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## AUSTIN ISD STUDENT CODE OF CONDUCT

Adopted by the AISD Board of Trustees on August 5, 1996

Revised June 20, 2016

### Purpose

Education in this community represents a significant commitment of financial and human resources. The benefits a student derives from this investment depend very much on the student's attitude toward learning and the student's adherence to high standards of behavior. The *Student Code of Conduct* that follows is the District's specific response to requirements of Chapter 37: Discipline; Law and Order of the Texas Education Code. The law requires the District to define misconduct that may or must result in a range of specific disciplinary consequences. This code is an outgrowth of collaboration among District and campus staff, parents, and other community members. This Code, adopted by the AISD Board of Trustees, provides information and direction to students and parents regarding standards of behavior as well as consequences of misconduct. In the case of conflict between the *Student Code of Conduct* and Board policy, the *Student Code of Conduct* will prevail.

References are made throughout this document to Chapter 37 of the Texas Education Code (TEC) which governs various aspects of the *Student Code of Conduct*. The TEC and AISD policies, regulations and exhibits concerning discipline and behavior management can be accessed on-line:

TEC: <http://www.statutes.legis.state.tx.us/>

AISD policies, regulations and exhibits: <http://archive.austinisd.org/inside/policy/>

*Parents who have questions or concerns about student discipline decisions arising from violations of the Code should contact the campus principal or Associate Superintendent.*

*Parents who have questions or concerns about discipline arising from violations of the Code for students with disabilities should contact the Department of Special Education.*

### I. Expectations for Student Behavior

AISD Mission Statement: In partnership with parents and our community, AISD exists to provide a comprehensive educational experience that is high quality, challenging, and inspires all students to make a positive contribution to society.

In order to achieve this mission, all students will demonstrate the aptitude, attitude, and skills to lead responsible, fulfilling, and respectful lives; and all students will understand the components of a healthy lifestyle. To ensure that students learn in an environment that is safe and free from disruption, each student is expected to:

- Demonstrate courtesy and respect for others.
- Behave in a responsible manner.
- Attend all classes regularly and on time.
- Avoid violations of the Student Code of Conduct.
- Prepare for each class; take appropriate materials and assignments to class.
- Cooperate with or assist the school staff in maintaining safety, order and discipline.
- Be well-groomed and dress appropriately according to district or campus dress code.
- Respect the property of others, including District property and facilities, and,
- Respect the rights and privileges of other students and of teachers and other District staff.

A student whose behavior shows disrespect for others, including interference with their access to a public education and/or a safe environment, will be subject to disciplinary action. The District or individual schools may impose campus or classroom rules in addition to those found in the Student Code of Conduct. These rules may be listed in the campus student handbooks or posted in classrooms and may or may not constitute violations of the Student Code of Conduct.

In general, discipline will be designed to correct the misconduct and to encourage all students to adhere to their responsibilities as citizens of the school community. Disciplinary action and the length of the assignment will draw on the professional judgment of teachers and administrators and on a range of discipline management techniques. Disciplinary action will be related to, but not limited to, the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, the student's attitude, whether the student was acting in self-defense, the effect of the misconduct on the school environment, intent or lack of intent at the time the student engaged in the conduct, and requirements of law (e.g., IDEA, 504). Because of these factors, discipline for a particular offense (unless otherwise specified by law) may bring into consideration varying techniques and responses.

These techniques may be used alone or in combination for Student Code of Conduct and non-Student Code of Conduct violations, such as campus or classroom rules:

- Verbal correction,
- Cooling-off time or "time-out",
- Seating changes in the classroom or vehicles owned or operated by the district,
- Counseling by teachers, counselors, or administrative personnel,
- Parent-teacher conferences,
- Confiscation of items that disrupt the educational process,
- Behavioral contracts,
- Sending the student to the office or other assigned area, or to in-school suspension,
- Assignment to another classroom,
- Detention,
- Restriction or revocation of bus district transportation privileges,
- Assigned school duties other than class tasks,
- Withdrawal of privileges, such as participation in extracurricular activities and eligibility for seeking and holding honorary offices,
- Techniques or penalties identified in individual student organizations' codes of conduct,
- School-assessed and school-administered probation,
- Grade reductions for cheating, plagiarism, and as otherwise permitted by policy,
- Referral to outside agency and/or legal authority for criminal prosecution in addition to disciplinary measures imposed by the District, and/or,
- Other strategies and consequences as specified by the Student Code of Conduct or deemed appropriate by the campus administrators, such as suspension, removal, or expulsion.

**Note: Corporal punishment is not permitted in AISD.**

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 hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.

