

# YSLETA INDEPENDENT SCHOOL DISTRICT

## STUDENT CODE OF CONDUCT

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### ACCESSIBILITY

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## Student Code of Conduct

### PURPOSE

The Student Code of Conduct (the “Code”) is the district’s response to the requirements of Chapter 37 of the Texas Education Code.

The Code provides methods and options for managing students in the classroom and on school grounds, disciplining students, and preventing and intervening in student discipline problems.

The law requires the district to define misconduct that may—or must—result in a range of specific disciplinary consequences including removal from a regular classroom or campus, out-of-school suspension, placement in a disciplinary alternative education program (DAEP), placement in a juvenile justice alternative education program (JJAEP), or expulsion from school.

This Student Code of Conduct has been adopted by the Ysleta ISD Board of Trustees and developed with the advice of the district-level committee. This Code provides information to parents and students regarding standards of conduct, consequences of misconduct and procedures for administering discipline. It remains in effect during summer school and all school-related events and activities outside of the school year until an updated version is adopted by the board. In accordance with state law, the Code shall be posted at each school campus or shall be available for review at the office of the campus principal. Additionally, the Code shall be available at the office of the campus behavior coordinator and posted on the district’s website. Parents shall be notified of any conduct violation that may result in a student being suspended, placed in a DAEP or JJAEP, expelled, or taken into custody by a law enforcement officer under Chapter 37 of the Education Code.

Because the Student Code of Conduct is adopted by the district’s board of trustees, it has the force of policy; therefore, in case of conflict between the Code and the student handbook, the Code shall prevail. In the case of conflict between the Code and a LEGAL Policy, the LEGAL Policy shall prevail. In the case of conflict between the Code and a LOCAL Policy, the Code shall prevail.

This Student Code of Conduct shall remain in effect until amended or superseded by a change in the law, or by action of the Board of Trustees.

**Please Note: Students with disabilities are subject to applicable state and federal law (Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973) in addition to the Student Code of Conduct. To the extent any conflict exists, state and/or federal law will prevail.**

### SCHOOL DISTRICT AUTHORITY AND JURISDICTION

#### A. Campus Behavior Coordinator

As required by law, a person at each campus must be designated to serve as the campus behavior coordinator. The designated person may be the principal of the campus or any other campus administrator selected by the principal. The campus behavior coordinator is primarily responsible for maintaining student discipline. The district shall post on its website and in the Student Handbook for each campus, the email address and telephone number of the person serving as campus behavior coordinator. Contact information may be found at [www.yisd.net](http://www.yisd.net) and in the Student/Parent Handbook.

School rules and the authority of the district to administer discipline apply whenever the interest of the district is involved, on or off school grounds, in conjunction with or independent of classes and school-sponsored activities.

## **B. Authority and Jurisdiction**

The district has disciplinary authority over a student:

1. During the regular school day and while the student is going to and from school or a school related activity on district transportation;
2. During lunch periods in which a student is allowed to leave campus;
3. While the student is in attendance at any school-related activity, regardless of time or location;
4. For any school-related misconduct, regardless of time or location;
5. When retaliation against a school employee, board member, or volunteer occurs or is threatened, regardless of time or location;
6. When a student engages in cyberbullying, as provided by Education Code 37.0832;
7. When criminal mischief is committed on school property or at a school-related event;
8. For certain offenses committed within 300 feet of school property as measured from any point on the school district's real property boundary line;
9. For certain offenses committed while on school property or while attending a school-sponsored or school-related activity of another district in Texas;
10. When the student commits a felony, as provided by Education Code 37.006 or 37.0081; and
11. When the student is required to register as a sex offender.

## **C. Threat Assessment and Safe and Supportive School Team**

The campus behavior coordinator or other appropriate administrator will work closely with the campus threat assessment safe and supportive school team to implement the district's threat assessment policy and procedures, as required by law, and shall take appropriate disciplinary action in accordance with the Code of Conduct.

## **D. Searches**

District officials may conduct searches of students, their belongings, and their vehicles in accordance with state and federal law and district policy. Searches of students shall be conducted in a reasonable and nondiscriminatory manner. Refer to the district's policies at FNF(LEGAL) and FNF(LOCAL) for more information regarding investigations and searches.

The district has a right to conduct searches, question students, and use canines in conformance with Policy FNF (LEGAL) and FNF (LOCAL). Searches and questioning of students by law enforcement authorities are governed by Policy GRA (LEGAL) and GRA (LOCAL). The district has the right to search a vehicle driven to school by a student and parked on school property whenever there is reasonable cause to believe it contains articles or materials prohibited by the district. The district has the right to search a student's locker, desk, or personal belongings when there is reasonable suspicion to believe it contains articles or materials prohibited by the district.

Desks, lockers, district-provided technology, and similar items are the property of the district and are provided for student use as a matter of convenience. District property is subject to search or inspection at any time without notice.

## **E. Reporting Crimes**

The principal or campus behavior coordinator and other school administrators as appropriate shall report crimes as required by law and shall call local law enforcement when an administrator suspects that a crime has been committed on campus.

## **F. Security Personnel**

To ensure sufficient security and protection of students, staff, and property, the board employs security personnel, including off-duty El Paso Police Department police officers ("Peace Officers") and certified security officers ("Security Officers"). In accordance with law, the board has coordinated with the campus behavior coordinators and other district employees to ensure appropriate law enforcement duties are

assigned to security personnel as appropriate. As more fully described in policy CKE (LEGAL) and CKE (LOCAL), the law enforcement duties of district security personnel include, but are not limited to:

For Peace Officers:

1. All duties of a commissioned peace officer described in Policy CKE (Legal), including but not limited to protecting the safety and welfare of any person in the officer's jurisdiction and protecting property of the district;
2. Carrying a weapon on district property;
3. Refusing entry to district property or ejecting persons from district property as authorized in accordance with Section 37.105, Education Code;

These duties include, but are not limited to lawfully conducting searches, questioning students, investigating an alleged criminal offense, and taking students into custody.

For Security Officers:

1. Monitoring and ensuring the safety and security of persons and the protection of district property and assisting administration in investigating disciplinary matters that may constitute a crime and are not routine student behavioral or administrative duties better addressed by the campus behavior coordinator or other district employees;
2. Refusing entry to district property or ejecting persons from district property as authorized in accordance with Section 37.105, Education Code;
3. Protecting district property and the safety and welfare of any person consistent with the district's Multi-hazard Emergency Operations Plan and related training designed for security officers.

#### **G. Notice of Conference or Hearing**

When disciplinary consequences require a conference or hearing, the school district will make a good faith effort to inform the student and the student's parent or guardian of the time and place of the conference or hearing. The district may hold the conference or the hearing regardless of whether the student's parent or guardian, or another adult representing the student attends.

#### **H. Decisions, Questions, and Appeals**

1. A decision to remove a student from class is made by the teacher. All other disciplinary decisions are made at the campus level by the Principal or Principal's designee. Questions from parents regarding disciplinary measures should be addressed to the teacher or campus administration, as appropriate.
2. Complaints about disciplinary decisions are subject to Policy FNG (LOCAL). The district shall not delay a disciplinary consequence while a student or parent pursues a grievance.
3. Where appeal is expressly allowed, the appeal is to the Associate Superintendent's Appeal Committee. Except where expressly provided otherwise, in reviewing the decision the Associate Superintendent's Appeal Committee is authorized to limit review to the written materials submitted with appeal forms, the record of the conference held at the campus level, and the written findings and decision by the campus administrator.
4. Except where expressly provided otherwise, the decision of the Associate Superintendent's Appeal Committee is final and cannot be appealed to the Superintendent, the Board, or the Commissioner of the Texas Education Agency.

#### **I. Standards for Student Conduct**

Each student is expected to:

1. Demonstrate courtesy, even when others do not.
2. Behave in a responsible manner, always exercising self-discipline.

3. Attend all classes, regularly and on time.
4. Prepare for each class; take appropriate materials and assignments to class.
5. Meet district and campus standards of grooming and dress.
6. Obey all campus and classroom rules.
7. Respect the rights and privileges of students, teachers, and other district staff and volunteers.
8. Respect the property of others, including district property and facilities.
9. Cooperate with and assist the school staff in maintaining safety, order, and discipline.
10. Adhere to the requirements of the Student Code of Conduct.
11. All secondary school students must wear school issued name badges.

**J. Unauthorized Persons**

In accordance with Education Code 37.105, a school administrator, school resource officer (SRO), or district police officer shall have the authority to refuse entry or eject a person from district property if the person refuses to leave peaceably on request and:

1. The person poses a substantial risk of harm to any person; or
2. The person behaves in a manner that is inappropriate for a school setting, and the person persists in the behavior after being given a verbal warning that the behavior is inappropriate and may result in refusal of entry or ejection.

Appeals regarding refusal of entry or ejection from district property may be filed in accordance with policies FNG(LOCAL) or GF(LOCAL), as appropriate. However, the timelines for the district’s grievance procedures shall be adjusted as necessary to permit the person to address the board in person within 90 days, unless the complaint is resolved before a board hearing.

See **DAEP—Restrictions During Placement** for information regarding a student assigned to DAEP at the time of graduation.

**K. Sex-based Harassment – Title IX**

Federal law known as “Title IX” and implementing regulations govern how the district must respond to allegations of conduct which, if proven, could constitute sex-based harassment under Title IX, including Sexual Harassment, Gender-based Harassment, and Dating Violence. The provisions of Policy FFH (Legal) and (Local) and FFH-Reg will prevail over this Student Code of Conduct in how the district addresses such allegations. See the **Glossary** for definitions.

