

# EDUCATION JUSTICE: ENSURING EDUCATIONAL SUCCESS FOR JUSTICE- INVOLVED YOUTH

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# AGENDA

- Introduction and Education Advocacy Program Overview
- School-to-Prison Pipeline and School Discipline
- School Reentry
- Youth with Disabilities
- Implications for Juvenile Case
- Client Representation
- Resources

To help protect your privacy, PowerPoint has blocked automatic download of this picture.

- Disability Rights Texas is the federally designated protection and advocacy agency for people with disabilities in Texas
- We are a nonprofit corporation funded by the U.S. government and private foundations
- We help people with disabilities understand and exercise their rights under the law, ensuring their full and equal participation in society

# JUSTICE-INVOLVED YOUTH WITH DISABILITIES

- Youth with disabilities encounter unique hurdles in accessing education
- Most research suggests approx. 70% of youth in juvenile system have a disability
- Schools refer without:
  - Identifying their needs for special education services
  - Providing sufficient academic and positive behavior supports to ensure an appropriate education

## WORKING IN SILOS

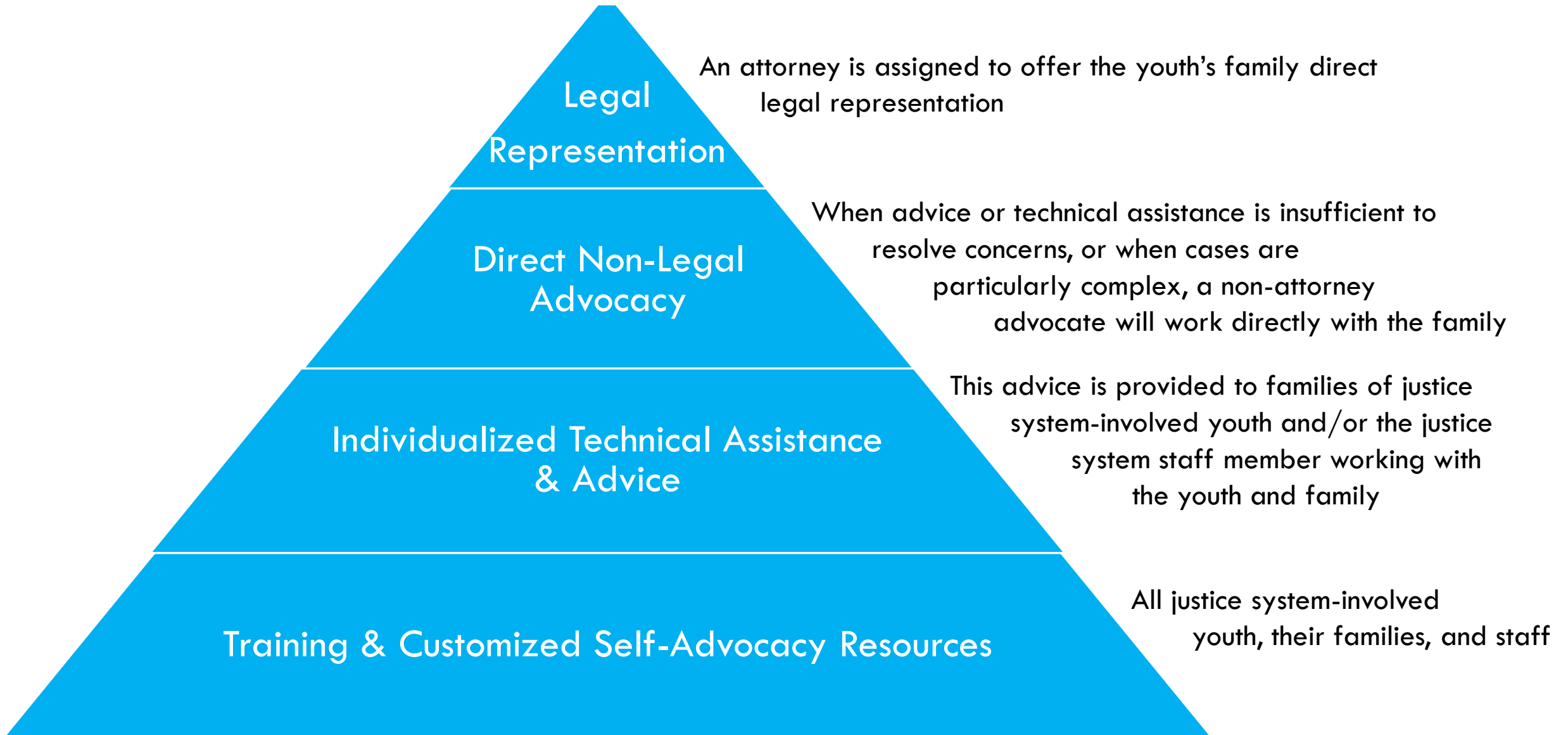
Juvenile justice system professionals, educators, and advocates often work in silos, not fully understanding their shared goals or enough about the other systems to effectively collaborate