### **Discipline Authority**

School rules and the authority of the District to administer discipline apply whenever the interest of the school is involved on or off school grounds in conjunction with or independent of classes and school-sponsored activities. The District has disciplinary authority over a student:

- During the regular school day, when the student is within 300 feet of the school's real property boundary line, and while the student is going to and from school on District transportation.
- During lunch periods in which a student is allowed to leave campus.
- While the student is in attendance at any school-related activity, including summer school, regardless of time or location.
- For any school-related misconduct, regardless of time or location.
- When criminal mischief is committed on or off school property or at a school-related event.
- When retaliation against a school employee or volunteer occurs or is threatened, regardless of time or location.
- When the student commits a felony offense in the community, as provided by the Texas Education Code.
- Pursuant to any code of conduct adopted at the campus level relating to participation in a student club, organization, or extracurricular activity.
- For certain mandatory DAEP and discretionary expulsion offenses, within 300 feet of school property as measured from any point on the school's real property boundary line.
- For any mandatory expulsion offense committed while on school property or while attending a school-sponsored or school-related activity of another district in Texas.
- When the student is required to register as a sex offender.

Note: In addition to disciplinary consequences, misdemeanor and felony offenses committed on campus will be reported to and handled by the appropriate law enforcement agency. Please see attached Student Handbook or district policy FNF for information about searches.

## II. GENERAL MISCONDUCT

### A. Definition of General Misconduct

Prohibited conduct includes, but is not limited to, the following at school, in vehicles owned or operated by the district, and at all school-related activities.

#### General Violations of Rules/Miscellaneous

- Repeatedly violating communicated campus or classroom standards of behavior.
- Failing to comply with directives given by school personnel.
- Behaving in any way that disrupts the school environment or educational process.
- Disobeying rules for conduct on school buses.
- Leaving school grounds or school-sponsored events without permission.
- Cheating or copying the work of another.
- Violating the district or campus dress code.
- Gambling.
- Damaging or vandalizing property owned by others.
- Defacing or damaging school property including textbooks, lockers, furniture, and other equipment with graffiti or by other means.
- Falsification of records, passes, or other school related documents, including paper records and computer records.
- Engaging in conduct that constitutes criminal mischief.
- Stealing, theft, robbery.
- Engaging in any misbehavior that gives school officials reasonable cause to believe that such conduct will substantially disrupt the school program or incite violence.
- Inappropriate discharge of a fire extinguisher.
- Violating safety rules.
- Violating any local, state, or federal laws.

#### Inappropriate Physical or Verbal Conduct

- Hazing.
- Committing extortion, coercion, or blackmail (obtaining money or another object of value from an unwilling person), or forcing an individual to act through the use of force or threat of force.
- Use of profanity, vulgar language or obscene gestures.
- Engaging in conduct that constitutes sexual or gender-based harassment or sexual abuse, whether by word, gesture, or any other sexual conduct, including requests for sexual favors.
- Name-calling, ethnic or racial slurs, or derogatory statements that school officials have reason to believe will disrupt the school program or incite violence.
- Bullying, defined as when a student or group of students engages in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the district and a school district's board of trustees or the board's designee determines that the behavior 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; or 2) Is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student. This conduct is considered bullying if it 1) Exploits an imbalance of power between the student perpetrator who is engaging in bullying and the student victim through written or verbal expression or physical conduct; and 2) Interferes with a student's education or substantially disrupts the operation of a school.
- Harassment, defined as conduct that threatens to cause harm or bodily injury to another student, 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.
- Dating violence, which 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.
- Throwing objects that can cause bodily injury or property damage.
- Fighting.
- Making false accusations or hoaxes regarding school safety.
- Aggressive, disruptive action or group demonstration that substantially disrupts or materially interferes with school activities.

- Engaging in inappropriate physical or sexual contact.
- Engaging in threatening behavior toward another student or district employee or property, including the creation of a hit list, defined as a list of people targeted to be harmed, using a firearm, a knife, or any other object with the intent to cause bodily harm.
- Recording the voice or image of another without the prior consent of the individual(s) being recorded or in any way that disrupts the educational environment or invades the privacy of others.
- Engaging in Assassin or any other organized mock killing or elimination game involving, but not limited to strikes, kills or hit lists, regardless of means (e.g., toy guns, markers).

#### Prohibited Items

- Student possession and use of paging devices or cellular telephones must be in accordance with District and campus policy.
- Possessing or using matches or a lighter.
- Possessing, smoking, or using tobacco products, including electronic cigarettes (e-cigarettes), electronic vaping devices, personal vaporizers (PV), or electronic nicotine delivery systems.
- Possession or distribution of pornographic materials.
- Possessing published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety; using e-mail or Web sites at school to encourage illegal behavior; or threatening school safety.
- Behaving in a manner that contains the elements of an offense relating to abusable glue or aerosol paint or relating to volatile chemicals.
- Selling, giving, delivering, possessing, using, or being under the influence of an alcoholic beverage; committing a serious act or offense while under the influence of alcohol.
- Possessing, selling, using, or distributing medicines that are available without a prescription in a manner that is not consistent either with the medicine's intended use as indicated on the manufacturer's labeling or with district policy concerning the handling of such medicines.
- Violating the district's policy on taking prescription drugs or over the counter drugs at school.
- Abusing the student's own prescription drug, giving a prescription drug to another student, or possessing or being under the influence of another person's prescription drug.
- Possessing drug paraphernalia.
- Possessing or selling look-alike drugs or items attempted to be passed off as drugs and contraband.
- Selling, giving, delivering, possessing, using or being under the influence of marijuana, a controlled substance, or a dangerous drug.
- Possessing or using any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists.
- Possession of a razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person.
- Possession of knives, bladed instruments, switchblade knives, BB guns, air guns, toy guns, chemical dispensing devices, mace/pepper spray, fireworks, replica firearms, electronic stunning devices, ammunition, home-made weapons, and other dangerous items.
- Use, exhibition, or possession of the following: A firearm (defined on page 10); an illegal knife, such as a knife with a blade over 5 1/2 inches; hand instrument, designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; spear; a club; or a prohibited weapon, such as an explosive weapon; a machine gun; a short-barrel firearm; a firearm silencer; a butterfly knife; knuckles; armor-piercing ammunition; or zip gun.

