is to help people with disabilities understand and exercise their rights under the law, ensuring their full and equal participation in society.

The National Center for Youth Law (NCYL) is a national non-profit organization that has been working for over four decades to improve the lives of at-risk children. Employing a range of strategies, NCYL works to ensure that low-income children have the resources, support, and opportunities they need for healthy and productive lives.

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