Education advocates and attorneys can help break down these silos to achieve better outcomes for students involved in the juvenile justice system

## **HCJPD PARTNERSHIP WITH DRTX**

- Harris County Juvenile Probation Department (HCJPD) established a formal partnership with Disability Rights Texas (DRTx) to provide education advocacy services to justice-involved youth in the community
- Team of 1 Supervising Attorney, 1 Team Attorney, 4 Education Specialists, and 1 Mental Health Specialist
- DRTx has obtained improved education services for nearly 2,000 youth and 94% of youth who receive our services do not reoffend within one year of release from probation

# TIERED ADVOCACY SERVICES



# TRAININGS AND SYSTEMIC ADVOCACY

- We provide trainings and workshops to justice-system staff, youth and their families on a variety of topics
- Extensive data is kept on all individual cases referred to inform systemic advocacy efforts
- School Reentry Workgroup – coalition of community-based, government, and university-associated organizations that work to break down barriers to school reentry for youth returning to school from juvenile justice and school disciplinary placements

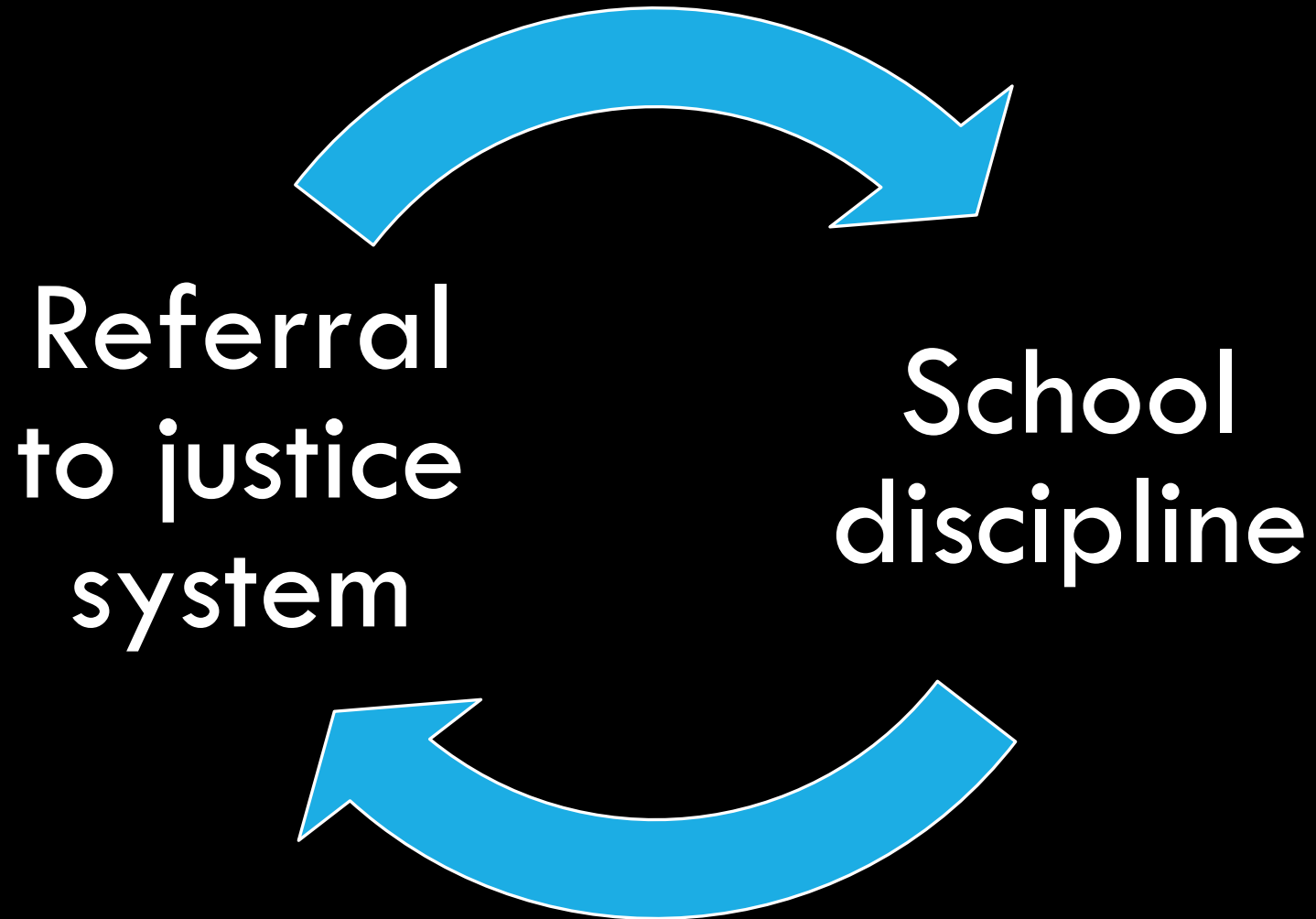


# SCHOOL-TO-PRISON PIPELINE

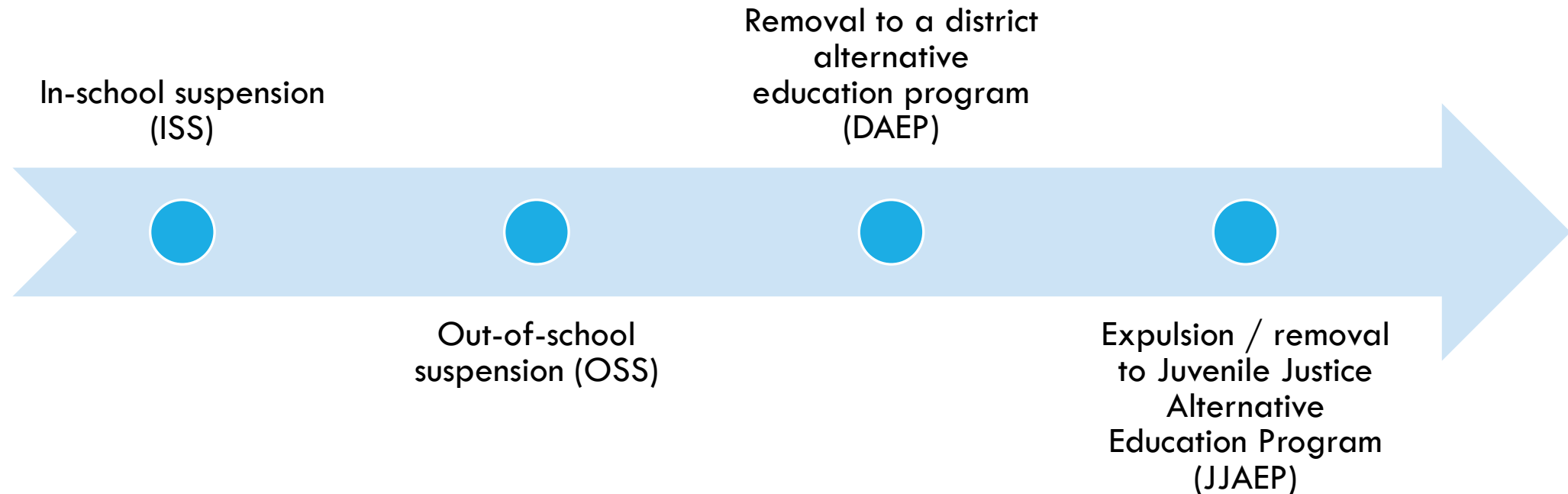
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# THE TEXAS EDUCATION CODE CREATES A SCHOOL-TO-PRISON PIPELINE THAT IS CYCLICAL