#### Inappropriate use of Computers/Internet/Email

- Violating policies, rules, or any agreements signed by the student or the student's parent regarding the use of technology resources.
- Attempting to access or circumvent passwords or other security-related information of the district, students, or employees or uploading or creating computer viruses, including off school property if the conduct causes a substantial disruption to the educational environment.
- Attempting 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.
- Using email or websites to engage in or encourage illegal behavior or threaten school safety, including off property if the conduct causes a substantial disruption to the educational process.

- Sending, posting, or possessing 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.

The following definitions apply throughout the code:

Use: This term means a student has smoked, ingested, injected, imbibed, inhaled, drunk, or otherwise taken internally, on or off campus, a prohibited substance recently enough that it may be detectable by, but not limited to, the following: the student's appearance, actions, breath, or speech.

Under the influence: This term means a student's faculties are noticeably impaired by alcohol and/or drugs, but the student need not be legally intoxicated. Impairment of a person's physical and/or mental faculties may be evidenced by a pattern of abnormal or erratic behavior and/or the presence of physical symptoms of drug or alcohol use.

Possession: This term means actual care, custody, control, or management of an object or substance. A student shall be considered in possession of any substance or object prohibited or regulated by this Code if the substance or object is: (1) on the student's person or in the student's personal property, including but not limited to the student's clothing, purse, book bag, or briefcase; (2) in any private vehicle used by the student for transportation to or from school or school-related activities, including but not limited to an automobile, truck, motorcycle, or bicycle; or (3) in any school property used by the student, including but not limited to a locker or a desk.

## **B. Consequences for General Misconduct**

Students who engage in general misconduct as defined in Part A will be disciplined. Campus administration will make a good faith effort to contact the parent/guardian concerning any violation of the Student Code of Conduct within a reasonable amount of time. Students will be disciplined through the use of any appropriate discipline management techniques as listed on page 2; by the removal of the student from the regular classroom environment and placement of the student at a Disciplinary Alternative Education Program (see III. B. "Removal to a Disciplinary Alternative Education Program"); or by the suspension of the student as provided below.

### ***Removal from the School Bus***

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 bus driver may refer a student to the principal's office to maintain effective discipline on the bus. The principal must employ additional discipline management techniques, as appropriate, which can include restricting or revoking a student's bus riding privileges, in accordance with law.

### ***Removal by Teacher [TEC 37.002(b)(d)]***

A teacher also has the authority to remove a student. A teacher may remove from class a student who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn. [TEC 37.002(b)] A teacher or administrator may also remove a student from class for an offense for which a student may be suspended and/or placed in a Disciplinary Alternative Education Program. [TEC 37.002(d)] If the following offenses are committed against the teacher, the student may not be returned to the class without the teacher's consent: assault with bodily injury, aggravated assault, sexual assault, or aggravated sexual assault. The principal or appropriate administrator must send a copy of the teacher's documentation or of the Code of Conduct violation to the student's parent or guardian within 24 hours of receiving it.

### ***Conference***

When a student is removed from the regular classroom, a conference will be scheduled within three school days with the student's parent/guardian, the teacher, and the student. Pending the conference, the principal or other appropriate administrator may place a student:

- In another appropriate classroom.
- In in-school suspension.
- On home suspension.
- In a Disciplinary Alternative Education Program

**(See page 13 for students with disabilities.)**

After the conference, the principal will notify the student and parent(s) of the consequences of the *Student Code of Conduct* violation. When a student has been formally removed from class [TEC 37.002], the principal or other administrator may not return the student to the teacher's class without the appropriate teacher's consent unless the Placement Review Committee (described below) determines that the teacher's class is the best or only alternative.

### **Placement Review Committee [TEC 37.003]**

Each school will establish a three-member committee composed of two teachers chosen by the faculty and one member chosen by the principal. In addition, there will be one alternate member chosen by the faculty. The purpose of this committee is to determine placement of a student when a teacher refuses the return of a student to the teacher's class and to make recommendations to the district regarding re-admission of expelled students.

