

New Texas vaping law triggers transformation of Baytown's DAEP

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BAYTOWN, Texas – The rapid passage of a new Texas vaping mandate in the summer of 2023 forced Goose Creek Consolidated Independent School District (GCCISD) in Baytown to transform an old elementary school and its approaches to vaping.

The Texas Congress passed [House Bill 114](#) on June 13, 2023, to go into effect starting Sept. 1 of that year, leaving school districts across the state reeling to implement the changes before the start of the school year. The bill amended the Texas Education Code to mandate that students caught possessing, using or delivering e-cigarettes and marihuana to “be removed from class and placed in a disciplinary alternative education program” (DAEP).

DAEPs separate students assigned to the program from the rest of the student population and place them in an alternative learning environment, typically a separate school campus. In GCCISD, students caught with a nicotine vape are sent for 15 days; a THC vape, 30 days. A repeat placement adds 15 days up to a maximum placement of 45 days. GCCISD Superintendent Dr. Randal O’Brien consulted with the legal team immediately and learned that the old DAEP location would not be able to handle the influx of student placements.

“We did the mathematics on the previous year's offenders, and what we discovered was there would be no way that we could house all of the students charged with vaping in the former district alternative education placement building,” O’Brien said. “Our math told us that we needed four times that amount of space just for vapers alone.”

GCCISD had only three weeks to revitalize an old elementary school set for demolition into a new campus for its DAEP, POINT Alternative Center. The previous DAEP campus only held 80 students plus a dozen supporting faculty and administrators. According to POINT Principal William Kimbel, currently about 85%, or around 100, of POINT's now average of 120 students are vapers.

Transforming the old elementary school introduced a series of complications including finding furniture, implementing Wi-Fi and Apple products and replacing the decades-old air conditioning. However, Kimbel said the new location offers some benefits like more space, a full-size cafeteria and a gymnasium.

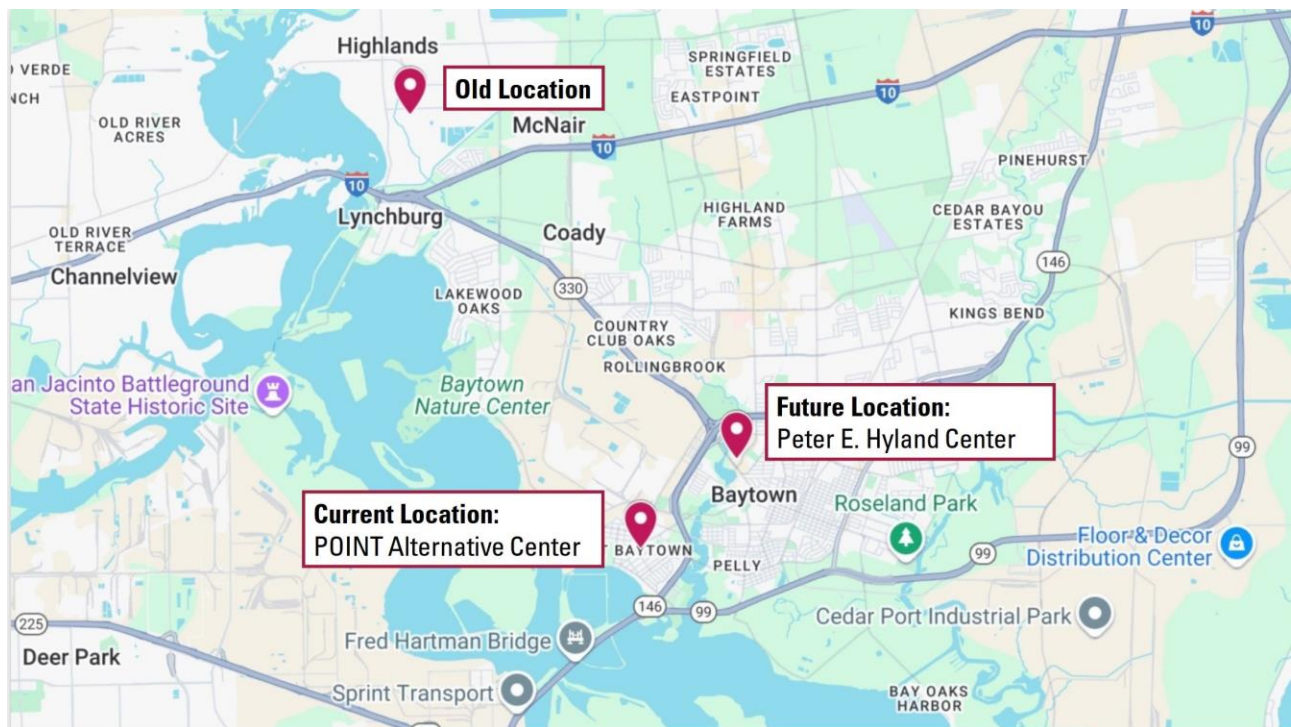
“The room sizes are a lot bigger as well as hallways, and that also helps a lot as far as actual fights on our campus...because nobody's piled on top of each other,” Kimbel said. “At the