# FOUR MOST COMMON FORMS OF SCHOOL DISCIPLINE

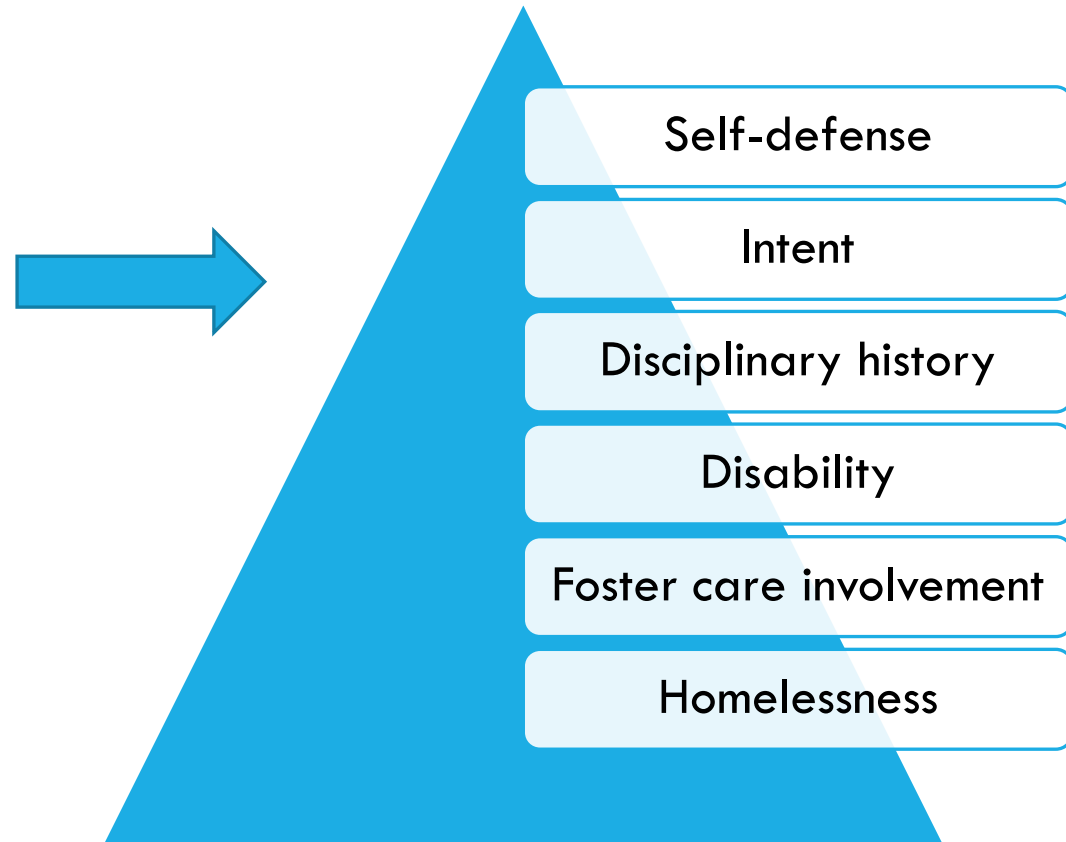


# SCHOOL DISCIPLINE BY THE NUMBERS

- Approximately 60% of Texas students will be suspended or expelled at some point in their educational careers
- A student who is suspended or expelled is twice as likely to repeat their grade compared to a student with the same characteristics, attending a similar school, who has not been suspended or expelled
- Students who are suspended or expelled for a discretionary violation are nearly 3 times as likely to be in contact with the juvenile justice system the following year, even when controlling for campus and individual student characteristics
- Juvenile incarceration rates have dropped by over 40% since 1995, but school discipline has increased and affects some students more than others
- Students with disabilities are more than twice as likely to receive an out-of-school suspension than students without disabilities

# SCHOOL DISCIPLINARY PROCEDURES

- Schools cannot suspend students out of school for more than **3 consecutive days**
- In all disciplinary removals, “mandatory” and “discretionary,” schools must consider **6 factors**
- Whenever a student is disciplined, the parent should receive notice explaining the reason the student is being disciplined and be offered a meeting
- At this meeting, the student should be given the opportunity to explain his or her version of the event and present mitigating information



# EXPULSION FOR CERTAIN HIGH-LEVEL OFFENSES

- Under Texas Education Code §37.0081, a student on deferred prosecution, adjudication, a diversion program, **charged with**, received probation or deferred adjudication for a **Title 5 felony or aggravated robbery** can be removed to a disciplinary alternative education program (DAEP) or juvenile justice alternative education program (JJAEP) until:
  - The student graduates from high school;
  - The charges are dismissed or reduced to a misdemeanor; or
  - The student completes the term of placement or is assigned to another program
    - Student is entitled to a status review every 120 days



## **SCHOOL DISCIPLINARY REMOVALS AND ARREST CAN LEAD TO SCHOOL REENTRY ISSUES**

- Student arrests that result in placement at a juvenile justice facility, whether for school or community-based offenses, will likely be withdrawn from school and need to reenroll upon release
- Over 2/3 of youth do not return to school following release from a juvenile facility

# SCHOOL REENTRY





# SCHOOL REENTRY



**REGISTER  
FOR SCHOOL**

- Campus registrars and administrators routinely prevent youth from enrolling due to the stigma attached to their juvenile justice status
- When a student is at home instead of in school, it increases the likelihood of further juvenile justice or adult criminal justice involvement
- If and when justice-involved youth are finally able to enroll in school, their credits from the juvenile facility often do not transfer with them, which leads to youth not receiving credit for work they completed in the juvenile facility
- This problem is further compounded by the fact that juvenile justice-involved youth are already chronically behind in school

