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Complaint Charges Texas School Districts with Using Truancy Courts to Force Students with Disabilities Out of School

AUSTIN, Texas—Texas school districts are using truancy courts to force students with disabilities out of school, according to an administrative complaint filed May 27 with the Texas Education Agency (TEA). The complaint also accuses TEA of failing in its responsibility to ensure that Texas districts are complying with state and federal law that allows students with disabilities to receive the supports and services they deserve to promote regular attendance and appropriate education.

The complaint was brought 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. The complaint is against these Texas school districts: Abilene, Austin, Clear Creek, Conroe, Ector County, Fort Bend, Fort Worth, Galena Park, Galveston, Houston, Pasadena, San Antonio, and Victoria Independent School Districts.

According to the complaint, students are being pushed out in various ways including being forced into GED programs, alternative schools, and being coerced into mandatory homeschooling.

The complaint highlights the ordeal of seven Texas students:

- R.W., a special education student with an intellectual disability and mental health diagnosis who was administratively withdrawn by her high school and forced into a homeschool program, even after a truancy case was dismissed;
- J.W., a student with severe ADHD who was ordered to drop out of school and enroll in a GED program, then threatened with arrest if he did not pay his fine;
- M.P., a homeless student who was twice charged with truancy when teachers were marking him absent while he was in his special education classroom;
- Y.C., a student who has been “encouraged” to enroll in a homeschool program;
- C.D., a 15-year-old student diagnosed with ADHD and depression who has been threatened with forced dropout and enrollment in a GED program when he turns 16;

- X.S., a student diagnosed with bipolar disorder and ADHD who was hospitalized following a suicide attempt at school, and who has been repeatedly charged with truancy and “administratively withdrawn” from school for partial-day absences related to his disabilities; and
- R.S., a student diagnosed with bipolar disorder, Asperger’s syndrome and ADHD whose absences were not excused despite notes from a parent, and who was threatened with being ordered to drop out and enroll in a GED program if he had any additional absences.

“Texas is notorious for prosecuting more than twice as many truancy cases as all other states combined, driven in part by our treatment of students with disabilities,” said Deborah Fowler, executive director of Texas Appleseed. “It is especially egregious that our most vulnerable youth are being pushed out of a system that is supposed to provide opportunity and support only to be forced to defend themselves in adult court without the assistance of an attorney.”

The threat of criminal charges and fines alone result in some students accepting deals to leave school rather than going to court. In many cases, the school districts’ court representatives make recommendations to the prosecutor or judge regarding the case outcome, including ordering students to withdraw and prepare for the GED test. Many courts routinely follow these recommendations, so the school district’s recommendation becomes a court order.

Earlier this year, Texas Appleseed released TEA data that highlights these force outs. According to that data, over a three-year period between 2010 and 2013, 6,423 students were ordered by Texas courts to drop out of school and take the GED, which they subsequently failed. Of these, 1,247 — about 1 in 5 — were students with disabilities. Eleven of the school districts included in the complaint were responsible for close to half of all the general and special education students ordered to drop out during the 2012-13 school year who then failed the GED exam.

“Texas sends students to truancy court for not attending school,” said Michael Harris, Senior Attorney at NCYL. “Yet districts ask the court to resolve these cases by forcing their most vulnerable students into GED programs, boot camps, alternative schools or home schooling. That’s a recipe for feeding the School-to-Prison-Pipeline.”

The complaint charges the districts and TEA with failing to comply with the federal Individuals with Disabilities Education Act (IDEA). The federal law ensures all students with disabilities receive individualized educational services to make progress on their educational goals. Districts cannot meet this standard by forcing students out of the school system entirely. The districts named in the complaint have chosen to force out students with disabilities by filing truancy cases rather than providing the federally mandated services that would enable students with disabilities to fully participate in their education.

TEA has told districts that they will be scrutinized if they identify more than 8.5 percent of their students as eligible for special education services. Consequently, even though the national average is 35 percent higher, Texas school districts identified exactly 8.5 percent of students eligible for special education in the 2012-13 school year.

“TEA has given the districts an incentive to reduce the number of students in special education,” said Dustin Rynders, Supervising Attorney with Disability Rights Texas. “Denying services and referring students to truancy court is clearly a way the districts do that.”

The students and their advocates have filed this complaint to ensure that districts develop and follow procedures for identifying, evaluating and serving students suspected of having disabilities who are missing school. The complainants want districts to stop using the truancy process to force out students with disabilities. Further, they want TEA to bring itself into compliance with IDEA and provide guidance and monitoring to districts regarding the illegality of using the truancy process to force out students with disabilities.

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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. Our 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.

Texas Appleseed is a nonprofit, nonpartisan organization that works for justice for our most vulnerable Texans — including children, low-income families, and those with disabilities. We leverage the skills and resources of volunteer lawyers and other professionals to identify practical solutions to difficult, systemic problems.
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