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House Bill 3 and Its Impact on Students with Disabilities

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1. Introduction

With over 8,000 bills introduced, the 88th legislative session was marked by a flurry of activity spanning various domains crucial to the state's functioning. Much attention was paid to education reform with bills aiming to enhance curriculum standards, increase funding for schools, and create and implement an Education Savings Account program. While attempts to create the voucher program in the regular session were unsuccessful, so were attempts to increase in person student funding and teacher salaries. However, a few bills passed that will have a direct and substantial impact on students with disabilities that we will highlight in this paper. For a more extensive summary of education and special education related bills that passed this session, please see the website for Texas Association of School Boards¹ and the website of Disability Rights Texas.²

2. House Bill 3

There were many safety related bills introduced this session in response to the tragedy in Uvalde in May of 2022 where nineteen students and two adults were killed in a shooting at Robb Elementary School. One of those bills is House Bill 3 by Representative Burrows, which was filed and passed during the regular 88th legislative session and became effective on September 1, 2023. The goal is to improve the physical security and safety of public schools and charter schools. The bill slightly increases funding for both the per-student and per-campus allotment to implement the newly required safety measures. The bill also assigns the Texas Education Agency (TEA) to monitor the implementation and operation of the new requirements related to safety as well as requires additional district level training. However, it may have unintended negative consequences for students with disabilities.

Armed Security Officer

The bill requires there to be at least one armed security officer at every campus during school hours. This person can be a school resource officer (SRO) or school district peace officer, but if schools cannot hire a separate officer, then someone else already on campus can act as a security officer, such as a school marshal or an employee who is licensed to carry a handgun and has completed school safety training.³ If these armed officers are not commissioned peace officers, then they cannot perform law enforcement duties, including making arrests. However, there is an exception allowing them to perform these duties if there is an emergency that poses a threat of death or serious bodily injury to a person.⁴

If campuses cannot hire a peace officer or SRO and do not have an available and trained person on campus, the board can claim a good cause exception and develop an alternative way to

¹ See <https://www.tasb.org/legislative/issue-based-resources.aspx>.

² See <https://disabilityrightstx.org/en/publication/texas-legislative-update-special-education/>.

³ House Bill 3, H. B. 3, 88th Texas State Legislature § 10, (2023).

⁴ House Bill 3, H. B. 3, 88th Texas State Legislature § 11, (2023).

comply, such as a person that the district contracts with and who carries a handgun and has completed the appropriate training. Many school districts are claiming this good cause exception, such as Hays CISD⁵ and Carroll ISD.⁶

Potential Threats

The bill has proactive requirements in regards to students being potential threats to school safety. For transfer students, the bill requires that the previous district share the student disciplinary record and any threat assessment with the new district.⁷ It also requires schools to maintain materials and information about a student provided to or produced by teams during the threat assessment until that student's 24th birthday.⁸ Further, districts must have a process for students to report concerning behaviors of a classmate.⁹

The bill requires TEA to come up with standards around providing notice of violent activity that has occurred or is being investigated on campus or at a district-sponsored activity. The standards must include electronic notification that can be real-time and must protect student privacy.¹⁰

Emergency Operations Plans

Schools are already required to have multi-hazard emergency operations plans with guidelines on school safety that must "address prevention, mitigation, preparedness, response, and recovery as defined by the Texas School Safety Center in conjunction with the governor's office of homeland security, the commissioner of education, and the commissioner of higher education."¹¹ As a part of the plans, each district needs to conduct a safety and security audit once every three years. These plans have always required "provisions for ensuring that students and district personnel with disabilities are provided equal access to safety during a disaster or emergency situation." In addition, they require provisions for psychological safety, including best practices in suicide prevention and grief-informed and trauma-informed care.¹²

In Section 14, House Bill 3 adds an additional requirement that TEA establish guidelines for these plans to ensure the general safety of students and staff with disabilities. In the creation of these guidelines, TEA must consult with the Texas School Safety Center, regional education

⁵ Sarah Al-Shaikh and Daniel Gravois, "Hays CISD approves good-cause exception for HB 3," KXAN, August 28, 2023. <https://www.kxan.com/news/local/hays/hays-cisd-to-consider-claiming-good-cause-exception-for-hb-3/>.

⁶ Jonathan Perriello, "Carroll ISD requests good-cause exception to House Bill 3," Community Impact, December 6, 2023. <https://communityimpact.com/dallas-fort-worth/grapevine-colleyville-southlake/education/2023/12/05/carroll-isd-requests-good-cause-exception-to-house-bill-3/>.

⁷ House Bill 3, H. B. 3, 88th Texas State Legislature § 7, (2023).

⁸ House Bill 3, H. B. 3, 88th Texas State Legislature § 15, (2023).

⁹ *Id.*

¹⁰ House Bill 3, H. B. 3, 88th Texas State Legislature § 14, (2023).

¹¹ House Bill 3, H. B. 3, 88th Texas State Legislature § 12, (2023).

¹² *Id.*

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