# TRANSITION PLANS

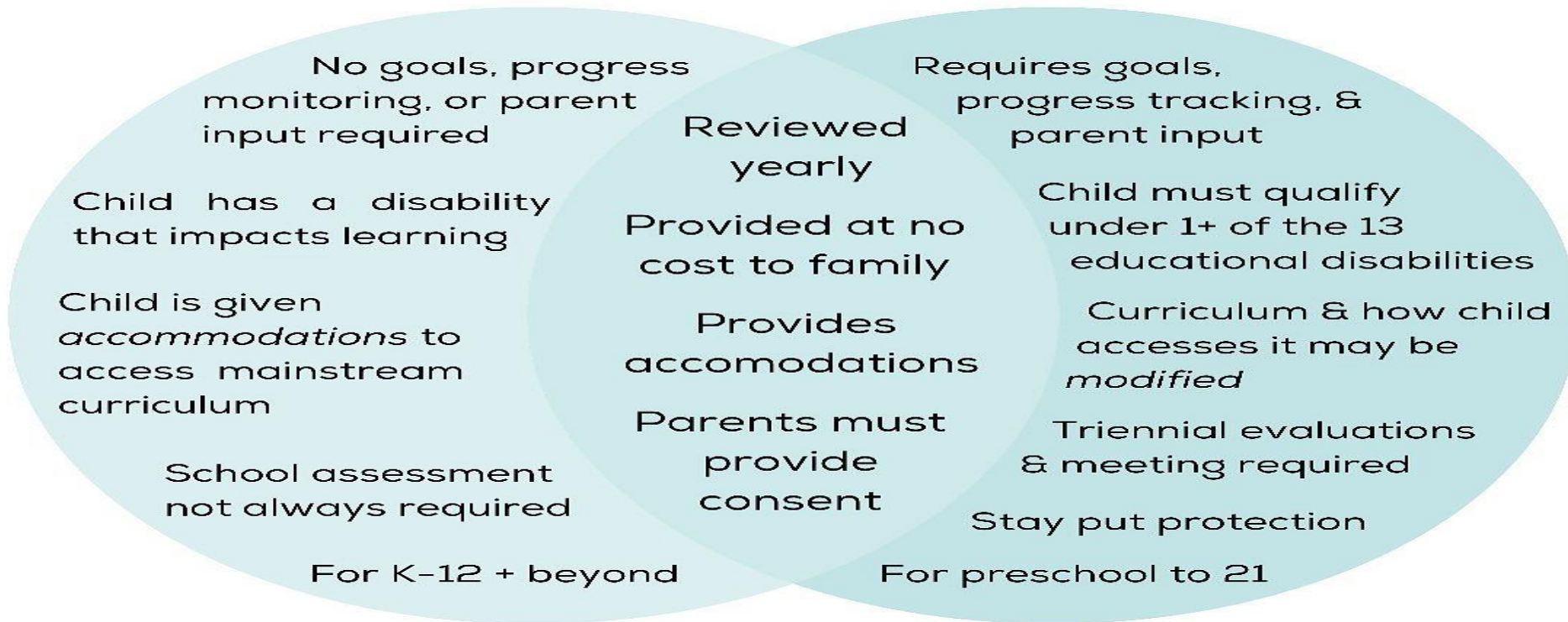
- Under Texas Education Code (TEC) §37.023, schools are required to develop a personalized transition plan within 5 days of a student's release from a DAEP, JJAEP, or juvenile facility
- Who participates in developing the transition plan?
  - Administrator, school counselor, school social worker, school resource officer, school behavioral coordinator, classroom teachers
- What are some things the committee can recommend at the transition meeting?
  - Best educational placement for students
  - Make recommendations for counseling, behavior management, and/or academic assistance, as well as mental health services, if deemed necessary
  - Advise parent on special education evaluation process
    - NOTE: This is now required under new legislation – House Bill 3928 requires school districts to inform parents of their right to request an evaluation for special education services both at the time the student is placed at the DAEP and when the school develops the transition plan for the student's return to their home campus
- Regularly review student's progress toward academic and career goals

