

Dawne Borgelt, RN  
Senate Hearing Statement  
October 30, 2012

I have traveled here from Michigan today to not only represent my son, Noah Borgelt, but all the children with disabilities left behind here in Texas who are getting lost in the system because the parents do not have the time or money to fight for their children's rights. I am here to stress the need for a new bill/law for the Juvenile criminal court and also a law to help protect disabled children currently enrolled in the State of Texas public school system.

Barbara Bush Middle School (NEISD school district) refused to follow our son's Individual Education Plan and Behavioral intervention Plan (IEP/BIP) which forced us as parents to fight in a due process hearing through the TEA. We won on all counts at state level. NEISD took it to Federal and once again the judge ruled that the behavior was a manifestation of my son's disability and the school did not follow the IEP/BIP. One would think that after this, changes would be made. There were definitely changes. Changes to push Noah's known triggers, restrain him illegally (no imminent serious danger to himself or others). When he would fight the restraint as demonstrated on his functional Behavioral assessment (FBA), they would call NEISD police to handcuff him. The illegal restraints and handcuffing resulted in multiple bruising both physically and emotionally to my son. The district didn't stop there. Those involved in the restraints (the principals and special educational aide on all accounts) would file "assault" charges against our special needs child. The district uses these "assault" charges as leverage for parents not to file due process complaints with TEA. Knowing that the Texas Juvenile courts do not recognize disabilities, this is the district's legal loop hole. It costs the district nothing to file charges whether the allegations are true or false. It costs families thousands of dollars to fight for our child's safety and rights. These legal costs along with the districts retaliation to your child, if you fight, places parents in a hard position. NEISD has the educational means, I-Team behavioral specialists' support and federal funding for each special needs child in the district to make it completely possible for children to remain mainstreamed in general educational classes and for all to follow the IEP/BIP. They would rather use your tax payer money to pay their legal team to bury their mistakes and your special needs child along with them. FAPE has a process in place for the school and the parents to get together and work through whether the behaviors were caused by the IEP/BIP not being followed or if the behaviors were caused by the IEP/BIP needing to be adjusted. The district makes it well known (verbally stated) that they will never admit they did not follow procedure and will lie in ARDS meetings to bury these mistakes and do everything in their power to remove your child from their care with no regards to what is best for his developmental and academic progress. We have transcripts and audio recordings backing up these allegations.

My husband and I continued to fight for not only our son's rights but also for the children who would follow behind him until we were forced to place Noah first and move out of the State June, 2011. Noah was extremely fearful to attend school. Noah has the added diagnosis of PTSD (Post traumatic stress

disorder) due to the NEISD schools continued abuse. After a year within the Michigan public school system which is willing to work as a team with us, Noah is thriving both socially and educationally. He is fourteen years old now and has his first peer friend. He still struggles with fear of Police, Principals and school personal but is starting little by little to build trust again. He is currently enrolled in two special educational classes and is in four general educational classes with a paraprofessional following him. He is on path to attend college upon graduation.

Please refer to the following link regarding an article published July, 2011 by the CSG justice center and University of Texas A&M: [HTT://JUSTICECENTER.CSG.ORG/RESOURCES/JUVENILES](http://JUSTICECENTER.CSG.ORG/RESOURCES/JUVENILES).

I propose to make a bill to:

- Force Police officers to receive specialized training on how to deescalate children under the autism spectrum (CPI has a specialized training just for this visit [crisisprevention.com](http://crisisprevention.com) or call 800-558-8976).
- Police may not interrogate a child without a parent present.
- If a school is found negligent in a due process court of law, TEA must follow up every two months with the child's school and parent's for a year to make sure there is not retaliation and the problem that was found has been corrected.
- School personal should not be able to press assault charges against a child due to injury's occurred during a restraint. This is a matter of ethics. I, a pediatric registered nurse, am spit on, kicked, hit and screamed at during procedures and would never file charges. It is part of the career I chose.
- A school district should not be allowed to file charges against a child or his parent due to a manifestation of his disability as a result of the school not following the child's IEP/BIP. If the IEP/BIP was followed and the behavior was a manifestation of disability then the district and the parent's must be forced to sit down and revise IEP/BIP to prevent behavior in the future.

Sincerely,



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