**DISCIPLINE MANAGEMENT TECHNIQUES**

Discipline shall be designed to improve conduct and to encourage students to adhere to their responsibilities as members of the school community. Disciplinary action shall draw on the professional judgment of teachers and administrators and on a range of discipline management techniques, including restorative discipline practices. Discipline shall be based on the seriousness of the offense, the student’s age and grade level, the frequency of misbehavior, the student’s attitude, the effect of the misconduct on the school environment, and statutory requirements.

**A. Students with Disabilities**

1. The discipline of students with disabilities is subject to applicable state and federal law in addition to the Student Code of Conduct. To the extent any conflict exists, the district shall comply with federal law. For more information regarding discipline of students with disabilities, see policy FOF(LEGAL).
2. In accordance with the Education Code, a student who is enrolled in a special education program may not be disciplined for conduct meeting the definition of bullying, cyberbullying, harassment, or making hit lists (see glossary) until an ARD committee meeting has been held to review the conduct.
3. In deciding whether to order suspension, DAEP placement, or expulsion, regardless of whether the action is mandatory or discretionary, the district shall take into consideration a

disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.

## **B. Techniques**

The following discipline management techniques may be used—alone in combination, or as part of progressive interventions - for behavior prohibited by the Student Code of Conduct or by campus or classroom rules:

1. Verbal correction, oral or written
2. Cooling-off time or a brief "time-out" period in accordance with law
3. Seating changes within the classroom or vehicles owned or operated by the district
4. Temporary confiscation of items that disrupt the educational process
5. Rewards or demerits
6. Behavioral contracts
7. Advising by teachers, counselors, or administrative personnel
8. Parent-teacher conferences
9. Grade reductions for cheating, plagiarism, and as otherwise permitted by policy
10. Detention, including outside regular school hours
11. Sending the student to the office or other assigned area, or to in-school suspension
12. Assignment of on-campus community service, including outside regular school hours
13. Temporary or permanent withdrawal of privileges, such as participation in extracurricular activities, eligibility for seeking and holding honorary offices, or membership in school-sponsored clubs and organizations
14. Techniques or penalties identified in individual student organizations' extracurricular standards of behavior
15. School-assessed and school-administered probation
16. Out-of-school suspension, as specified in the Out-of-School Suspension section of this Code
17. Placement in a DAEP, as specified in the DAEP section of this Code
18. Placement and/or expulsion in an alternative educational setting, as specified in the Placement and/or Expulsion for Certain Offenses section of this Code
19. Expulsion, as specified in the Expulsion section of this Code
20. Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the district
21. Restriction or revocation of district transportation privileges
22. Behavior coaching
23. Anger management classes
24. Mediation (victim-offender)
25. Classroom circles
26. Family group conferencing
27. Other strategies and consequences as determined by school officials.

## **C. Corporal Punishment**

The Board prohibits the use of corporal punishment in the district. Students shall not be spanked, paddled, or otherwise physically disciplined for violations of the Student Code of Conduct.

## **D. Prohibited Aversive Techniques**

Aversive techniques are prohibited for use with students and are defined as techniques or interventions intended to reduce the reoccurrence of a behavior by intentionally inflicting significant physical or emotional discomfort or pain. Aversive techniques include:

1. Using techniques designed or likely to cause physical pain, other than corporal punishment as permitted by district policy. [See policy FO(LOCAL).]
2. Using techniques designed or likely to cause physical pain by electric shock or any procedure involving pressure points or joint locks.
3. Directed release of noxious, toxic, or unpleasant spray, mist, or substance near a student's face.



4. Denying adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility.
5. Ridiculing or demeaning a student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse.
6. Employing a device, material, or object that immobilizes all four of a student's extremities, including prone or supine floor restraint.
7. Impairing the student's breathing, including applying pressure to the student's torso or neck or placing something in, on, or over the student's mouth or nose or covering the student's face.
8. Restricting the student's circulation.
9. Securing the student to a stationary object while the student is standing or sitting.
10. Inhibiting, reducing, or hindering the student's ability to communicate.
11. Using chemical restraints.
12. Using time-out in a manner that prevents the student from being able to be involved in and progress appropriately in the required curriculum or any applicable individualized education program (IEP) goals, including isolating the student by the use of physical barriers.
13. Depriving the student of one or more of the student's senses, unless the technique does not cause the student discomfort or complies with the student's IEP or behavior intervention plan (BIP).

#### **E. Physical Restraint**

Within the scope of an employee's duties, a district employee may physically restrain a student if the employee reasonably believes restraint is necessary in order to:

1. Protect a person, including the person using physical restraint, from physical injury;
2. Obtain possession of a weapon or other dangerous object;
3. Remove a student refusing a lawful command of a school employee from a specific location, including a classroom or other school property, in order to restore order or to impose disciplinary measures;
4. Control an irrational student;
5. Protect property from serious damage.

#### **F. Consideration of Mitigating Factors**

Consideration will be given, as a factor in each decision concerning discipline for violations of the Student Code of Conduct, regardless of whether the decision concerns a mandatory or discretionary action, to:

1. Self-defense (see glossary);
2. Intent or lack of intent at the time the student engaged in the conduct;
3. A student's disciplinary history;
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or
6. A student's status as homeless.

#### **G. Notification of Parent**

The campus behavior coordinator shall promptly notify a student's parent by phone or in person of any violation that may result in an in-school or out-of-school suspension, placement in a DAEP, placement in a JJAEP, or expulsion. The campus behavior coordinator shall also notify a student's parent if the student is taken into custody by a law enforcement officer under the disciplinary provisions of the Education Code. A good faith effort shall be made on the day the action was taken to provide to the student for delivery to the student's parent written notification of the disciplinary action. If the parent has not been reached by telephone or in person by 5:00 p.m. of the first business day after the day the disciplinary action was taken, the campus behavior coordinator shall send written notification by U.S. Mail. If the campus behavior

coordinator is not able to provide notice to the parent, the principal or designee shall provide the notice. Before the principal or appropriate administrator assigns a student under 18 to detention outside regular school hours, notice shall be given to the student's parent to inform him or her of the reason for the detention and permit arrangements for necessary transportation.

**H. Non-Renewal of Transfers**

At the end of the school year the district has the right to non-renew the transfer of a student for a serious violation of the District's Student Code of Conduct.

**I. Participation in Graduation Activities**

The district has the right to limit a student's participation in graduation activities for violating the district's Student Code of Conduct.

Participation might include a speaking role, as established by district policy and procedures.

Graduating seniors who are sent to a DAEP for a Mandatory Placement or who are expelled during the last nine weeks of the year will not be allowed to participate in graduation activities. Notification to this effect should appear in the Notice of Removal Conference Report or the Expulsion Hearing Report.

**J. Removal from the School Bus**

A bus driver may refer a student to the campus behavior coordinator's office to maintain effective discipline on the bus. The campus behavior coordinator must employ additional discipline management techniques, as appropriate, which can include restricting or revoking a student's bus riding privileges.

Since the district's primary responsibility in transporting students in district vehicles is to do so as safely as possible, the operator of the vehicle must focus on driving and not have his or her attention distracted by student misbehavior. Therefore, when appropriate disciplinary management techniques fail to improve student behavior or when specific misconduct warrants immediate removal, the campus behavior coordinator may restrict or revoke a student's transportation privileges, in accordance with law.

**K. Assault on a UIL Official**

A student who participates in a UIL-sponsored extracurricular activity will be prohibited from participation in future UIL or school-district extracurricular activities if the student assaults a UIL official in retaliation for the official's performance of duties. UIL rules will provide the process for any appeal.

**GENERAL CONDUCT VIOLATIONS**

The conduct described below is prohibited at school, in vehicles owned or operated by the district, and at all school-related activities. This list is not exhaustive, and a principal or his or her designee has the authority to prohibit behavior deemed to be detrimental to the orderly functioning of a school. The most severe consequences will be discussed in subsequent sections of the Code of Conduct.

**A. Disregard for Authority**

Students shall not:

1. Fail to comply with directives given by school personnel (insubordination);
2. Leave school grounds or school-sponsored events without permission;
3. Disobey rules for conduct in vehicles owned or operated by the district;
4. Refuse to accept discipline management techniques assigned by a teacher or principal;
5. Use profanity or vulgar language or make obscene gestures.

**B. Possession of Prohibited Items**

Students shall not possess or use:

1. Pornographic material;

2. Tobacco products; cigarettes; e-cigarettes; and any component, part, or accessory for an e-cigarette device;
3. Matches or a lighter;
4. A laser pointer for other than an approved use;
5. Prescription drugs or over-the-counter drugs at school other than as provided by district policy;
6. Published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety.

**C. Miscellaneous Conduct Violations**

Students shall not:

1. Use a telecommunications device, including a cellular telephone, or other electronic device in violation of district and campus rules;
2. Violate dress and grooming standards as communicated in the student handbook;
3. Cheat or copy the work of another;
4. Gamble;
5. Falsify passes;
6. Violate communicated campus or classroom standards of conduct;
7. Engage in inappropriate sexual or physical contact.

**REMOVAL FROM THE REGULAR EDUCATIONAL SETTING**

In addition to other discipline management techniques, misconduct may result in removal from the regular educational setting in the form of a routine referral or a formal removal.

**A. Routine Referral**

A routine referral occurs when a teacher sends a student to the campus behavior coordinator’s office as a discipline management technique. The campus behavior coordinator shall employ alternative discipline management techniques, including progressive interventions. A teacher or administrator may remove a student from class for a behavior that violates this Code to maintain effective discipline in the classroom.