last, old building, [students] were sitting on the floor or sitting on bean bags to try to help make it work within a classroom setting.”

The DAEP plans to move again for the 2025-2026 school year to the Peter E. Hyland Center. Kimbel said the center was originally designed to be the main DAEP location, but the district decided to house another program in it at the last minute.

“We are going to have plenty of time for that move,” Kimbel said. “We’ve already been told that they will be sending us boxes to move on May 5.”

Kimbel and POINT Assistant Principal Faith Smith-Chew said the Hyland Center will provide more parking for events like career fairs but that its proximity to the highway and fast-food chains pose a temptation for students to skip school.



Three pink markers signify the discipline alternative education program (DAEP) locations for Goose Creek Consolidated Independent School District across Baytown, Texas. Source: Google Maps

Multiple GCCISD administrators emphasized the importance of communication with parents and students regarding the changes and DAEP placement.

“We try to make the parent just as aware as a student of everything that truly goes on in this campus, that this is still real school,” Kimbel said.

Vaping Prevention and Intervention

Health Services Coordinator Patrica Peña oversees 34 nurses across GCCISD's 34 campuses and collaborates frequently with the Social Emotional Learning and Student Wellness department. She and the department also communicate with parents and students when introducing and incorporating vaping prevention and intervention methods across the district.

"We're always providing the resources to the parents; we've had town hall meetings; we've had podcasts to where we address vaping," Peña said. "We utilize every opportunity to educate and to communicate."

According to Behavior & Mental Health Coordinator Thresa Caldwell, the Social Emotional Learning (SEL) and Student Wellness department at GCCISD provides specialized casework services like counseling and referrals for partnered specialized agencies to address any challenges or stressors affecting students' health and educational performance. Caldwell said students will turn to vaping to self-medicate anxiety or other undiagnosed mental health issues.

"If [students] are referred to the Student Wellness Interventionists, we work with those students for a minimum of nine weeks," Caldwell said. "We would go through teaching them how to deal with their stressors, teaching them how to meditate, not medicate. We teach them breathing skills. We use several different curriculums that are evidence-based."

For vaping, the district utilizes the [Coordinated Approach to Child Health \(CATCH\)](#), specifically [CATCH My Breath](#), and [A Smoking Prevention Interactive Experience \(ASPIRE\)](#) programs. CATCH, an evidence-based program started in the 1980s, focuses on "Whole Child Wellness" spanning nutrition, physical health, social and emotional learning and more. CATCH My Breath combines research, real world implementation and a youth advisory board to educate students on the health consequences of vaping and to encourage resisting social pressures to vape. ASPIRE is an online, video-module program designed by MD Anderson Cancer Center to address tobacco-related products, including e-cigarettes with nicotine.