### **Suspension [TEC 37.005]**

Students may be suspended for any behavior listed in the *Student Code of Conduct* as a general misconduct violation, Disciplinary Alternative Education Program placement, or expellable offense. In addition, suspensions may be used for students who have committed a removal or expulsion offense and for whom a conference or hearing is pending. State law allows a student to be suspended from school for up to three school days per offense, with no limit on the number of times a student may be suspended in a semester or school year. **(See page 13 for students with disabilities.)** A student who is to be suspended will be afforded due process via an informal conference by the principal or other appropriate administrator advising the student of the conduct with which he or she is charged and giving the student the opportunity to explain his or her version of the incident. The duration of a student's suspension, which cannot exceed three school days, will be determined by the principal or other appropriate administrator. Any restrictions on participation in school-sponsored or school-related extracurricular and noncurricular activities will be determined by the principal or other appropriate administrator.

## **III. DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM (DAEP)**

### **A. Behavior Subject to Removal to a DAEP**

#### **Mandatory Removals**

A student **must** be placed in a Disciplinary Alternative Education Program if the student commits any of the following offenses on school property, including a parking lot, parking garage, or other parking area owned by the school district, or on a school bus, or within 300 feet of the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property [TEC 37.006]:

- Engaging in conduct punishable as a felony.
- Committing an assault with injury.
- Selling, giving, delivering, possessing, using or being under the influence of marijuana, a controlled substance, or a dangerous drug in an amount not constituting a felony offense.
- Selling, giving, or delivering an alcoholic beverage; committing a serious act or offense while under the influence of alcohol.
- Possessing, using, or being under the influence of an alcoholic beverage.
- Behaving in a manner that contains the elements of an offense relating to abusable glue or aerosol paint or relating to volatile chemicals.
- Behaving in a manner that contains the elements of the offense of public lewdness.
- Behaving in a manner that contains the elements of the offense of indecent exposure.
- Possessing any item, other than those defined as firearms under state and federal law (**see page 10 regarding firearms**), capable of propelling a projectile and causing injury, by any means, including, but not limited to spring, compressed air, spring-piston, pneumatic, or CO2. Examples include, but are not limited to, BB guns, Airsoft guns, pellet guns, and any protective device designed to administer an electric shock.
- Possessing a home-made weapon, defined as a device or item that was manufactured, modified, or adapted by an individual for the purpose of inflicting harm to another by its use or intended use.

In addition, a student **must** be placed in a Disciplinary Alternative Education Program if the student:

- Engages in conduct that contains the elements of the offense of retaliation against any school employee, regardless of where or when the conduct occurs. (Committing retaliation in combination with another expellable offense is addressed in the expulsion section of this *Student Code of Conduct*).
- Making a terroristic threat; false alarm or report (e.g., bomb threats).
- Is ordered by a juvenile court to attend a district DAEP as a condition of probation (pertains to unexpelled students).
- Engages in conduct off-campus and while the student is not in attendance at a school-sponsored or school-related activity and:
  1. Is placed on deferred prosecution by Juvenile Court for conduct defined as aggravated robbery or a felony in Title 5 of the Penal Code (Title 5 includes both misdemeanor and felony offenses "against the person");
  2. Is found to have engaged in delinquent conduct for aggravated robbery or a felony as specified by Title 5 of the Penal code; and/or
  3. Is believed by the Superintendent or the Superintendent's designee to have engaged in aggravated robbery or conduct defined as a felony offense in Title 5 of the Penal Code.

A student under 10 years of age who engages in expellable conduct described in Section 37.007 shall receive educational services in the district's Disciplinary Alternative Education Program. A student under the age of six may not be removed to a Disciplinary Alternative Education Program (as described in 37.008) unless they commit a federal firearms offense.

### **Discretionary Removals**

A student **may** also be removed from class and placed in a Disciplinary Alternative Education Program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

- The superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than aggravated robbery or those defined in Title 5, Penal Code, and
- The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

In addition, students may be removed from class and placed in a Disciplinary Alternative Education Program who are found to be:

- Involved in a public school fraternity, sorority, secret society or a gang, including participating as a member or pledge, or soliciting another person to become a pledge or member of such a group.
- Involved in criminal street gang activity. A criminal street gang is defined as 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.

A student **may** also be removed to a Disciplinary Alternative Education Program for serious or persistent misbehavior. The District defines "persistent" to be two or more violations of the Student Code of Conduct in general or repeated occurrences of the same violation. A student may be removed for persistent misbehavior if behavior interventions have not been successful and it is determined that removal to a DAEP is necessary to improve the student's behavior. The District defines "serious" offenses as offenses that pose physical danger to the student, others or to property.

A student may be assigned to a long-term in-school suspension program in lieu of a discretionary removal if the student does not present a safety concern to the campus. The campus principal has the authority to assign students to this program as the result of a disciplinary conference.