**B. Formal Removal**

1. A teacher may also initiate a formal removal from class if:
  - a. The student’s behavior has been documented by the teacher as repeatedly interfering with the teacher’s ability to teach his or her class or with the student’s classmates’ ability to learn; or
  - b. The behavior is so unruly, disruptive, or abusive that the teacher cannot teach, and the students in the classroom cannot learn.
2. The administration must send a copy of the teacher’s documentation of the Code of Conduct violation to the student’s parents or guardian within 24 hours of receiving it.
3. Within three school days of the formal removal, the campus behavior coordinator or appropriate administrator shall schedule a conference with the student’s parent, the student, the teacher who removed the student from class, and any other appropriate administrator.
4. At the conference, the campus behavior coordinator or appropriate administrator shall inform the student of the alleged misconduct and the proposed consequences. The student shall have an opportunity to respond to the allegations. Following the conference, an administrator will notify the student of the discipline to be imposed.

5. When a student is removed from the regular classroom by a teacher and a conference is pending, the campus behavior coordinator or other administrator may place the student in:
  - a. Another appropriate classroom
  - b. In-school suspension
  - c. Out-of-school suspension
  - d. DAEP.
6. A teacher or administrator must remove a student from class if the student engages in behavior that under the Education Code requires or permits the student to be placed in DAEP or expelled. When removing for those reasons, the procedures in the subsequent sections on DAEP or expulsion shall be followed.

**C. Returning Student to Classroom**

1. When a student has been formally removed from class by a teacher for conduct against the teacher containing the elements of assault, aggravated assault, sexual assault, aggravated sexual assault, the student may not be returned to the teacher's class without the teacher's consent.
2. When a student has been formally removed by a teacher for any other conduct, the student may be returned to the teacher's class without the teacher's consent, if the Placement Review Committee (see Glossary) determines that the teacher's class is the best or only alternative available.

## **OUT-OF-SCHOOL SUSPENSION**

**A. Misconduct**

Students may be suspended for any behavior listed in the Student Code of Conduct as a general conduct violation, DAEP offense, or expellable offense.

The district shall not use out-of-school suspension for students in grade 2 or below unless the conduct meets the requirements established in law.

A student below grade 3 or a student who is homeless shall not be placed in out-of-school suspension unless, while on school property or while attending a school-sponsored or school-related activity on or off school property, the student engages in:

- Conduct that contains the elements of a weapons offense, as provided in Penal Code Section 46.02 or 46.05;
- Conduct that contains the elements of assault, sexual assault, aggravated assault, or aggravated sexual assault, as provided by the Penal Code; or
- Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of marijuana, an alcoholic beverage, or a controlled substance or dangerous drug as defined by federal or state law.

The district shall use a positive behavior program as a disciplinary alternative for students below grade 3 who commit general conduct violations instead of suspension or placement in a DAEP. The program shall meet the requirements of law.

## **B. Process**

1. State law allows a student to be suspended for no more than three school days per behavior incident. There is no limit on the number of times a student may be suspended in a semester or school year.
2. Before being suspended, a student shall have an informal conference with the campus behavior coordinator or appropriate administrator, who shall advise the student of the alleged misconduct. The student shall have the opportunity to respond to the allegations before the administrator makes a decision.
3. The campus behavior coordinator shall determine the number of days of a student's suspension, not to exceed three school days.
4. The student will not be permitted to attend or participate in any district, school sponsored, or school related extracurricular or co-curricular activities during the suspension.

In deciding whether to order out-of-school suspension, the district campus behavior coordinator shall take into consideration:

1. Self-defense (see glossary);
2. Intent or lack of intent at the time the student engaged in the conduct;
3. The student's disciplinary history;
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or
6. A student's status as homeless.

## **C. Coursework During Suspension**

The district shall ensure a student receives access to coursework for foundation curriculum courses while the student is placed in in-school or out-of-school suspension, including at least one method of receiving this coursework that doesn't require the use of the internet.

A student removed from the regular classroom to in-school suspension or another setting, other than a DAEP, will have an opportunity to complete before the beginning of the next school year each course the student was enrolled in at the time of removal from the regular classroom. The district may provide the opportunity by any method available, including a correspondence course, another distance learning option, or summer school. The district will not charge the student for any method of completion provided by the district.

## DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM (DAEP) PLACEMENT

### A. General Information:

A disciplinary alternative education program (DAEP) is an educational and self-discipline alternative instruction program for students in elementary through high school grades who are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP. The DAEP shall be provided in a setting other than the student's regular classroom. An elementary school student may not be placed in a DAEP with a student who is not an elementary school student.

For purposes of DAEP, elementary classification shall be kindergarten–grade 6 and secondary classification shall be grades 7–12.

Summer programs provided by the district shall serve students assigned to a DAEP in conjunction with other students.

A student who is expelled for an offense that otherwise would have resulted in a DAEP placement does not have to be placed in a DAEP in addition to the expulsion.

In deciding whether to place a student in a DAEP, regardless of whether the action is mandatory or discretionary, the campus behavior coordinator shall take into consideration:

1. Self-defense (see glossary);
2. Intent or lack of intent at the time the student engaged in the conduct;
3. The student's disciplinary history;
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or
6. A student's status as homeless.

### B. Discretionary Placement: Misconduct That May Result in DAEP Placement

A student may be placed in a DAEP for the following conduct violations:

#### 1. Mistreatment of Others

Students shall not:

- a. Use profanity, vulgar or racist language or make obscene gestures directed toward a District employee.
- b. Fight or scuffle (for assault see DAEP Placement and Expulsion).
- c. Threaten a district student, employee, or volunteer, including off school property, if the conduct causes a substantial disruption to the educational environment.
- d. Engage in bullying, cyberbullying, harassment, or making hit lists. (See glossary for all four terms.) Determination regarding bullying and cyberbullying shall be governed by Policy FFI and discipline may also include transfer of the bully to another classroom or campus as provided by Policy FDB.

- e. Engage in conduct that constitutes sexual or gender-based harassment, whether by word, gesture, or any other conduct, directed toward another person, including a district student, employee, or volunteer. (See glossary.)
- f. Engage in conduct that constitutes dating violence. (See glossary.)
- g. Engage in inappropriate or indecent exposure of private body parts.
- h. Make false accusation against a fellow student or employee.
- i. Participate in hazing. (See glossary.)
- j. Cause an individual to act through the use of or threat of force (coercion).
- k. Commit extortion or blackmail (obtaining money or an object of value from an unwilling person).
- l. Record the voice or image of another without the prior consent of the individuals being recorded or in any way that disrupts the educational environment or invades the privacy of others, except that prior consent is not required in those situations where the individual or individuals being recorded are engaging in or are the victims of either a crime or a violation of the Student Code of Conduct.

2. **Property Offenses**

Students shall not:

- a. Damage or vandalize property owned by others.
- b. Deface or damage school property—including textbooks, technology and electronic resources, lockers, furniture, and other equipment—with graffiti or by other means.
- c. Steal from students, staff, or the school.
- d. Commit or assist in a robbery or theft even if it does not constitute a felony according to the Penal Code. (For felony robbery, aggravated robbery, and theft see DAEP Placement and Expulsion.)

3. **Possession of Prohibited Items**

Students shall not possess or use;

- a. Fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;
- b. A razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
- c. A “look-alike” weapon that is intended to be used as a weapon or could reasonably be perceived as a weapon;
- d. An air gun or BB gun;
- e. Ammunition;
- f. A stun gun;
- g. A pocketknife or any other small knife that is not a location-restricted knife;
- h. Mace or pepper spray;

- i. Any articles not generally considered to be weapons, including school supplies, when an administrator determines that a danger exists;
- j. Any tobacco products, cigarettes, e-cigarettes, and any component, part, or accessory for an e-cigarette device.
- k. A hand instrument designed to cut or stab another by being thrown;
- l. \*A location-restricted knife;
- m. \*A firearm.

\*For weapons and firearms, see Expulsion. In most circumstances, possession of these items is punishable by mandatory expulsion under federal or state law.

#### 4. **Illegal, Prescription, Over-the-Counter Drugs, Look-Alike Drugs and Paraphernalia**

Students shall not:

- a. Possess, use, give, or sell paraphernalia related to any prohibited substance. (See glossary for “paraphernalia.”)
- b. Possess or sell look-alike drugs or attempt to pass items off as drugs or contraband.
- c. Abuse the student’s own prescription drug, give a prescription drug to another student, or possess or be under the influence of another person’s prescription drug on school property or at a school-related event. (See glossary for “abuse.”) (For illegal drugs, alcohol, and inhalants see DAEP Placement and Expulsion.)
- d. Abuse over-the-counter drugs. (See glossary for “abuse.”) Be under the influence of prescription or over-the-counter drugs that cause impairment of the physical or mental faculties. (See glossary for “under the influence.”)
- e. Possess, use or sell synthetic drugs such as, but not limited to, “Spice.”
- f. Possess or sell seeds or pieces of marijuana in less than a usable amount.

#### 5. **Misuse of Technology Resources and the Internet**

Students shall not:

- a. Violate policies, rules, or agreements signed by the student or the student’s parent regarding the use of technology resources.
- b. Attempt to access or circumvent passwords or other security-related information of the district, students, or employees or upload or create computer viruses, including off school property if the conduct causes a substantial disruption to the educational environment.
- c. Attempt to alter, destroy, or disable district technology resources including but not limited to computers and related equipment, district data, the data of others, or other networks connected to the district’s system, including off school property if the conduct causes a substantial disruption to the educational environment.
- d. Use the Internet or other electronic communications to threaten district students, employees, board members, or volunteers, including off school property if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.



- e. Send, post, deliver, or possess electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, including cyberbullying and "sexting," either on or off school property, if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.
- f. Use the Internet or other electronic communication to engage in or encourage illegal behavior or threaten school safety, including off school property if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.

## 6. **Safety Transgressions**

Students shall not:

- a. Possess published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety.
- b. Engage in verbal (oral or written) exchanges that threaten the safety of another student, a school employee, or school property.
- c. Make false accusations or perpetrate hoaxes regarding school safety.
- d. Engage in any conduct that school officials might reasonably believe will substantially disrupt the school program or incite violence.
- e. Throw objects that can cause bodily injury or property damage.
- f. Discharge a fire extinguisher without valid cause.
- g. Use a laser pointer in an unauthorized and unsafe manner.