"In prevention spaces, it matters how youth perceive products. If they don't perceive it as harmful, then they're more likely to use the product," Jennifer Cofer, executive director of the EndTobacco program, said "We wanted to change perceptions, and when you change perceptions, you change what's normal in a kid's mind for being exposed to these products."

POINT and GCCISD also partner with [Bay Area Council on Drugs & Alcohol \(BACODA\)](#) and [Texas Child Health Access Through Telemedicine \(TCHAT\)](#). BOCADA provides substance use counseling and referrals. TCHAT provides further addiction support for repeat offenders. For the first offense, students go through CATCH My Breath; for the second, BACODA; and the third and following offenses, TCHAT.

Vaping and Criminal Justice

GCCISD Assistant Police Chief Patrick Arnett said that the new mandate ended the visual impact of arrests of students for illegal vaping.

“When we take them down and fingerprint them, they do everything just like a juvenile booking... but instead of him going to juvenile jail, parents just come pick him up,” Arnett said. “But it was an arrest. So, what happens is all kids are chattering, and they’re trying to figure out what’s happening. They know you got arrested.”

[Deterrence theory](#) is the concept that if a possible punishment is certain, swift and severe then an individual will consider the consequences of engaging in illegal activity and be discouraged if the negative consequences outweigh the benefits. However, Dr. Melanie Soderstrom, a criminal justice associate professor at Texas State University, said deterrence theory is ineffective, especially against people under the age of 25.

“We know deterrence doesn't work, and a lot of that is you have to assume that students even know that there is a policy in place,” Soderstrom said. “Brains aren't fully formed till about age 25, so decision making, risk taking. They don't stop and think... they are more about emotions and peer influence and are higher risk takers.”

According to Soderstrom, the biggest influence of juvenile delinquency is peers. A 2013 fact sheet from the Texas Criminal Justice Coalition cited that DAEP placement increases students’ risk for dropping out, expulsion and involvement with the juvenile justice system.

The [American Civil Liberties Union \(ACLU\)](#) defines the school-to-prison pipeline as “the policies and practices that push our nation’s schoolchildren, especially our most at-risk children, out of classrooms and into the juvenile and criminal justice systems.” These practices include zero-tolerance policies for student discipline and discipline alternative schools. Soderstrom said the automatic, mandatory placement into DAEP outlined in HB 114 is a zero-tolerance policy.

The pipeline disproportionately affects Black, Hispanic and special needs students the most. A [2010 report](#) from Texas Appleseed, a nonpartisan nonprofit dedicated to equitable and just policies, states “Not only are African American and Hispanic students being referred to DAEPs at disproportionate rates, they are also staying in DAEPs longer.”

At GCCISD, Black students are placed into DAEP at a disproportionate level of 8% more than their percentage of the student body population. An equal percentage of Hispanic students are sent less than their respective student body population percentage.

GCCISD sends more Black students to DAEP than proportionate to student population.

Goose Creek Consolidated Independent School District (GCCISD) sends 8% more Black students to discipline alternative education programs (DAEP) than what is representative of their student body. GCCISD sends an equal percentage of Hispanic students less.

