

# THE CLOCK IS TICKING, IT'S NO HOAX: THE INTERSECTION OF JUVENILE JUSTICE AND SCHOOL DISCIPLINE

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## Objectives

- ▣ Participants will understand the continuum of child discipline between home, school, and juvenile court
- ▣ Participants will understand the statutory authority to share information between agencies
- ▣ Participants will understand the impact of juvenile charges on school discipline
- ▣ Describe the relationship between IDEA, juvenile competency, and mental illness

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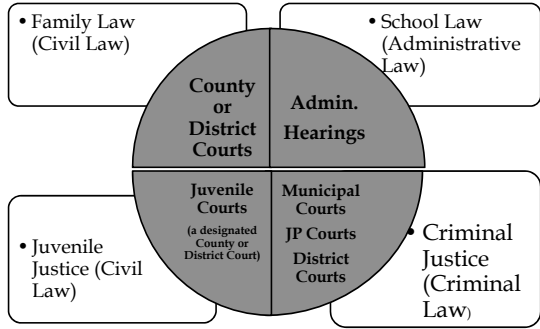
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## Legal Issues in Child Welfare and Texas Courts



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**SHARING INFORMATION  
BETWEEN AGENCIES**

- ▣ CCP 15.27 – Notification To Schools Required
  - (a) – law enforcement notification upon arrest or referral
  - (b) – prosecutors notification upon conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct
  - (c) – probation department notification upon transfer to another school
  - (e) – notification to private schools
  - (f) – confidentiality of notification, violation is a Class C misdemeanor
  - (g) – prosecutors notification if case refused or court acquitted

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**SHARING INFORMATION  
BETWEEN AGENCIES cont...**

- ▣ CCP 15.27 – Notification To Schools Required
  - (h) – all felonies and certain misdemeanors, including Class C
  - (l), (m), (n), and (o) – duties to report failure to provide required notifications

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**SHARING INFORMATION  
BETWEEN AGENCIES cont...**

- ▣ Family Code 58.0051 – Interagency Sharing of Educational Records – At the request of a juvenile service provider, an independent school district or charter school shall disclose to the juvenile service provider confidential information contained in the student’s educational records if the student has been:
  - Taken into custody under Section 52.01, or
  - Referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for supervision.

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### **Impact of Juvenile Charges on School Discipline**

- ☐ Education Code 37.006 – Removal For Certain Conduct (DAEP):
  - Mandatory Removal based on conduct at school or school related event;
  - Discretionary Removal based on conduct off campus or not at a school related event;
  - Based on Superintendent’s or designee’s reasonable belief that conduct has occurred
    - May form belief from CCP 15.27 notice

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### **Impact of Juvenile Charges on School Discipline cont...**

- ☐ Education Code 37.007 – Expulsion for Serious Offenses (JJAEP):
  - Mandatory Expulsion for certain offenses occurring on campus or school related event
  - Discretionary Expulsion for certain offenses occurring on campus or school related event

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### **Federal Law Related to Disabilities and Education**

- ☐ Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400, et. seq.
  
- ☐ Section 504 of the Rehabilitation Act of 1973, (504), 29 U.S.C. 794
  
- ☐ Americans with Disabilities Act (ADA), 42 U.S.C. 12101-12213

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## What is the IDEA?

- ☐ Federal law governing all special education programs in the U.S.
- ☐ To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living. (20 U.S.C. 1400(d))

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## IDEA General

- ☐ Specific criteria for defining disabilities
- ☐ IEP (Individualized Education Plan)
  - Classes the student will take
  - Defines the discipline the student can handle
- ☐ Behavioral Intervention Plans (BIP)
  - Outlines the appropriate discipline techniques for the specific disability

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## IDEA General

- ☐ Services available to special education students
  - Counseling services
  - Occupational therapy
  - Physical therapy
  - Speech therapy
  - Specialized transportation
  - Assistive technology devices
- ☐ Continuous Evaluation to determine need for services

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## IDEA Terminology

- ☐ FIE - Full Individual Evaluation
- ☐ IEP - Individual Education Program
- ☐ FBA - Functional Behavioral Assessment
- ☐ BIP - Behavioral Intervention Plan

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## Qualifying Disabilities

- ☐ 13 categories of disabilities
- ☐ Autism
  - Broad spectrum
  - Most have sensory issues
- ☐ Emotionally Disturbed
  - Depression
  - Bipolar disorder
  - Anxiety disorder

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## Qualifying Disabilities

- ☐ Mental retardation
- ☐ Multiple disabilities
- ☐ Other Health Impaired (OHI)
  - ADHD
- ☐ Learning Disability
  - 11 different learning disabilities
- ☐ Speech Impaired
- ☐ Visually Impaired
- ☐ Non-categorical

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**Two Prong Test**

- ☐ To be eligible for special education services,
  1. Must have a qualifying disability, AND
  2. Must have an educational need for a special education program

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**IDEA Discipline**

- ☐ Manifestation Determination by ARD committee before any change in educational placement
- ☐ ARD Committee
  - Multi-discipline team of professionals at the school
  - Parents are also members
- ☐ Review Functional Behavior Assessment (FBA)
  - Determines function of behavior
  - Targets negative behaviors interfering with school environment

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**MANIFESTATION DETERMINATION**

- ☐ If punishment involves a change in placement for 10 days or more, a child receiving SPED is entitled to a manifestation determination by the ARD committee.
- ☐ The ARD committee will review:
  - If the conduct in question was caused by, or had a direct and substantial relationship to the child's disability; or
  - If the conduct in question was the direct result of the LEA's failure to implement the IEP.

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### Why Do We Need to Know This?

- ☐ Does the disability excuse the alleged conduct?
- ☐ Intervention/Supervision options and programming
- ☐ Collaboration between court and school, for programming and shared services.

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### WHEN DOES A DISABILITY EXCUSE CONDUCT?

- ☐ Public Schools - when the behavior is determined by an ARD committee to be a manifestation of the disability (IDEA)
- ☐ Juvenile Court - when the child lacks capacity to understand the proceedings in juvenile court or to assist in the defense (Chapter 55, Subchapter C, FC)
- ☐ Juvenile Court - lacks substantial capacity either to appreciate the wrongfulness of the child's conduct or to conform the child's conduct to the requirements of law (Chapter 55, Subchapter D, FC)

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### WHEN DOES A DISABILITY EXCUSE CONDUCT?

- ☐ Municipal Court - when the child lacks capacity to understand the proceedings in criminal court or to assist in the child's own defense; or,
- ☐ Lacks substantial capacity either to appreciate the wrongfulness of the child's own conduct or to conform the child's conduct to the requirements of the law.
- ☐ 8.08 PC

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## CONTACT

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