## 7. **Miscellaneous Offenses**

Students shall not:

- a. Falsify records or any school-related documents.
- b. Engage in actions or demonstrations that substantially disrupt or materially interfere with school activities.
- c. Repeatedly violate communicated campus or classroom standards of conduct. (See glossary for "Persistent Misbehavior".)

## 8. **Misconduct Identified in State Law**

In accordance with state law, a student may be placed in a DAEP for any one of the following offenses:

- a. Involvement in a public school fraternity, sorority, or secret society, including participating as a member or pledge, or soliciting another person to become a pledge or member of a public school fraternity, sorority, secret society, or gang. (See glossary.)
- b. Involvement in criminal street gang activity. (See glossary.)
- c. Criminal mischief, not punishable as a felony.
- d. Assault (no bodily injury) with threat of imminent bodily injury. Penal Code 22.01(a)(2).
- e. Assault by offensive or provocative physical contact. Penal Code 22.01(a)(3).

- f. Engaging in bullying that encourages a student to commit or attempt to commit suicide.
  - g. Inciting violence against a student through group bullying.
  - h. Releasing or threatening to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
  - i. Indecent Assault. Penal Code 22.012.
9. In accordance with state law, a student may be placed in a DAEP if the superintendent or the superintendent's designee has reasonable belief (see glossary) that the student has engaged in conduct punishable as a felony, other than aggravated robbery or those listed as offenses in Title 5 (see glossary) of the Penal Code, that occurs off school property and not at a school-sponsored or school-related event, if the student's presence in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.
10. The campus behavior coordinator may, but is not required to, place a student in a DAEP for off-campus conduct for which DAEP placement is required by state law if the administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

### **C. Mandatory Placement: Misconduct That Requires DAEP Placement**

A student must be placed in a DAEP if the student:

- 1. Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school. (See glossary.). The student may instead be expelled. See Discretionary Expulsion below.
- 2. Commits the following offenses on school property or within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:
  - a. Engages in conduct punishable as a felony.
  - b. Commits an assault (see glossary) under Penal Code 22.01(a)(1).
  - c. Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of marijuana, a controlled substance, or a dangerous drug in an amount not constituting a felony offense. A student with a valid prescription for low-THC cannabis as authorized by Chapter 487 of the Health and Safety Code does not violate this provision. (School-related felony drug offenses are addressed in the Expulsion section.) (See glossary for "under the influence.") The student may instead be expelled. See Discretionary Expulsion below.
  - d. Sells, gives, or delivers to another person an alcoholic beverage; commits a serious act or offense while under the influence of alcohol; or possesses, uses, or is under the influence of alcohol, if the conduct is not punishable as a felony offense. (School-related felony alcohol offenses are addressed in the Expulsion section.) The student may instead be expelled. See Discretionary Expulsion below.
  - e. Behaves in a manner that contains the elements of an offense relating to abusable volatile chemicals. The student may instead be expelled. See Discretionary Expulsion below.

- f. Behaves in a manner that contains the elements of the offense of public lewdness or indecent exposure. (See glossary)
  - g. Engages in conduct that contains the elements of an offense of harassment against an employee under Penal Code 42.07(a)(1), (2), (3), or (7).
3. Engages in expellable conduct and is between six and nine years of age.
  4. Commits a federal firearms violation and is younger than six years of age.
  5. Engages in conduct that contains the elements of the offense of retaliation against any school employee or volunteer on or off school property. (Committing retaliation in combination with another expellable offense is addressed in the Expulsion section of this Code.)
  6. Engages in conduct punishable as aggravated robbery or a felony listed under Title 5 (see glossary) of the Penal Code when the conduct occurs off school property and not at a school-sponsored or school-related event and:
    - a. The student receives deferred prosecution (see glossary),
    - b. A court or jury finds that the student has engaged in delinquent conduct (see glossary), or
    - c. The superintendent or designee has a reasonable belief (see glossary) that the student engaged in the conduct.

**7. Sexual Assault and Campus Assignments**

If a student has been convicted of continuous sexual abuse of a young child or disabled individual or convicted of or placed on deferred adjudication for sexual assault or aggravated sexual assault against another student on the same campus, and if the victim's parent or another person with the authority to act on behalf of the victim requests that the board transfer the offending student to another campus, the offending student shall be transferred to another campus in the district. If there is no other campus in the district serving the grade level of the offending student, the offending student shall be transferred to a DAEP.

**8. Emergencies**

In an emergency, the principal or the principal's designee may order the immediate placement of a student in a DAEP. See Emergency Placement Procedures below.

**D. Process**

Removals to a DAEP shall be made by the campus behavior coordinator.

**1. Conference**

- a. When a student is removed from class for a DAEP offense, the campus behavior coordinator or appropriate administrator shall schedule a conference within three school days with the student's parent, the student, and the teacher, in the case of a teacher removal. The student may not be returned to the regular classroom pending the conference.
- b. At the conference, the campus behavior coordinator or appropriate administrator shall inform the student, orally or in writing, of the reasons for the removal and shall give the student an explanation of the basis for the removal and an opportunity to respond to the reasons for the removal.
- c. Following valid attempts to require attendance, the district may hold the conference and make a placement decision regardless of whether the student or the student's parents attend the conference.

## 2. Placement Order

- a. After the conference, if the student is placed in the DAEP, the campus behavior coordinator shall write a placement order and shall set a term for the student's placement in the DAEP. A copy of the DAEP placement order shall be sent to the student and the student's parent.
- b. Not later than the second business day after the conference, the board's designee shall deliver to the juvenile court a copy of the placement order and all information required by Section 52.04 of the Family Code.
- c. If the student is placed in the DAEP and the length of placement is inconsistent with the guidelines included in this Code, the placement order shall give notice of the inconsistency.

## 3. Coursework Notice

The parent or guardian of a student placed in DAEP shall be given written notice of the student's opportunity to complete a foundation curriculum course in which the student was enrolled at the time of removal and which is required for graduation, at no cost to the student. The notice shall include information regarding all methods available for completing the coursework.

## E. Length of Placement

- a. The campus behavior coordinator shall determine the duration of a student's placement in a DAEP. The duration of a student's placement shall be determined on a case-by-case basis. DAEP placement shall be correlated to the seriousness of the offense, the student's age and grade level, the frequency of misconduct, the student's attitude, and statutory requirements.
- b. The length of the DAEP placement will normally be 30 – 90 school days (based on 3-6-9 week periods). The exiting of a student from DAEP will normally coincide with the home campus grading cycle. The maximum period of DAEP placement shall be one calendar year except as provided below.
- c. If placement in a DAEP is to extend beyond 60 school days or the end of the next complete grading period, whichever is sooner, a student's parents shall be given written notice and the opportunity to participate in a proceeding before the Associate Superintendent's Appeal Committee (as the Board's designee). Any decision by the Associate Superintendent's Appeal Committee is final and cannot be appealed.
- d. The district shall administer the required pre- and post-assessments for students assigned to DAEP for a period of 90 days or longer in accordance with established district administrative procedures for administering other diagnostic or benchmark assessments.
- e. The length of placement shall refer to school days and unless otherwise specified in the placement order, days absent from a DAEP shall not count toward fulfilling the total number of days required in a student's DAEP placement order.

## F. Exceeds One Year

Placement in a DAEP may exceed one year when a review by the district determines that the student is a threat to the safety of other students or to district employees.

The statutory limitations on the length of a DAEP placement do not apply to a placement resulting from the board's decision to place a student who engaged in the sexual assault of another student so that the students are not assigned to the same campus.

#### **G. Exceeds School Year**

- a. Students who commit offenses requiring placement in a DAEP at the end of one school year may be required to continue that placement at the start of the next school year to complete the assigned term of placement.
- b. For placement in a DAEP to extend beyond the end of the school year, the campus behavior coordinator or the board's designee must determine that:
  - 1) The student's presence in the regular classroom or campus presents a danger of physical harm to the student or others, or
  - 2) The student has engaged in persistent misbehavior (see glossary) that violates the district's Code.

#### **H. Appeals**

The decision of the campus administrator to place a student in the DAEP may be appealed to the principal within seven days of being notified of the placement. Following the appeal hearing, the principal will render a written decision within ten days of the appeal hearing. The principal's decision may then be appealed to the Associate Superintendent's Appeal Committee (as the Board's designee) by filing a "Request for DAEP Appeal Hearing" form within ten days of the date of the written DAEP Placement Order. Any decision made by the Associate Superintendent's Appeal Committee is final and cannot be appealed. Consequences, including the placement, will not be deferred pending the outcome of an appeal. Student or parent appeals regarding the process used for the placement decision, such as issues related to the administrator's handling of the conference or proper notice being provided, should be addressed in accordance with policy FNG(LOCAL).

#### **I. Restrictions during Placement**

- a. The district does not permit a student who is placed in a DAEP to participate in any district, school-sponsored, or school-related extracurricular or co-curricular activity, including seeking or holding honorary positions and/or membership in school-sponsored clubs and organizations.
- b. For seniors who are eligible to graduate and are assigned to a DAEP or JJAEP prior to the fourth nine weeks, the last day of placement in the program shall be the last instructional day, and the student shall be allowed to participate in the graduation ceremony and related graduation activities unless otherwise specified in the Code of Conduct, Conference Report or the Hearing Report. (Please refer to page 8 of the SCOC.)
- c. A student placed in a DAEP will be provided transportation only if:
  - 1) His or her residence is 10 or more miles from the designated DAEP campus (Cesar Chavez Academy); or
  - 2) He or she is a student with a disability who has transportation assigned as a related service in his/her individualized education program (IEP).