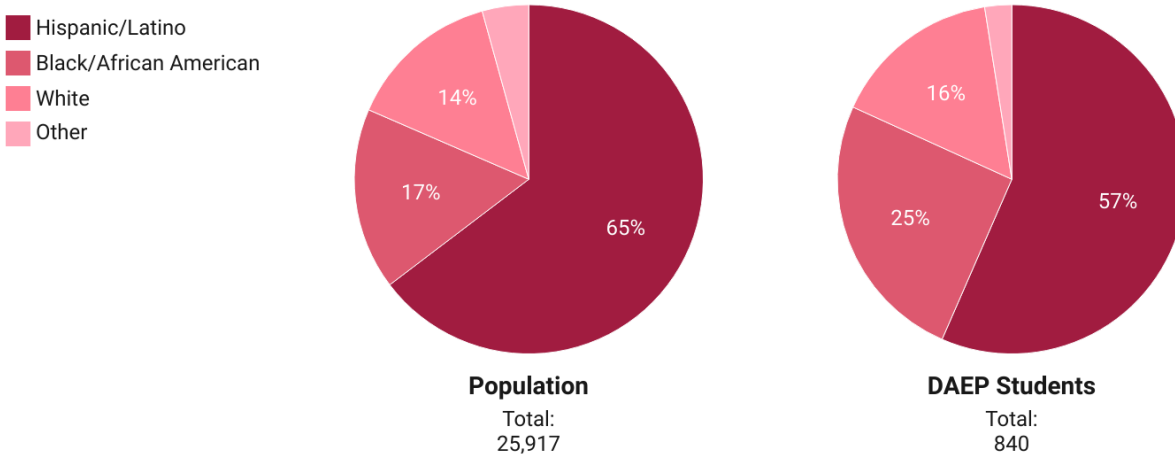


Chart: Allison Drinnon • Source: Texas Education Agency • Created with Datawrapper

Kimbel said POINT had been working to eliminate the discrepancy in the Hispanic population and has begun pulling data for planning for the next school year to address the discrepancy for Black students.

“It's just inconsistency. It's the best way to say it,” Kimbel said. “We were talking about this recently that that's probably the next area that we're going to have to work on after Hispanics.”

Both Kimbel and Smith-Chew said special education students and students with 504 plans combined make up about 37% of DAEP placements. Kimbel said discretionary DAEP placements are sent by campus principals and signed off by the Director of Student Services.

“With mandatories, there's nothing we can do about vaping and stuff like that, but other ones, we need the district to guide [principals] to work more consistently,” Kimbel said. “Understand that we are told who comes to our school.”

DAEP Over the Years

GCCISD's mandatory DAEP placements increase after pandemic and HB 114.

Goose Creek Consolidated Independent School District (GCCISD) saw a significant increase in mandatory discipline alternative education program (DAEP) placements following the COVID-19 pandemic and the passage of Texas House Bill 114.