### **B. Removal to a Disciplinary Alternative Education Program**

The Board delegates to the principal the authority to remove a student to a Disciplinary Alternative Education Program in which the student will be separated from the other students for the entire school program day and will be provided instruction in the core subjects with the goal of reaching/maintaining grade level. Counseling will also be provided to the student. The duration of a student's placement in a DAEP will be determined on a case-by-case basis. The maximum period of a DAEP placement is the end of the current school year, unless it is determined that the student is a threat to the safety of other students or to the District employees; or an extended placement is in the best interest of the student. The Board delegates to the Superintendent or designee the authority to consider appeals of such removals. The District will provide transportation for students assigned to a Disciplinary Alternative Education Program, so long as the students behave appropriately. Secondary students will be removed to the Alternative Learning Center and elementary students will be removed to the elementary DAEP.

#### **Teacher/Administrator Removal [37.006]**

A teacher shall remove a student from class and send him/her to the principal or other appropriate administrator if the student engages in an offense specified under 37.006. When a violation of 37.006 is alleged, the principal or other appropriate administrator will schedule a conference with the student's parent, teacher, and the student within three school days of receiving the violation report. The duration of a student's placement in a Disciplinary Alternative Education Program is the decision of the principal.

Until a conference can be held as a result of a teacher removal or administrator removal, the principal or other appropriate administrator may place a student:

- In another appropriate classroom.
- In in-school suspension.
- In a Disciplinary Alternative Education Program.
- On home suspension.

At the conference, due process will be afforded. The principal or other appropriate administrator will explain the allegations against the student and give the student an opportunity to explain his or her version of the incident.

#### **Appeal**

The principal's decision to place a student in the Disciplinary Alternative Education Program may be appealed to the Associate Superintendent (Level I), the Chief Academic Officer or designee (Level II), the Superintendent or designee (Level III), and the Board (Level IV). The student and/or the student's parent or guardian will be given notice of their right to appeal a removal. The appeal must be received by the district within seven District business days of the date of the removal notice. Any decision made on a student's appeal by the Board cannot be appealed. Consequences will not be deferred pending the outcome of an appeal.



A student and/or the student's parent or guardian may appeal to the Board the Superintendent's decision to continue placement after the district has received notification of the prosecutor's decision not to prosecute or a court finding that the student is not guilty or did not engage in delinquent conduct. **(See page 3 for students with disabilities.)**

***Participation in Activities***

The District does not permit a student who is placed in a DAEP to participate in any school-sponsored or school-related extracurricular or cocurricular activity, including seeking or holding honorary positions and/or membership in school-sponsored clubs or organizations.

Please see district policy FMH concerning removals for graduating seniors and participation in commencement activities.

***Review Every 120 days***

A student placed in a Disciplinary Alternative Education Program will be provided a review of the student's status by the principal or other appropriate administrator of the student's home school at intervals not to exceed 120 days. At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. In the case of a high school student, the Board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required under this subsection to provide in the District's Disciplinary Alternative Education Program a course not specified under Section 37.008(a). Students shall be given the opportunity to complete coursework required for graduation. Please contact the DAEP administration for additional information.

If the student was removed for an assaultive offense against the teacher, the student may not be returned to the classroom of the teacher who removed the student without the teacher's consent, unless it is determined by the Placement Review Committee that this is the best or only alternative available.

***Removal Beyond the End of the School Year***

For placement in a Disciplinary Alternative Education Program to extend beyond the end of the school year, the principal or other appropriate administrator must determine that the student's presence in the regular classroom or campus presents a danger of physical harm to students or others.

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.

Students whose removals continue into the next school year are not prohibited from attending summer programs unless determined to present a danger of physical harm to students or others.

***Emergency Placement in DAEP [Section 37.019]***

In situations which the principal or other appropriate administrator consider to be an emergency, the principal may order the immediate placement of a student when a student is so unruly, disruptive, or abusive that the student's presence seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity. As required by law, the student will be given the appropriate conference required for placement in a DAEP within ten days.

***Continuation of Placement in DAEP***

A student's placement in a Disciplinary Alternative Education Program (DAEP) may be continued (by another conference) if he or she fails to complete the requirements of a DAEP program during the term of his or her removal to such a program or engages in another offense for which placement in a DAEP is required or permitted.

***Admission of Removed Students***

The District will decide on a case-by-case basis the placement of a student who enrolls in the District and was assigned to a DAEP in another district, including a district in another state or an open-enrollment charter school. The District may place the student in the District's DAEP or a regular classroom setting.

#### **IV. PLACEMENT AND/OR EXPULSION FOR CERTAIN SERIOUS OFFENSES**

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

##### **A. Registered Sex Offenders**

Upon receiving notification in accordance with state law that a student is currently required to register as a sex offender, the administration must remove the student from the regular classroom and determine appropriate placement unless the court orders placement in a Juvenile Justice Alternative Education Program (JJAEP).

If the student is under any form of court supervision, including probation, community supervision, or parole, the placement will be in either a DAEP or JJAEP for at least one semester (the equivalent of one semester is 87 school days).

If the student is not under any form of court supervision, the placement may be in the DAEP or JJAEP for one semester (the equivalent of one semester is 87 school days) or the placement may be in the regular classroom. The placement may not be in the regular classroom if the board or its designee determines that the student's presence:

- Threatens the safety of other students or teachers,
- Will be detrimental to the educational process, or
- Is not in the best interest of the district's students.