#### **J. Placement Review**

A student placed in a DAEP shall be provided a review of his or her status, including academic status, by the campus behavior coordinator or the board's designee at intervals not to exceed 120 days. In the case of a high school student, the student's progress toward graduation and the student's graduation plan shall also be reviewed. At the review, the student or the student's parent shall be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of a teacher who removed the student without that teacher's consent.

**K. Additional Misconduct**

If during the term of placement in a DAEP the student engages in additional misconduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted, and the campus behavior coordinator may enter an additional disciplinary order as a result of those proceedings.

**L. Notice of Criminal Proceedings**

When a student is placed in a DAEP for certain offenses, the office of the prosecuting attorney shall notify the district if:

- a. Prosecution of a student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication (see glossary), or deferred prosecution will be initiated; or
- b. The court or jury found a student not guilty, or made a finding that the student did not engage in delinquent conduct or conduct indicating a need for supervision, and the case was dismissed with prejudice.
- c. If a student was placed in a DAEP for such conduct, on receiving the notice from the prosecutor, the superintendent or designee shall review the student's placement and schedule a review with the student's parent not later than the third day after the superintendent or designee receives notice from the prosecutor. The student may not be returned to the regular classroom pending the review.
- d. After reviewing the notice and receiving information from the student's parent, the superintendent or designee may make the decision to continue the student's placement if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.
- e. The student or the student's parent may appeal the superintendent's or designee's decision to the board. The student may not be returned to the regular classroom pending the appeal. In the case of an appeal, the board shall, at the next scheduled meeting, review the notice from the prosecutor and receive information from the student, the student's parent, and the superintendent or designee, and confirm or reverse the decision of the superintendent or designee. The board shall make a record of the proceedings.
- f. If the board confirms the decision of the superintendent or designee, the student and the student's parent may appeal to the Commissioner of Education. The student may not be returned to the regular classroom pending the appeal.

**M. Withdrawal during Process**

When a student violates the district's Code in a way that requires or permits the student to be placed in a DAEP, and the student withdraws from the district before a placement order is completed, the campus behavior coordinator may complete the proceedings and issue a placement order. If the student then re-enrolls in the district during the same or a subsequent school year, the district may enforce the order at that time, less any period of the placement that has been served by the student during enrollment in another district. If the campus behavior coordinator or the board fails to issue a placement order after the student withdraws, the next district in which the student enrolls may complete the proceedings and issue a placement order.

**N. Newly Enrolled Students**

- a. The district shall continue the DAEP placement of a student who enrolls in the district and was assigned to a DAEP in an open-enrollment charter school or another district.

- b. A newly enrolled student with a DAEP placement from a district in another state shall be placed as any other newly enrolled student if the behavior committed is a reason for DAEP placement in the receiving district.
- c. If the student was placed in a DAEP by a school district in another state for a period that exceeds one year, this district, by state law, shall reduce the period of the placement so that the total placement does not exceed one year. After a review, however, the placement may be extended beyond a year if the district determines that the student is a threat to the safety of other students or employees or the extended placement is in the best interest of the student.

**O. Emergency Placement Procedure**

When an emergency placement is necessary because the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with classroom or school operations, the student shall be given oral notice of the reason for the action. Not later than the tenth day after the date of the placement, the student shall be given the appropriate conference required for assignment to a DAEP. If emergency placement involves a student with disabilities who receives special education services, the term of the student's emergency removal is subject to the requirements of a Manifestation Determination and any applicable federal law. See Board Policy FOF.

**P. Transition Services**

In accordance with law and district procedures, campus staff shall provide transition services to a student returning to the regular classroom from an alternative education program, including a DAEP. See policy FOCA(LEGAL) for more information.

**PLACEMENT AND/OR EXPULSION FOR CERTAIN OFFENSES**

This section includes two categories of offenses for which the Education Code provides unique procedures and specific consequences.

**A. Registered Sex Offenders**

- 1. Upon receiving notification in accordance with state law that a student is currently required to register as a sex offender, the district must remove the student from the regular classroom and determine appropriate placement unless the court orders JJAEP placement.
- 2. If the student is under any form of court supervision, including probation, community supervision, or parole, the placement shall be in DAEP for at least one semester.
- 3. If the student is not under any form of court supervision, the placement may be in DAEP for one semester or the placement may be in a regular classroom. The placement may not be in the regular classroom if the board or its designee determines that the student's presence:
  - a. Threatens the safety of other students or teachers;
  - b. Will be detrimental to the educational process; or
  - c. Is not in the best interests of the district's students.
- 4. Review Committee
  - a. At the end of the first semester of a student's placement in an alternative educational setting and before the beginning of each school year for which the student remains in an alternative placement, the district shall convene a committee, in accordance with state law, to review the student's placement. The committee shall recommend whether

the student should return to the regular classroom or remain in the placement. Absent a special finding, the board or its designee must follow the committee's recommendation.

- b. The placement review of a student with a disability who receives special education services must be made by the ARD committee.

5. Newly Enrolled Students

If a student enrolls in the district during a mandatory placement as a registered sex offender, the district may count any time already spent by the student in a placement or may require an additional semester in an alternative placement without conducting a review of the placement.

6. Appeal

A student or the student's parent may appeal the placement by requesting a conference between the board or its designee, the student, and the student's parent. The conference is limited to the factual question of whether the student is required to register as a sex offender. Any decision of the board or its designee under this section is final and may not be appealed.

**B. Certain Felonies**

1. Regardless of whether placement or expulsion is required or permitted by one of the reasons in the DAEP Placement or Expulsion sections, in accordance with Education Code 37.0081, a student may be expelled and placed in either DAEP or JJAEP if the board or campus behavior coordinator makes certain findings and the following circumstances exist in relation to aggravated robbery or a felony offense under Title 5 (see glossary) of the Penal Code. The student must:
  - a. Have received deferred prosecution for conduct defined as aggravated robbery or a Title 5 felony offense;
  - b. Have been found by a court or jury to have engaged in delinquent conduct for conduct defined as aggravated robbery or a Title 5 felony offense;
  - c. Have been charged with engaging in conduct defined as aggravated robbery or a Title 5 felony offense;
  - d. Have been referred to a juvenile court for allegedly engaging in delinquent conduct for conduct defined as aggravated robbery or a Title 5 felony offense; or
  - e. Have received probation or deferred adjudication or have been arrested for, charged with, or convicted of aggravated robbery or a Title 5 felony offense.
2. The district may expel the student and order placement under these circumstances regardless of:
  - a. The date on which the student's conduct occurred;
  - b. The location at which the conduct occurred;
  - c. Whether the conduct occurred while the student was enrolled in the district; or
  - d. Whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.



### **C. Hearing and Required Findings**

1. The student must first have a hearing before the board or its designee, who must determine that in addition to the circumstances above that allow for the expulsion, the student's presence in the regular classroom:
  - a. Threatens the safety of other students or teachers;
  - b. Will be detrimental to the educational process; or
  - c. Is not in the best interest of the district's students.
2. Any decision of the board or the board's designee under this section is final and may not be appealed.

### **D. Length of Placement**

The student is subject to the placement until:

1. The student graduates from high school,
2. The charges are dismissed or reduced to a misdemeanor offense, or
3. The student completes the term of the placement or is assigned to another program.

### **E. Placement Review**

A student placed in a DAEP or JJAEP under these circumstances is entitled to a review of his or her status, including academic status, by the campus behavior coordinator or board's designee at intervals not to exceed 120 days. In the case of a high school student, the student's progress toward graduation and the student's graduation plan shall also be reviewed. At the review, the student or the student's parent shall have the opportunity to present arguments for the student's return to the regular classroom or campus.

### **F. Newly Enrolled Students**

A student who enrolls in the district before completing a placement under this section from another school district must complete the term of the placement.

## **EXPULSION**

### **A. Expulsion Recommendations**

Expulsion is the strongest penalty the district can impose for a student's conduct. The Board delegates the authority to expel students to the Superintendent or Superintendent's designee. The Superintendent's Appeal Committee is the Superintendent's designee. Expulsion recommendations are made by the campus administration and approved by the Associate Superintendent's Appeal Committee, who will also sign the expulsion order.

### **B. Disciplinary Alternative Education Program (DAEP) or Juvenile Justice Alternative Education Program (JJAEP)**

Students who are expelled under the provisions of this Student Code of Conduct may be ordered to attend the Disciplinary Alternative Education Program (DAEP) or the Juvenile Justice Alternative Education Program (JJAEP), which is operated by the district under an Interlocal Agreement with the El Paso County Juvenile Board.

**C. Alternative Education Program**

Students who are expelled under the provision of this Student Code of Conduct and who are subsequently placed on probation by the El Paso County Juvenile Probation Department will be ordered by the department to attend an alternative education program operated by the district.

**D. District's Responsibilities**

The Board of Trustees has entered into an agreement with the El Paso County Juvenile Board outlining the district's responsibilities concerning the establishment and operation of the Juvenile Justice Alternative Education Program and conditions for payments from the State to the District. Details of this relationship are defined in agreements available for public inspection upon request to the Superintendent.

**E. District Considerations**

In deciding whether to order expulsion, regardless of whether the action is mandatory or discretionary, the campus behavior coordinator and Board of Trustees shall take into consideration:

1. Self-defense (see glossary);
2. Intent or lack of intent at the time the student engaged in the conduct;
3. The student's disciplinary history;
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or
6. A student's status as homeless.