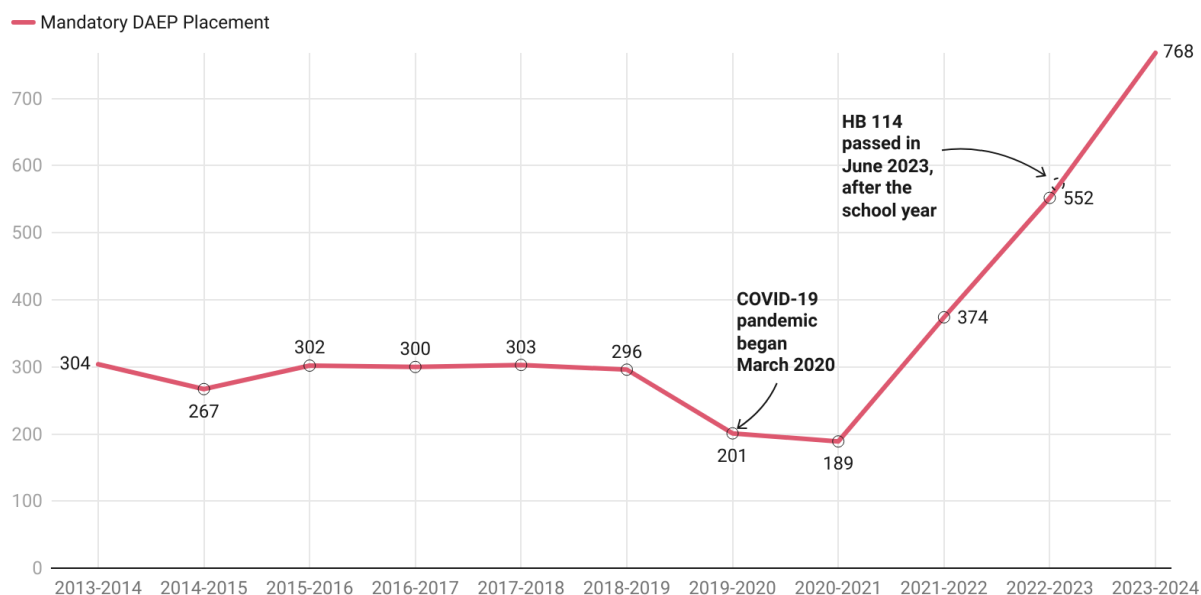


Chart: Allison Drinnon • Source: Texas Education Agency • Created with Datawrapper

DAEP placements are on the rise after a drop during the 2019-2020 and 2020-2021 school years due to the COVID-19 pandemic. DAEP actions jumped 47.6% in 2022-2023 school year as students returned to campus before HB 114. In a [2022 survey](#), the National Center for Education Statistics shared that 56% of public-school leaders reported increased student misconduct following the pandemic.

In the [2023-2024 school year](#) after HB 114, 279 students across 314 incidents were placed into DAEP for e-cigarette reasons. Mandatory DAEP placements increased 39.1% during that school year.

Despite the increase in placements, Kimbel reported lowering recidivism rates: about 13% for 2022-2023, about 9% for 2023-2024 and currently 5.8% for 2024-2025. He attributed the drop to new programming.

GCCISD's DAEP recidivism rates are dropping.

Goose Creek Consolidated Independent School District (GCCISD) has one discipline alternative education program (DAEP) school called POINT for its junior high and high school students. According to POINT Principal William Kimbel, the recidivism rates for students going to DAEP are dropping.

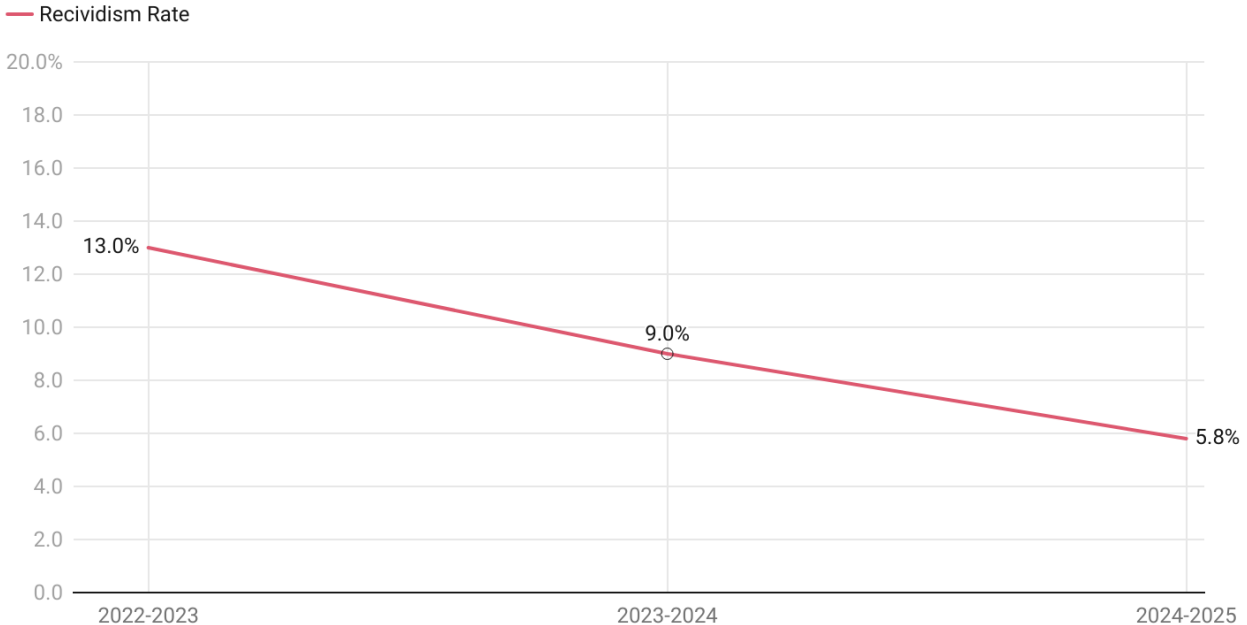


Chart: Allison Drinnon • Source: Interview with POINT Principal William Kimbel • Created with Datawrapper