##### ***Review Committee***

At the end of the first semester (87 school days) of a student's placement in a DAEP or JJAEP 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, whose membership will include the appropriate Associate Superintendent or designee, will recommend whether the student should return to the regular classroom or remain in the placement. Absent a special finding, the board's designee, the General Counsel, must follow the committee's recommendation.

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

##### ***Continuation of Placement***

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 (87 school days) in an alternative placement without conducting a review of the placement.

##### ***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 under Chapter 62 of the Texas Code of Criminal Procedures. Any decision of the board's designee, the Chief Academic Officer or designee, under this section is final and may not be appealed.

##### **B. Certain Felonies**

Regardless of whether placement or expulsion is required or permitted by one of the reasons in the DAEP or Expulsion sections, in accordance with Texas Education Code 37.0081, a student may be expelled and placed in either a DAEP or JJAEP if the board or its designee makes certain findings and the following circumstances exist in relation to aggravated robbery or a felony offense under Title V of the Texas Penal Code. The student must:

- Have received deferred prosecution for conduct defined as aggravated robbery or a Title V felony offense;
- Have been found by a court or jury to have engaged in delinquent conduct for conduct defined as aggravated robbery or a Title V felony offense;
- Have been charged with engaging in conduct defined as aggravated robbery or a Title V offense;
- Have been referred to a juvenile court for allegedly engaging in delinquent conduct for conduct defined as aggravated robbery or a Title V felony offense; or
- Have received probation or deferred adjudication or have been arrested for, charged with, or convicted of aggravated robbery or a Title V felony offense.

The district may expel the student and order placement under these circumstances regardless of:

- The date on which the student's conduct occurred,
- The location at which the conduct occurred;
- Whether the conduct occurred while the student was enrolled in the district, or
- Whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

### ***Hearing and Required Findings***

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 presence in the regular classroom:

- Threatens the safety of other students or teachers,
- Will be detrimental to the educational process, or
- Is not in the best interest of the district's students.

Any decision of the board or board's designee under this section is final and may not be appealed (see Expulsion).

### ***Length of Placement***

The student is subject to the placement until:

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

### ***Continuation of a Placement***

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.

## **V. EXPULSION**

### **A. Offenses Subject to Expulsion [TEC 37.007 and 37.125]**

#### ***Mandatory Expulsions***

A student **must** be expelled for any of the following offenses if committed on school property, including a parking lot, parking garage, or other parking area owned by the school district, or on a school bus, or while attending a school-sponsored or school-related activity on or off school property:

Bringing to school a firearm, as defined by federal law as:

- Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive.
- The frame or receiver of any such weapon.
- Any firearm muffler or firearm silencer.
- Any destructive device, such as any explosive, incendiary, or poison gas bomb, or grenade.

Use, exhibition, or possession of the following, under the Texas Penal Code:

- A firearm (defined as any device designed, made or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use).
- An illegal knife, such as a knife with a blade over 5 1/2 inches; hand instrument, designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; or spear.
- A club, including nunchucks.
- A prohibited weapon, such as an explosive weapon; a machine gun; a short-barrel firearm; a firearm silencer; a butterfly knife; knuckles; armor-piercing ammunition, a zip gun, or a tire deflation device.

Behavior containing the elements of the following under the Texas Penal Code:

- Aggravated assault, sexual assault, or aggravated sexual assault.
- Arson.

- Murder, capital murder, or criminal attempt to commit murder or capital murder; manslaughter; or criminally negligent homicide.
- Indecency with a child.
- Continuous sexual abuse of a young child or children.
- Aggravated kidnapping.
- Aggravated robbery.
- Behavior punishable as a felony that involves the selling, giving, or delivering to another person, possessing, using, or being under the influence of marijuana, a controlled substance, a dangerous drug, or alcohol; or committing a serious act while under the influence of alcohol.
- Retaliation against a school employee combined with one of the above-listed offenses on or off school property or at a school-related activity.

### ***Discretionary Expulsions***

#### **Any Location**

A student may be expelled for:

- Engaging in conduct that contains the elements of an offense under Section 22.01, Penal Code (assault with injury is when a person intentionally, knowingly or recklessly causes bodily injury to another, including the person's spouse) in retaliation against a school district employee or volunteer.
- Criminal mischief if punishable as a felony.
- Making a terroristic threat; false alarm or report (e.g., bomb threats) involving a public school.
- Breach of computer security, defined as accessing a district's computers, computer system, or computer network and knowingly altering, damaging, or deleting district property or information.
- Engaging in conduct that contains the elements of one of the following offenses against another student, without regard to where the conduct occurs:
  - Aggravated assault.
  - Sexual assault.
  - Aggravated sexual assault.
  - Murder.
  - Capital murder.
  - Criminal attempt to commit murder or capital murder.
  - Aggravated robbery.