**F. Discretionary Expulsion: Misconduct That May Result in Expulsion**

Some of the following types of misconduct may result in mandatory placement in a DAEP, whether or not a student is expelled. (See DAEP Placement)

1. Any Location

A student may be expelled for:

- a. Engaging in bullying that encourages a student to commit or attempt to commit suicide.
- b. Inciting violence against a student through group bullying.
- c. Releasing or threatening to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- d. Conduct that contains the elements of assault under Penal Code 22.01(a) (1) in retaliation against a school employee or volunteer.
- e. Criminal mischief, if punishable as a felony.
- f. Engaging in conduct that contains the elements of one of the following offenses against another student:
  - 1) Aggravated assault.
  - 2) Sexual assault.
  - 3) Aggravated sexual assault
  - 4) Murder
  - 5) Capital murder
  - 6) Criminal attempt to commit murder or capital murder

7) Aggravated robbery.

g. Breach of computer security. (See glossary)

h. Engaging in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school.

2. On School Property, Within 300 Feet, or at a School Event

A student may be expelled for committing any of the following offenses on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

a. Selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, or a dangerous drug, if the conduct is not punishable as a felony. A student with a valid prescription for low-THC cannabis as authorized by Chapter 487 of the Health and Safety Code does not violate this provision. (See glossary for "under the influence.")

b. Selling, giving, or delivering to another person, or possessing, using, or being under the influence of alcohol; or committing a serious act or offense while under the influence of alcohol, if the conduct is not punishable as a felony.

c. Engaging in conduct that contains the elements of an offense relating to abusable volatile chemicals.

d. Engaging in conduct that contains the elements of assault under Section 22.01(a) (1) against an employee or a volunteer.

e. Engaging in deadly conduct. (See glossary.)

3. Within 300 Feet of School Property

A student may be expelled for engaging in the following conduct while within 300 feet of school property, as measured from any point on the school's real property boundary line:

a. Aggravated assault, sexual assault, or aggravated sexual assault.

b. Arson. (See glossary.)

c. Murder, capital murder, or criminal attempt to commit murder or capital murder.

d. Indecency with a child, aggravated kidnapping, manslaughter, criminally negligent homicide, or aggravated robbery.

e. Continuous sexual abuse of a young child or disabled individual.

f. Felony drug- or alcohol-related offense.

g. Unlawfully carrying on or about the student's person a handgun, or a location-restricted knife, as these terms are defined by state law. (See glossary.)

h. Possessing, manufacturing, transporting, repairing, or selling a prohibited weapon, as defined by state law. (See glossary.)

i. Possession of a firearm, as defined by federal law. (See glossary.)

4. Property of Another District

A student may be expelled for committing any offense that is a state-mandated expellable offense if the offense is committed on the property of another district in Texas or while the

student is attending a school-sponsored or school-related activity of a school in another district in Texas.

5. While in DAEP

A student may be expelled for engaging in documented serious misbehavior that violates the district's Student Code of Conduct, despite documented behavioral interventions while placed in a DAEP. For purposes of discretionary expulsion from a DAEP, serious misbehavior means:

- a. Deliberate violent behavior that poses a direct threat to the health or safety of others;
- b. Extortion, meaning the gaining of money or other property by force or threat;
- c. Conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
- d. Conduct that constitutes the offense of:
  - 1) Public lewdness under Penal Code 21.07;
  - 2) Indecent exposure under Penal Code 21.08;
  - 3) Criminal mischief under Penal Code 28.03;
  - 4) Hazing under Education Code 37.152; or
  - 5) Harassment under Penal Code 42.07(a) (1) of a student or district employee.

**G. Mandatory Expulsion: Misconduct That Requires Expulsion**

A student must be expelled under federal or state law for any of the following offenses that occur on school property or while attending a school-sponsored or school-related activity on or off the school's real property:

1. Under Federal Law

Bringing to school or possessing at school, including any setting that is under the district's control or supervision for the purpose of a school activity, a firearm, as defined by federal law. (See glossary).

Note: Mandatory expulsion under the federal Gun Free Schools Act does not apply to a firearm that is lawfully stored inside a locked vehicle, or to firearms used in activities approved and authorized by the district when the district has adopted appropriate safeguards to ensure student safety.

2. Under the Texas Penal Code

- a. Carrying on or about the student's person the following, as defined by the Texas Penal Code:

- 1) A handgun, defined by state law as any firearm designed, made, or adapted to be used with one hand. (See glossary.) Note: A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs at an approved target range facility that is not located on a school campus, while participating in or preparing for a school-sponsored, shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department,

or a shooting sports sanctioning organization working with the department.  
[See policy FNCG(LEGAL).]

- 2) A location-restricted knife, as defined by state law. (See glossary.)
- 3) A club, as defined in state law. (See glossary.)
- 4) Possessing, manufacturing, transporting, repairing, or selling a prohibited weapon, as defined in state law. (See glossary.)

b. Behaving in a manner that contains elements of the following offenses under the Penal Code:

- 1) Aggravated assault, sexual assault, or aggravated sexual assault.
- 2) Arson. (See glossary.)
- 3) Murder, capital murder, or criminal attempt to commit murder or capital murder.
- 4) Indecency with a child.
- 5) Aggravated kidnapping.
- 6) Aggravated robbery.
- 7) Manslaughter.
- 8) Criminally negligent homicide.
- 9) Continuous sexual abuse of a young child or disabled individual.
- 10) Behavior punishable as a felony that involves selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, a dangerous drug, or alcohol; or committing a serious act or offense while under the influence of alcohol.

c. Engaging in retaliation against a school employee or volunteer combined with one of the above-listed mandatory expulsion offenses.

## **H. Under Age Ten**

When a student under the age of ten engages in behavior that is expellable behavior, the student shall not be expelled, but shall be placed in a DAEP. A student under age six shall not be placed in a DAEP unless the student commits a federal firearm offense.

## **I. Emergency Expulsion**

1. In an emergency, the principal or other appropriate administrator may order the immediate expulsion of a student when the continued presence of the student on a campus poses a danger of imminent harm to persons or property. When an emergency expulsion occurs, the student and parent and/or guardian will be given oral notice of the reason for the action. This will be followed by written notification.
2. A student who is expelled on an emergency basis will be released to the student's parent, parent's representative, medical providers, or law enforcement authorities. Within a reasonable amount of time after the emergency expulsion, but no later than 10 days after the emergency expulsion the student will be given appropriate due process required for a student facing expulsion. If emergency expulsion involves a student with disabilities who receives special

education services, the term of the student's emergency removal is subject to the requirements of a Manifestation Determination and any applicable federal law. See Board Policy FOF.

**J. Process**

1. If a student is believed to have committed an expellable offense, the campus behavior coordinator or other appropriate administrator shall provide the student written notice of the specific charge and grounds that, if proven, justify expulsion and schedule a hearing within a reasonable time with the student's parent, the teacher, and the student. The student's parent or guardian shall be invited in writing to attend the hearing.
2. Until a hearing can be held, the campus behavior coordinator may place the student in:
  - a. Another appropriate classroom;
  - b. In-school suspension;
  - c. Out-of-school suspension;
  - d. DAEP.

**K. Hearing**

1. A student facing expulsion shall be given a hearing at the campus level with appropriate due process. The student is entitled to:
  - a. Representation by the student's parent or another adult who can provide guidance to the student and who is not an employee of the district;
  - b. An opportunity to testify and to present evidence and witnesses in the student's defense; and
  - c. An opportunity to question the witnesses called by the district at the hearing.
2. After providing notice to the student and parent of the hearing, the district may hold the hearing regardless of whether the student or the student's parent attends.
3. The rights of the student may be determined upon the hearsay evidence of school administrators.

**L. Expulsion Order**

1. If the student is expelled, the Superintendent or Superintendent's designee shall deliver to the student and the student's parent a copy of the order expelling the student.
2. Not later than the second business day after the hearing, the Superintendent or Superintendent's designee shall deliver to the juvenile court a copy of the expulsion order and the information required by Section 52.04 of the Family Code.
3. If the length of the expulsion is inconsistent with the guidelines included in the Student Code of Conduct, the expulsion order shall give notice of the inconsistency.
4. Before ordering the expulsion, the board or Campus Behavior Coordinator shall take into consideration:
  - a. Self-defense (see glossary);
  - b. Intent or lack of intent at the time the student engaged in the conduct;
  - c. The student's disciplinary history;
  - d. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
  - e. A student's status in the conservatorship of the Department of Family and Protective Services (foster care); or
  - f. A student's status as homeless.

**M. Appeal of Expulsion Order**

The student and/or the student's parent or guardian will be given notice of their right to appeal an expulsion. An appeal to the Associate Superintendent's Appeal Committee must be made within seven (7) school days of receipt of the expulsion order. The Associate Superintendent's Appeal Committee will hold the appeal hearing within ten days after the appeal notice is filed.

**N. Board Review of Expulsion**

1. The decision of the Associate Superintendent's Appeal Committee may be appealed to the Board of Trustees. The student or parent must submit a written request to the superintendent within seven days after receipt of the written decision. The superintendent must provide the student or parent written notice of the date, time, and place of the meeting at which the board will review the decision.
2. The board shall review the record of the expulsion hearing in a closed meeting unless the parent requests in writing that the matter be held in an open meeting. The board may also hear a statement from the student or parent and from the board's designee.
3. The board shall hear statements made by the parties at the review and shall base its decision on evidence reflected in the record and any statements made by the parties at the review. The board shall make and communicate its decision orally at the conclusion of the presentation. Consequences shall not be deferred pending the outcome of the hearing.

**O. Length of Expulsion**

1. The length of an expulsion shall be determined by the Superintendent or Superintendent's designee, with recommendations from the campus administration. The length of expulsion shall be correlated to the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, the student's attitude, and statutory requirements.
2. Correlating the length of expulsion to the seriousness of the offense, the duration of a student's expulsion shall be as follows (subject to review at 75 days):

a. Discretionary Expulsion offenses not involving a felony	90 – 180 school days
b. Discretionary Expulsion offenses involving a felony	90 – 180 school days
c. Mandatory Expulsion not involving a firearm	90 – 180 school days
d. Mandatory Expulsion involving a firearm	180 school days to one calendar year
3. An expulsion may not exceed one calendar year unless, after review, the district determines that:
  - a. The student is a threat to the safety of other students or to district employees, or
  - b. Extended expulsion is in the best interest of the student.
4. State and federal law require a student to be expelled from the regular classroom for a period of at least one calendar year for bringing a firearm, as defined by federal law, to school. However, the superintendent may modify the length of the expulsion on a case-by-case basis.
5. Students who commit offenses that require expulsion at the end of one school year may be expelled into the next school year to complete the term of expulsion.