# YOUTH WITH DISABILITIES



# 504 VS SPECIAL EDUCATION SERVICES

## 504 Plan vs. IEP



A CHRONICLE INVESTIGATION

# Denied:

## How Texas keeps tens of thousands of children out of special education

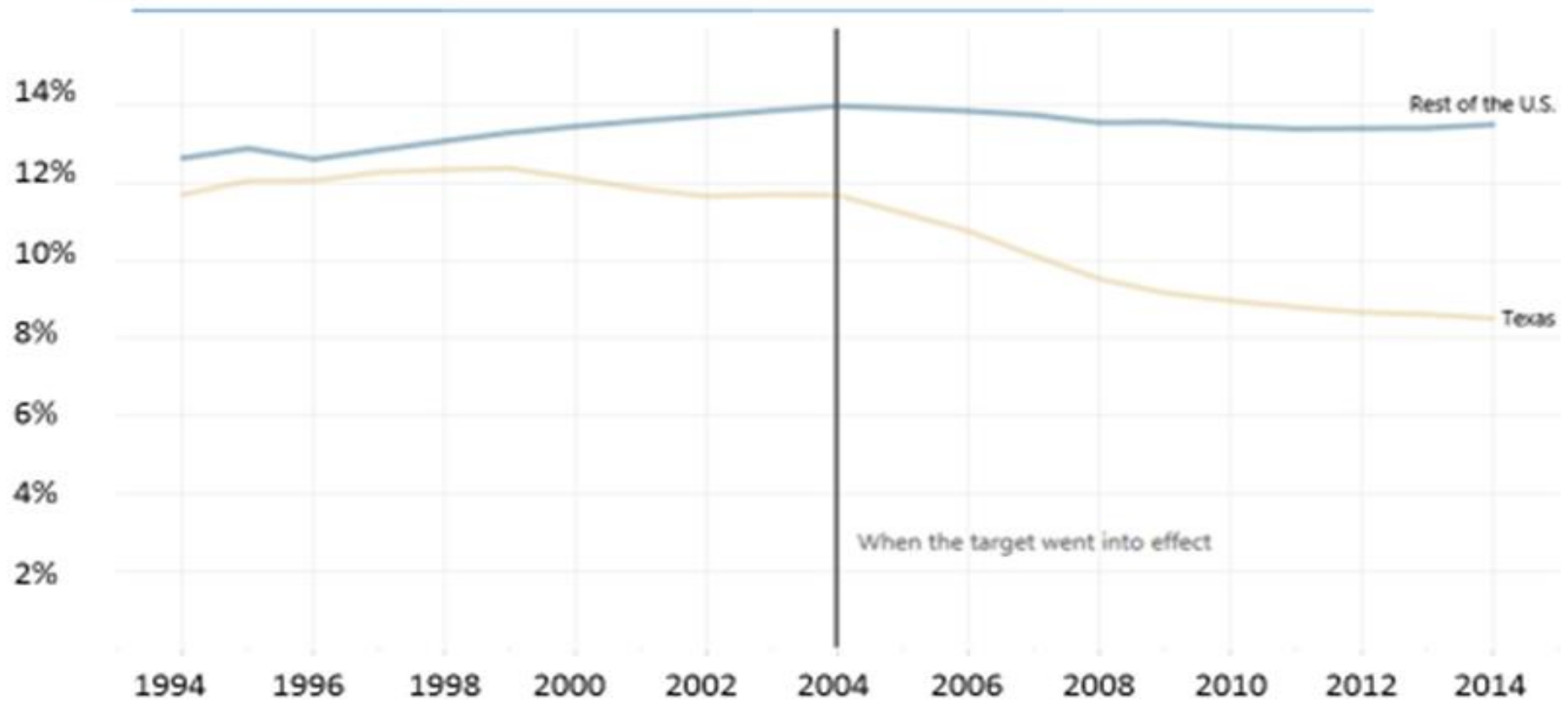