#### **At School, Within 300 feet, or at a School Event**

A student may be expelled for:

- Engaging in any of the following offenses if committed on school property or within 300 feet of the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:
  - Engaging in conduct that contains the elements of an offense under Section 22.01, Penal Code (assault with injury is when a person intentionally, knowingly or recklessly causes bodily injury to another, including the person's spouse) against a school district employee or volunteer.
  - Engaging in conduct that contains the elements of the offense of deadly conduct under 22.05 of the Penal Code.
- Engaging in any of the following offenses if committed within 300 feet of the school's real property boundary line:
  - Aggravated assault, sexual assault, or aggravated sexual assault.
  - Arson.
  - Murder, capital murder, or criminal attempt to commit murder or capital murder;
  - Indecency with a child, aggravated kidnapping, manslaughter, criminally negligent homicide, or aggravated robbery.
  - Continuous sexual abuse of a young child or children.
  - Committing a felony drug- or alcohol- related offense.
  - Using, exhibiting, or possessing a firearm, an illegal knife, a club, or prohibited weapon.

In addition, a student **may** be expelled for 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 at a school in another district in Texas.*

A student may be expelled for serious misbehavior if a student is already in a Disciplinary Alternative Education Program and continues to violate the District's *Student Code of Conduct* despite documented interventions at the DAEP.

### **B. Expulsion [TEC 37.007]**

The Board delegates the authority to expel students to the Superintendent or Superintendent's designee. A student under 10 years of age who engages in expellable conduct described in Section 37.007 shall receive educational services in the district's Disciplinary Alternative Education Program. A student under the age of six may not be removed to a Disciplinary Alternative Education Program (as described in 37.008) unless they commit a federal firearms offense. The duration of a student's expulsion will be determined on a case-by-case basis. The maximum period for an expulsion is a calendar year unless it is determined that the student is a threat to the safety of other students or to the District employees; or an extended placement is in the best interest of the student. Students who commit offenses requiring expulsion at the end of one school year may be expelled into the next school year to complete the assigned term of expulsion. **(See page 13 for students with disabilities.)**

#### ***Hearing and Notice***

The principal or other appropriate administrator will schedule a hearing within a reasonable time with the student's parents, the teacher, and the student. The student's parent or guardian will be invited in writing to attend the hearing. If the school district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends. [37.009(f)]

#### ***Placement Pending Hearing***

Until a hearing can be held, the principal or other appropriate administrator may place the student: In another appropriate classroom.

- In in-school suspension.
- On home suspension.
- In a Disciplinary Alternative Education Program.
- On emergency expulsion

#### ***Due Process***

A student facing expulsion will be given appropriate due process as required by the U. S. Constitution. The student is entitled to:

- The right to an adult representative who is not a District employee or legal counsel who can provide guidance to the student.
- An opportunity to testify and to present evidence and witnesses in the student's defense.
- An opportunity to question the district's witnesses called by the district at the hearing.

#### ***Notification***

After the hearing, notification of the principal's or other appropriate administrator's recommendation will be provided in writing. If the student is to be expelled, not later than the second business day after the hearing, the Board's designee will deliver to the juvenile court a copy of the order expelling the student and information required by Section 52.04 of the Family Code.

#### ***Firearm Violations***

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 or designee may modify the length of the expulsion on a case-by-case basis. Expelled students may receive educational services in the District's Disciplinary Alternative Education Program or the Juvenile Justice Alternative Education Program. Students under the age of ten shall receive educational services in the district's Disciplinary Alternative Education Program.

#### ***Admission of Expelled Students***

The District will decide on a case-by-case basis the placement of a student who is subject to an expulsion order from another district or open-enrollment charter school and who requests admission into the District.

#### ***Participation in Activities***

Expelled students are prohibited from being on school grounds or attending school-sponsored or school-related activities during the period of expulsion.

### **Academic Credit**

No District academic credit will be earned for work missed during the period of expulsion [unless the student is enrolled in a Juvenile Justice Alternative Education Program].

### **Appeal**

The student and/or the student's parent or guardian will be given notice of their right to appeal an expulsion. The appeal must be received by the district within seven District business days of the date of the expulsion order. Expulsion recommendations are made by the campus administration. Expulsion orders are approved by the Associate Superintendent. Expulsions can be appealed to the Chief Academic Officer or designee (Level II), the Superintendent or designee (Level III), and the Board (Level IV). The decision of the Board may be appealed by trial de novo to the Travis County District Court. Consequences will not be deferred pending the outcome of an appeal.

### **Emergency Expulsion [Section 37.019]**

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 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.

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, the student will be given appropriate due process required for a student facing expulsion. For a student with disabilities the term of the student's emergency expulsion is subject to the requirements of federal law.

## **VI. PLACEMENT in a Juvenile Justice Alternative Education Program [TEC 37.011]**

Students who are expelled under the provisions of this *Student Code of Conduct* and who are subsequently placed on probation by the Travis County Juvenile Court will be ordered by the Court to attend an alternative education program operated by the Court. The Board of Trustees has entered into an agreement with the Travis County Juvenile Board outlining the Juvenile Board's responsibilities concerning the establishment and operation of the Juvenile Justice Alternative Education Program and conditions for payments from the District to the Juvenile Board. Details of this relationship are defined in agreements available for public inspection upon request to the Superintendent.