**P. Withdrawal during Process**

1. When a student has violated the district's Student Code of Conduct in a way that requires or permits expulsion from the district and the student withdraws from the district before the expulsion hearing takes place, the district may conduct the hearing after sending written notice to the parent and student.
2. If the student then reenrolls in the district during the same or subsequent school year, the district may enforce the expulsion order at that time, less any expulsion period that has been served by the student during enrollment in another district.
3. If the campus behavior coordinator or the board fails to issue an expulsion order after the student withdraws, the next district in which the student enrolls may complete the proceedings.

**Q. Additional Misconduct**

If during the expulsion, the student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted, and the campus behavior coordinator or the board may issue an additional disciplinary order as a result of those proceedings.

**R. Restrictions during Expulsion**

1. Expelled students are prohibited from being on school grounds or attending school- sponsored or school-related activities during the period of expulsion.
2. No district academic credit shall be earned for work missed during the period of expulsion unless the student is enrolled in a JJAEP or another district-approved program.

**S. Newly Enrolled Students**

1. The district shall decide on a case-by-case basis the placement of a student who is subject to an expulsion order from another district or an open-enrollment charter school upon enrollment in the district.
2. If a student expelled in another state enrolls in the district, the district may continue the expulsion under the terms of the expulsion order, may place the student in a DAEP for the period specified in the order, or may allow the student to attend regular classes if:
  - a. The out-of-state district provides the district with a copy of the expulsion order; and
  - b. The offense resulting in the expulsion is also an expellable offense in the district in which the student is enrolling.
3. If a student is expelled by a district in another state for a period that exceeds one year and the district continues the expulsion or places the student in a DAEP, the district shall reduce the period of the expulsion or DAEP placement so that the entire period does not exceed one year, unless after a review it is determined that:
  - a. The student is a threat to the safety of other students or district employees; or
  - b. Extended placement is in the best interest of the student.

**T. Referral to Authorities for Felony Criminal Mischief**

Whether or not expelled, any student who engages in conduct that contains the elements of the offense of felony criminal mischief under Section 28.03, Penal Code, shall be referred to the authorized officer of the juvenile court.

**U. DAEP Placement of Expelled Students**

The district may provide educational services to any expelled student in a DAEP; however, educational services in the DAEP must be provided if the student is less than ten years of age.

**V. Transition Services**

In accordance with law and district procedures, campus staff shall provide transition services for a student returning to the regular classroom from placement in an alternative education program, including a DAEP or JJAEP. See policies FOCA(LEGAL) and FODA(LEGAL) for more information.



## GLOSSARY

The glossary provides legal definitions and locally established definitions and is intended to assist in understanding terms related to the Student Code of Conduct.

**Abuse** is improper or excessive use.

**Aggravated assault** is defined in part by Penal Code 22.02(a)(1) as committing assault as defined in Penal Code section 22.01 and the person: (1) causes serious bodily injury to another, including the person's spouse; or (2) uses or exhibits a deadly weapon during the commission of the assault.

**Aggravated robbery** is defined in part by Penal Code 29.03(a) when a person commits robbery and:

1. Causes serious bodily injury to another;
2. Uses or exhibits a deadly weapon; or
3. Causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the other person is:
  - a. 65 years of age or older, or
  - b. A disabled person.

**Armor-piercing ammunition** is defined by the Penal Code 46.01 as handgun ammunition used in pistols and revolvers and designed primarily for the purpose of penetrating metal or body armor.

**Arson** is defined in part by Penal Code 28.02 as:

1. A crime that involves starting a fire or causing an explosion with intent to destroy or damage:
  - a. Any vegetation, fence, or structure on open-space land; or
  - b. Any building, habitation, or vehicle:
    - 1) Knowing that it is within the limits of an incorporated city or town,
    - 2) Knowing that it is insured against damage or destruction,
    - 3) Knowing that it is subject to a mortgage or other security interest,
    - 4) Knowing that it is located on property belonging to another,
    - 5) Knowing that it has located within it property belonging to another, or
    - 6) When the person starting the fire is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.
2. A crime that involves recklessly starting a fire or causing an explosion while manufacturing or attempting to manufacture a controlled substance and the fire or explosion damages any building, habitation, or vehicle; or
3. A crime that involves intentionally starting a fire or causing an explosion and in so doing:
  - a. Recklessly damages or destroys a building belonging to another, or
  - b. Recklessly causes another person to suffer bodily injury or death.

**Assault** is defined in part by Penal Code 22.01(a)(1) as intentionally, knowingly, or recklessly causing bodily injury to another; §22.01(a)(2) as intentionally or knowingly threatening another with imminent bodily injury; and §22.01(a)(3) as intentionally or knowingly causing physical contact with another that can reasonably be regarded as offensive or provocative.

**Breach of computer security** includes knowingly accessing a computer, computer network, or computer system without the effective consent of the owner as defined in Penal Code 33.02, if the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and the student knowingly alters, damages, or deletes school district property or information; or commits a breach of any other computer, computer network, or computer system.

**Bullying** is defined in Section 37.0832 of the Education Code as a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that:

1. Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property;
2. Is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
3. Materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or
4. Infringes on the rights of the victim at school.

Bullying includes cyberbullying. (See below) This state law on bullying prevention applies to:

1. Bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;
2. Bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and
3. Cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying interferes with a student's educational opportunities or substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity.

**Chemical dispensing device** is defined by Penal Code 46.01 as a device designed, made, or adapted for the purpose of dispensing a substance capable of causing an adverse psychological or physiological effect on a human being. A small chemical dispenser sold commercially for personal protection is not in this category.

**Club** is defined by Penal Code 46.01 as an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death. A blackjack, nightstick, mace, and tomahawk are in the same category.

**Controlled Substance** means a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 3, or 4 of the Texas Controlled Substances Act. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance. The term does not include hemp, as defined by Agriculture Code 121.001, or the tetrahydrocannabinols (THC) in hemp.

**Criminal street gang** is three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.

**Cyberbullying** is defined by Section 37.0832 of the Education Code as bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of

telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.

**Dangerous drug** is defined by Health and Safety Code 483.001 as a device or a drug that is unsafe for self-medication and that is not included in Schedules I through V or Penalty Groups 1 through 4 of the Texas Controlled Substances Act. The term includes a device or drug that federal law prohibits dispensing without prescription or restricts to use by or on the order of a licensed veterinarian.

**Dating violence** occurs when a person in a current or past dating relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person in the relationship. Dating violence also occurs when a person commits these acts against a person in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense, as defined by Section 71.0021 of the Family Code.

**Deadly conduct** under Penal Code 22.05 occurs when a person recklessly engages in conduct that places another in imminent danger of serious bodily injury, such as knowingly discharging a firearm in the direction of an individual, habitation, building, or vehicle.

**Deferred adjudication** is an alternative to seeking a conviction in court that may be offered to a juvenile for delinquent conduct or conduct indicating a need for supervision.

**Deferred prosecution** may be offered to a juvenile as an alternative to seeking a conviction in court for delinquent conduct or conduct indicating a need for supervision.

**Delinquent conduct** is conduct that violates either state or federal law and is punishable by imprisonment or confinement in jail. It includes conduct that violates certain juvenile court orders, including probation orders, but does not include violations of traffic laws.

**Discretionary** means that something is left to or regulated by a local decision maker.

**E-cigarette** means an electronic cigarette or any other device that stimulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device. The term includes any device that is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description and a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

**Explosive weapon** is defined by Penal Code 46.01 as any explosive or incendiary bomb, grenade, rocket, or mine and its delivery mechanism that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror.

**False Alarm or Report** under Penal Code 42.06 occurs when a person knowingly initiates, communicates, or circulates a report of a present, past, or future bombing, fire, offense, or other emergency that he or she knows is false or baseless and that would ordinarily:

1. Cause action by an official or volunteer agency organized to deal with emergencies;
2. Place a person in fear of imminent serious bodily injury; or
3. Prevent or interrupt the occupation of a building, room, or place of assembly.

**Firearm** is defined by federal law (18 U.S.C. 921(a)) as:

1. Any weapon (including a starter gun) that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;

3. Any firearm muffler or firearm weapon; or
4. Any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.

Such term does not include an antique firearm.

**Firearm silencer** is defined by Penal Code 46.01 as any device designed, made, or adapted to muffle the report of a firearm.

**Gender-based harassment** includes physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

**Graffiti** includes markings with paint, an indelible pen or marker, or an etching or engraving device on tangible property without the effective consent of the owner. The markings may include inscriptions, slogans, drawings, or paintings.

**Handgun** is defined by Penal Code 46.01 as any firearm that is designed, made, or adapted to be fired with one hand.

**Harassment** includes:

1. Conduct that meets the definition established in district policies DIA(LOCAL) and FFH(LOCAL), including Sexual Harassment, Gender-based Harassment, and Dating Violence; if the conduct is so severe, persistent, or pervasive that the conduct:
  - Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
  - Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
  - Otherwise adversely affects the student's educational opportunities.
2. Conduct that threatens to cause harm or bodily injury to another person, including a district student, employee, board member, or volunteer; is sexually intimidating; causes physical damage to the property of another student; subjects another student to physical confinement or restraint; or maliciously and substantially harms another student's physical or emotional health or safety, as defined in Section 37.001(b)(2) of the Education Code; or
3. Conduct that is punishable as a crime under Penal Code 42.07, including the following types of conduct if carried out with the intent to harass, annoy, alarm, abuse, torment, or embarrass another:
  - a) Initiating communication and, in the course of the communication, making a comment, request, suggestion, or proposal that is obscene, as defined by law;
  - b) Threatening, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;

- c) Conveying, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury; and
- d) Sending repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another.