Story by: Brian M. Rosenthal

Photos by: Marie D. De Jesús

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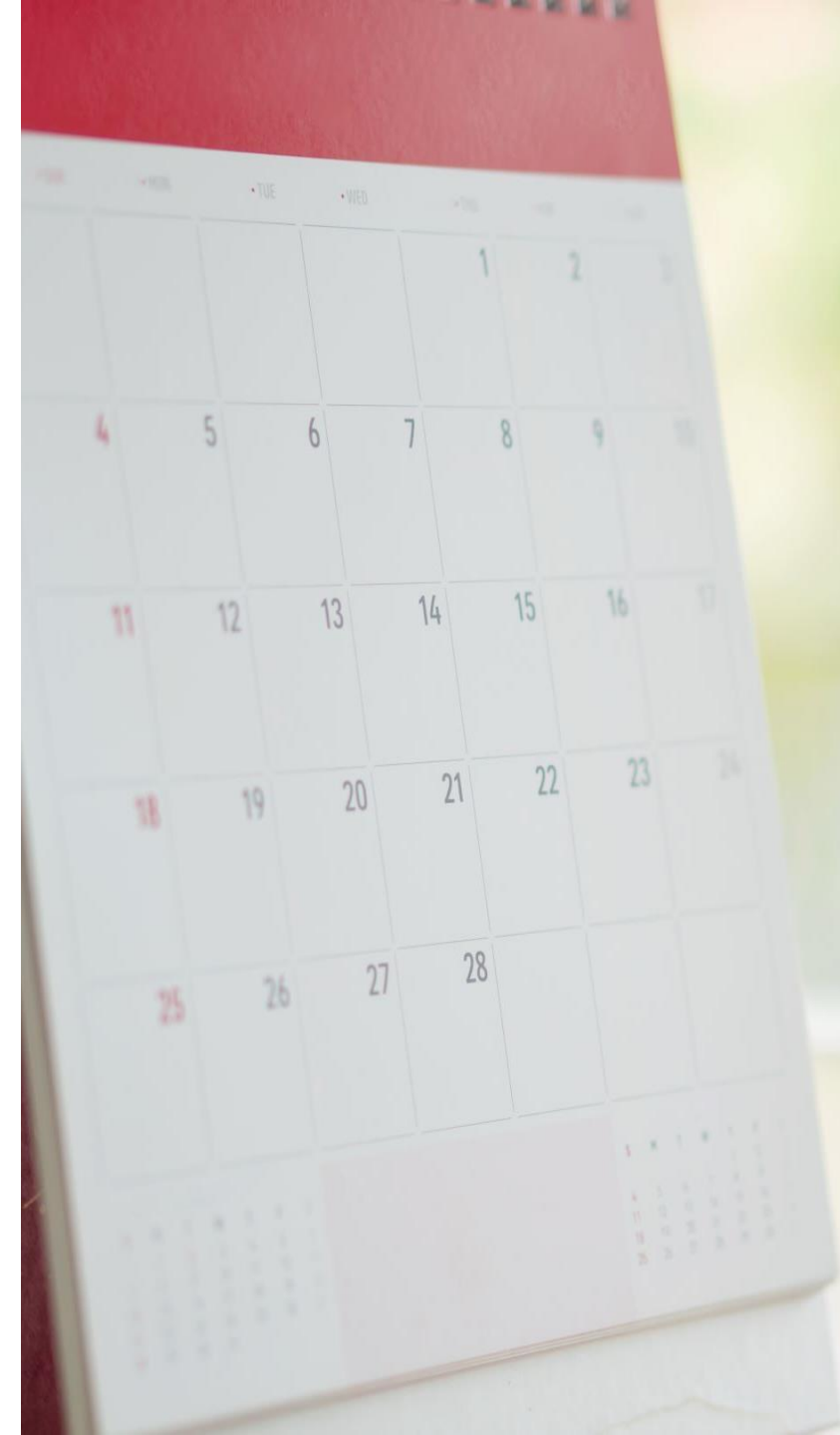
## A Staggering Drop in Texas Students in Special Education