“We changed our orientation to make it clear some of the guidelines we set forth where if a student does come back, we have so many things that kids can earn their way out early. If they come back a second time, those things are off the table,” Kimbel said. “We’re implementing new programs. This is the first year that we’re doing the CATCH My Breath program. Before everyone just got thrown in BACODA. So now, we’re getting more specialized with some of the programs that we’re doing to help these kids.”

Kimbel and Smith-Chew recalled various students that had stayed sober, graduated and went on to attend university after receiving intervention. Both visit students in their home campuses to check up after their placement. Students receive individual transition plans, counseling and community resources through the Social Emotional Learning and Student Wellness department.

“What we’re finding is the students are telling the site coordinators that the information that they received while they were at DAEP was helpful for them,” Caldwell said. “And that they never intend to go back.”

Educational Laws and a Possible Repeal

Not all school districts had the luxury of an empty campus on hand nor the resources to hire new teachers and incorporate health programs. Multiple GCCISD administrators and researchers said the main issue is funding.

“They give us mandates which are unfunded, and we're responsible. We do to the best of our ability to bring programs, to bring presentations, to bring curriculum, but all of that is hard when we don't have the funding to assist us with that,” Peña said. “I think that that increase of funding would provide more programs. That would help tremendously.”

HB 114 did not include any funding for schools to implement the mandate or the challenges created by it.

“Without any funding at all, we began investigating and ultimately chose to install vape detectors in the student restrooms. That's a cost that was not considered by our legislators but is a cost if our goal is to not send kids to DAEP,” O’Brien said. “We want kids to be in their classroom with their peers, with their teachers, learning and succeeding.”

Texas achieved a record-breaking budget surplus of \$32.7 million at the end of the 2023 fiscal year. According to [Texas 2036](#), a nonpartisan, nonprofit public policy research organization, legislators allocated \$3 billion for the Texas University Fund to support research and faculty study, over \$690 million to overhaul community college financing and \$500 million for K-12 schools to adopt Texas Education Agency instructional materials. This January, Texas Comptroller Glenn Hegar announced another budget surplus of \$23.8 billion. According to [CBS](#), legislators have spoken about using the surplus for relieving property taxes, improving infrastructure and raising teacher salaries.

A secondary issue for implementing educational laws is the lack of input from school administrators and researchers. Soderstrom said legislators should be discussing laws with social scientists, school resources officers, school administrators and parents. She said even proactive legislators can face barriers to accessing research, like paywalls from database websites.

“You won't know. You won't have those results,” Soderstrom said. “It's really helpful to make sure that these individuals get into contact with researchers who can provide them with that information.”

O’Brien said he travels to Austin to speak to legislators about laws and policies regarding education for “school districts to do what they see is best for children and not be legislated and dictated what must happen from Austin, who are not in the classrooms dealing with children, who are not the ones who have to deal with parents, community members.”

The current 89th legislative session began on Jan. 14, 2025. Educational bills for a variety of issues, including funding and student discipline, have already been introduced and voted upon.

On April 16, 2025, the House approved [House Bill 6](#), a sweeping set of revisions for student discipline that would make it easier for schools to suspend their homeless and youngest students, according to [The Texas Tribune](#). Currently, the bill would repeal HB 114's mandate of students caught specifically with e-cigarettes to be placed into DAEP. HB 6 does not remove the mandatory placement for marihuana use. The bill was sent to the Education K-16 Senate Committee on April 24, 2025. The legislative session will conclude on June 2, 2025.