**Hazing** is defined by Section 37.151 of the Education Code as an intentional, knowing, or reckless act, on or off campus, by one person alone or acting with others, directed against a student for the purpose of pledging, initiation into, affiliation with, holding office in, or maintaining membership in a student organization if the act meets the elements in Education Code 37.151, including:

1. Any type of physical brutality;
2. An activity that subjects the student to an unreasonable risk of harm or that adversely affects the student's mental or physical health, such as sleep deprivation, exposure to the elements, confinement to small spaces, calisthenics, or consumption of food, liquids, drugs, or other substances;
3. An activity that induces, causes, or requires the student to perform a duty or task that violates the Penal Code; and
4. Coercing a student to consume a drug or alcoholic beverage in an amount that would lead a reasonable person to believe the student is intoxicated.

**Hit list** is defined in Section 37.001(b)(3) of the Education Code as a list of people targeted to be harmed, using a firearm, a knife, or any other object to be used with intent to cause bodily harm.

**Improvised explosive device** is defined by Penal Code 46.01 as a completed and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components.

**Indecent Assault** is defined by Penal Code 22.012 and is summarized as an offense that occurs when a person, without the other person's consent and with the intent to arouse or gratify the sexual desire of any person, the person commits certain indecent acts listed therein. The age of the other person is not relevant. Bodily injury is not required.

**Indecent exposure** is defined by Penal Code 21.08 as an offense that occurs when a person exposes the person's anus or any part of the person's genitals with intent to arouse or gratify the sexual desire of any person, and is reckless about whether another is present who will be offended or alarmed by the act.

**Intimate visual material** is defined by Texas Civil Practices and Remedies Code 98B.001 and Penal Code 21.16 as visual material that depicts a person with the person's intimate parts exposed or engaged in sexual conduct. "Visual material" means any film, photograph, video tape, negative, or slide of any photographic reproduction or any other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen.

**Location-restricted knife** is defined by Penal Code 46.01 as a knife with a blade over five and one-half inches.

**Look-alike weapon** means an item that resembles a weapon but is not intended to be used to cause serious bodily injury.

**Machine gun** as defined by Penal Code 46.01 is any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

**Mandatory** means that something is obligatory or required because of an authority.

**Paraphernalia** are devices that can be used for inhaling, ingesting, injecting, or otherwise introducing a controlled substance into a human body.

**Persistent Misbehavior** is when a student receives six (6) or more discipline referrals (that is not mandatory DAEP placement) within a nine (9) week period, excluding tardies or truancies.

**Placement Review Committee** [TEC 37.003]

1. Each school shall establish a three-member committee to determine placement of a student when a teacher refuses the return of a student to the teacher's class and make recommendations to the district regarding readmission of expelled students. Members shall be appointed as follows:
  - a. the campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member; and
  - b. the principal shall choose one member from the professional staff of a campus.
2. The teacher refusing to readmit the student may not serve on the committee.

**Possession** means to have an item on one's person or in one's personal property, including but not limited to clothing, purse, or backpack; a private vehicle used for transportation to or from school or school-related activities, including but not limited to an automobile, truck, motorcycle, or bicycle; telecommunications or electronic devices; or any school property used by the student, including but not limited to a locker or desk.

**Prohibited weapon** under the Penal Code 46.05(a) means:

1. The following items unless registered with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the U.S. Department of Justice:
  - a. An explosive weapon;
  - b. A machine gun;
  - c. A short-barrel firearm;
2. Armor-piercing ammunition;
3. A chemical dispensing device;
4. A zip gun; or
5. A tire deflation device.
6. An improvised explosive device; or
7. A firearm silencer, unless classified as a curio or relic by the U.S. Department of Justice or the actor otherwise possesses, manufactures, transports, repairs, or sells the firearm silencer in compliance with federal law.

**Public Lewdness** is defined by Penal Code 21.07 as an offense that occurs when a person knowingly engages in an act of sexual intercourse, deviate sexual intercourse, or sexual contact in a public place or, if not in a public place, is reckless about whether another is present who will be offended or alarmed by the act.

**Public school fraternity, sorority, secret society, or gang** means an organization composed wholly or in part of students that seeks to perpetuate itself by taking additional members from the students enrolled in school based on a decision of its membership rather than on the free choice of a qualified student. Educational organizations listed in Section 37.121(d) of the Education Code are an exception from this definition.

**Reasonable belief** is that which an ordinary person of average intelligence and sound mind would believe. Chapter 37 requires certain disciplinary decisions when the superintendent or designee has a reasonable belief that a student engaged in conduct punishable as a felony offense. In forming such a reasonable belief, the superintendent or designee may use all available information, including the notice of a student's arrest under Article 15.27 of the Code of Criminal Procedure.

**SAC** is an on-campus Special Assignment Class for in-school suspension.

**Self-defense** is the use of force against another to the degree a person reasonably believes the force is immediately necessary to protect himself or herself.

**Serious Persistent misbehavior** means:

1. Deliberate violent behavior that poses a direct threat to the health or safety of others;
2. Extortion, meaning the gaining of money or other property by force or threat;
3. Conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
4. Conduct that constitutes the offense of:
  - a. Public lewdness under Section 21.07, Penal Code;
  - b. Indecent exposure under Section 21.08, Penal Code;
  - c. Criminal mischief under Section 28.03, Penal Code;
  - d. Personal hazing under Section 37.152, Education Code; or
  - e. Harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

**Serious or persistent misbehavior** includes but is not limited to:

1. Behavior that is grounds for permissible expulsion or mandatory DAEP placement. Behavior identified by the district as grounds for discretionary DAEP placement.
2. Actions or demonstrations that substantially disrupt or materially interfere with school activities. Refusal to attempt or complete school work as assigned.
3. Profanity, vulgar language, or obscene gestures.
4. Leaving school grounds without permission.
5. Falsification of records, passes, or other school-related documents. Refusal to accept discipline assigned by the teacher or principal.

**Sexual Assault** is defined by Penal Code 22.011 and is summarized as certain acts of sexual contact or sexual penetration, without consent or with a child younger than age 17. An affirmative defense may apply if the both victim and actor were age 14 or older, were not more than 3 years apart in age, and conduct was consensual.

**Sexual harassment** of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct.

**Short-barrel firearm** is defined by Penal Code 46.01 as a rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches.

**Synthetic drugs** are substances with a chemical structure substantially similar to the chemical structure of a controlled substance in Schedule I or II, or Penalty Group 1, 1-A or 2, or specifically designed to produce an effect substantially similar to or greater than the effect of a controlled substance in Schedule I or II, or Penalty Group 1, 1-A or 2.

**Terroristic threat** is defined by Penal Code 22.07 as a threat of violence to any person or property with intent to:

1. Cause a reaction of any type by an official or volunteer agency organized to deal with emergencies;
2. Place any person in fear of imminent serious bodily injury;
3. Prevent or interrupt the occupation or use of a building; room, place of assembly, or place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place;
4. Cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;
5. Place the public or a substantial group of the public in fear of serious bodily injury; or
6. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state (including the district).

**Tire deflation device** is defined in part by Section 46.01 of the Penal Code as a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires.

**Title 5 felonies** are those crimes listed in Title 5 of the Penal Code that involve injury to a person and include:

- Murder, manslaughter, or homicide under Sections 19.02, – .05, Penal Code;
- Kidnapping under Section 20.03, Penal Code;
- Trafficking of persons under Section 20A.02, Penal Code ;
- Smuggling or continuous smuggling of persons under Sections 20.05 – .06, Penal Code ;
- Assault under Section 22.01, Penal Code ;
- Aggravated assault under Section 22.02, Penal Code ;
- Sexual assault under Section 22.011, Penal Code ;
- Aggravated sexual assault under Section 22.021, Penal Code ;
- Unlawful restraint under Section 20.02, Penal Code;
- Continuous sexual abuse of a young child or disabled individual under Section 21.02, Penal Code;
- Bestiality under Section 21.09, Penal Code;
- Improper relationship between educator and student under Section 21.12, Penal Code;
- Voyeurism under Section 21.17, Penal Code ;
- Indecency with a child under Section 21.11, Penal Code;
- Invasive visual recording under Section 21.15, Penal Code ;
- Disclosure or promotion of intimate visual material under Section 21.16, Penal Code ;
- Sexual coercion under Section 21.18, Penal Code ;
- Injury to a child, an elderly person, or a disabled person of any age under Section 22.04, Penal Code;
- Abandoning or endangering a child under Section 22.041, Penal Code;
- Deadly conduct under Section 22.05, Penal Code;
- Terroristic threat under Section 22.07, Penal Code ;
- Aiding a person to commit suicide under Section 22.08, Penal Code; and
- Tampering with a consumer product under Section 22.09, Penal Code.

[See FOC(EXHIBIT).]

**Under the influence** means lacking the normal use of mental or physical faculties. Impairment of a person's physical or mental faculties may be evidenced by a pattern of abnormal or erratic behavior, the presence of physical symptoms of drug or alcohol use, or by admission. A student "under the influence" need not be legally intoxicated to trigger disciplinary action.

**Use** means voluntarily introducing into one's body, by any means, a prohibited substance.

**Vaping device** is an electronic cigarette, or other nicotine delivery system that vaporizes a liquid which is inhaled to simulate and substitute for smoking tobacco.

**Zip gun** is defined by Penal Code 46.01 as a device or combination of devices, not originally a firearm, but adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.



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