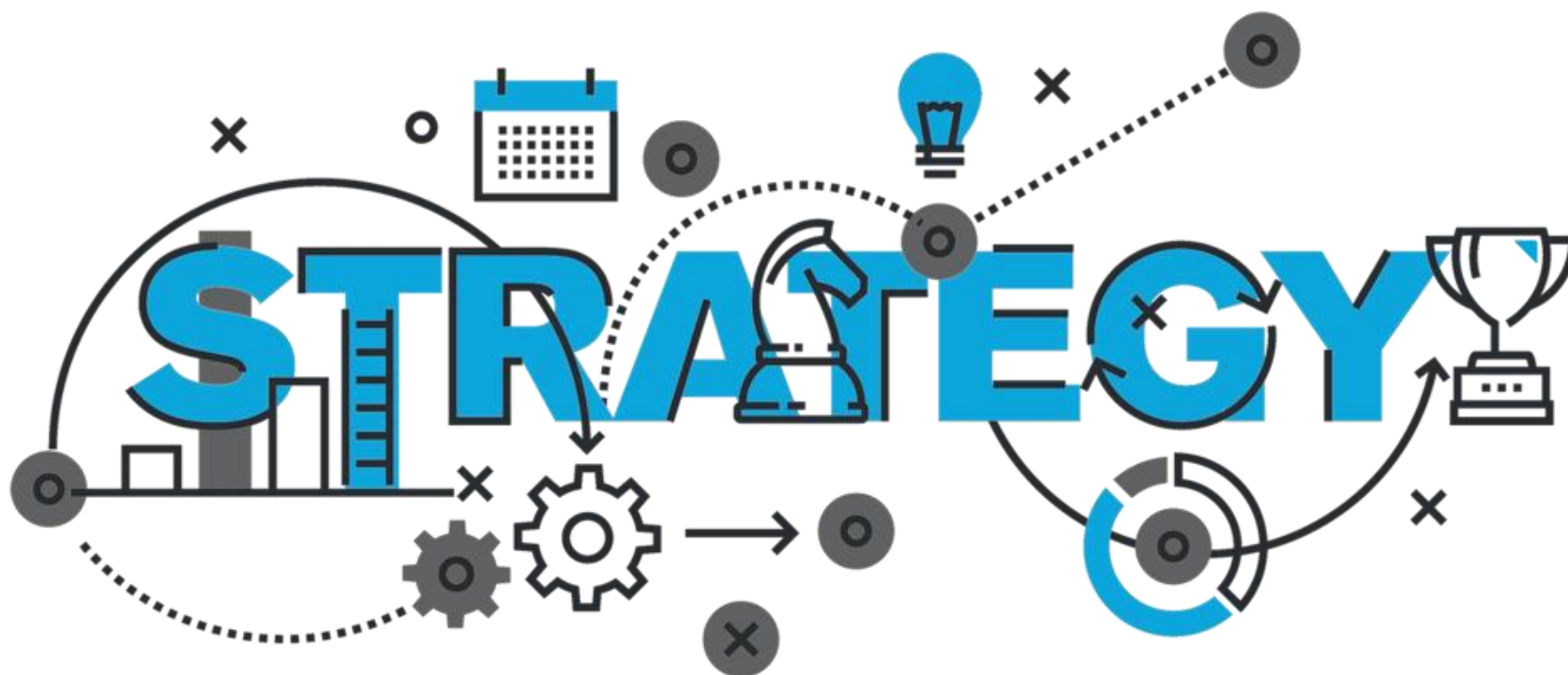
Credit: *Houston Chronicle*

# SPECIAL EDUCATION EVALUATION PROCESS

- Youth who have, or are suspected of having, a disability are entitled to an evaluation by their school district to determine if they qualify for special education services – a **Full Individual Evaluation (FIE)**
- Full Individual Evaluation timelines continue to apply: **15 – 45 – 30**
  - **15** school days for school to decide whether to agree to conduct evaluation
  - **45** school days to complete evaluation from time parent signs consent forms
  - **30** calendar days to hold meeting to review eligibility and put a plan for special education services in place
- Requests for evaluations should be submitted **in writing** to the school principal as soon as possible



# IMPLICATIONS FOR JUVENILE CASES





# USING EVALUATIONS

- When possible, juvenile defense attorneys should provide special education attorneys juvenile system evaluations so they can use that information to advocate for their clients at school
- Conversely, when special education attorneys are able to provide juvenile attorneys information from a youth's special education evaluation, juvenile attorneys can use that information to advocate for the youth in court
- While special education attorneys may be able to share complete school evaluations with juvenile attorneys, juvenile system evaluations should not be shared with school districts by special education attorneys due to the confidential and sensitive nature of these evaluations
- Additionally, juvenile system evaluations cannot and will not replace a school district's evaluation to determine special education eligibility



# SPECIAL DISCIPLINARY PROTECTIONS FOR STUDENTS WITH DISABILITIES

- Students with disabilities can be disciplined for both on and (certain) off campus offenses
- Regardless of where the offense occurred, if the school proposes to place the student in a disciplinary alternative education program (DAEP), they must hold a special meeting – a [Manifestation Determination Review \(MDR\)](#)
- At the MDR, the student's 504 or special education committee must answer 2 questions:
  1. Was the youth's behavior caused by, or had a direct and substantial relationship to their disability; OR
  2. Was the youth's behavior the direct result of the district's failure to implement their special education plan
- If the committee answers yes to either question, the student cannot be sent to DAEP
- Exceptions to this rule if the incident involved:
  - Drugs
  - Weapons
  - Serious bodily injury – potential loss of life or limb



# MDRS FOR STUDENTS NOT YET ELIGIBLE FOR SPECIAL EDUCATION SERVICES

- Students who have not yet been found eligible for special education services are entitled to MDR when school district has **notice** that they may be a student with a disability
- School districts are deemed to have notice when:
  1. Youth's parent or guardian has expressed concern in writing to school administrator or teacher that they believe youth needs special education services;
  2. Youth's parent or guardian has requested an evaluation for special education services; or
  3. Youth's teacher or other district staff member has expressed concern about their pattern of behavior to the special education director, or other district-level staff
- This is why it's so important to help families request evaluations for special education services so they can acquire these protections before being found eligible

# HOW DOES THE MDR HELP THE YOUTH'S JUVENILE CASE?

Special education attorney can use juvenile system evaluations to connect behavior to disability to prevent disciplinary placement

Juvenile defense attorney can use the favorable outcome at the MDR in school-based offense cases to advocate for deferral or dismissal

# CLIENT REPRESENTATION



# WHO REPRESENTS WHOM?

- **Juvenile attorneys** represent the **youth**
- Special **education attorneys** and advocates represent the **parent or guardian**
- Distinction is important because parent and youth may be adverse to one another in juvenile case or in education case
- If there is a conflict, or potential for a conflict, between their clients, it will not be appropriate for juvenile defense attorney and education attorney to work together

# MAINTAINING CONFIDENTIALITY

- When juvenile defense and education attorneys partner with one another, they must still maintain their client's confidentiality
- Must be careful not to inadvertently waive attorney-client privilege
- Best to obtain express, written consent from client to share information and case strategy

# DISABILITY RIGHTS TEXAS RESOURCES

- [How to Request an Initial Evaluation for Special Education Services](#)
- [Interactive Discipline Guide](#)
- [School Reentry Toolkit](#)



**FOR MORE INFORMATION,  
PLEASE CONTACT:**

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