## **VII. Students with Disabilities**

### **Individuals with Disabilities Education Act (IDEA)**

A student with disabilities may be removed to an appropriate interim alternative education setting (IAES), another setting, or suspension for not more than 10 consecutive school days (to the extent such alternatives would be applied to students without disabilities). School personnel must consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for the child with a disability who violates a code of student conduct.

Within 10 school days of any decision to make a disciplinary change of placement because of a violation of a student code of conduct, the ARD committee must determine whether the behavior of the student is a manifestation of the student's disability. When making a manifestation determination, the ARD committee must review all relevant information in the student's file, including the student's individualized education program (IEP), any teacher observations, and any relevant information provided by the parents to determine: (1) if the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or (2) if the conduct in question was the direct result of failure to implement the IEP. If either is applicable the conduct shall be determined to be a manifestation of the student's disability. If the behavior is determined to be a manifestation of the student's disability, the ARD committee must either:

1. conduct a functional behavioral assessment and implement a behavioral intervention plan if such assessment for conduct was not completed prior to the behavior;
2. or if a behavioral intervention plan has been developed, the ARD shall review the plan, modify it, as necessary, to address the behavior, and return the student to the placement from which removed if both the parent and school agree to a change of placement as part of the modification of the behavioral intervention plan, or special circumstances exist.

Special Circumstance: School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student: (1) carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function; or (2) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function; or (3) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function. The ARD committee shall determine the interim alternative education setting.

If the behavior is determined not to be a manifestation of the student's disability, disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner and for the same duration in which the procedures would be applied to students without disabilities except that services during periods of removal must be provided.

When a student is removed from the current educational placement either because of special circumstances or because the behavior is not a manifestation of the student's disability, the ARD committee must determine educational services for a FAPE which may be provided in an IAES, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP, and receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. The ARD committee shall determine the interim alternative education setting.

After the 10<sup>th</sup> cumulative day of removal in a school year, the student must be provided educational services needed to receive a FAPE. Services must enable the student to 1) continue to participate in the general curriculum, although in another setting; and 2) progress toward meeting the goals set out in the IEP.

On the date in which the decision is made to change a student's placement because of a violation of the code of conduct, the school must notify the parents of that decision and of all procedural safeguards.

Nothing in the code shall be construed to prohibit the school district from reporting a crime committed by a student with a disability to appropriate authorities. The school district must ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the authorities to whom it reports the crime.

The child with a disability may not be disciplined for bullying, harassment, or making hit lists until an admission, review, and dismissal committee meeting has been held to review the conduct.

The parent of a student with a disability who disagrees with any decision regarding disciplinary placement, or the manifestation determination, may request a hearing. During the appeal the child shall remain in the interim alternative educational setting pending the decision or until the expiration of the time period whichever occurs first, unless the parent and the district agree otherwise. The state or district shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

### **Protections for Students Not Yet Eligible**

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates a code of student conduct, may assert any of the protections mentioned previously, if the district has knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

**Basis of knowledge includes** (1) the parent of the student has expressed concern in writing to administrative personnel that the student is in need of special education and related services; (2) the parent has requested an evaluation of the student; or (3) the teacher of the student, or other district personnel has expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the director of special education or to other supervisory personnel of the district. Note: If the parent of the student has not allowed an evaluation of the student or has refused services or the student has been evaluated and it was determined that the student was not a student with a disability, the district shall not be deemed to have knowledge that the student is a student with a disability.

If the district does not have knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to disciplinary measures applied to students without disabilities who engaged in comparable behaviors. If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures the evaluation shall be conducted in an expedited manner. If the student is determined to be a student with a disability, taking into consideration information from the evaluation and information provided by the parents, the district shall provide special education and related services, except that pending the results of the evaluation, the student shall remain in the educational placement determined by school authorities. Please see Texas Education Code 37.0021 for information on use of confinement, restraint, seclusion, and time-out (<http://www.statutes.legis.state.tx.us/docs/ED/htm/ED.37.htm#37.0021>).

**504 Eligible Students with Disabilities under the American's with Disabilities Act Amendments Act (ADAAA/reauthorized in 2008) and Section 504 of the Rehabilitation Act Of 1973**

Change of Placement: Prior to a change in placement, a student under the protection of Section 504 must undergo a reevaluation of their disability status in order to determine if the behavior in question is a manifestation of their disability. This takes the form of a Manifestation Determination 504 meeting, and must be completed before a 504 student may be ordered to an appropriate alternative education setting or any other change of placement.

The committee, (comprised of person(s) knowledgeable about the student, the meaning of the evaluation data, and placement options), must decide whether the misbehavior is a manifestation of a student's disability, and must review the current 504 Accommodation Plan. The Section 504 Committee must include the campus 504 Coordinator, an administrator and a general education teacher; others may be included as appropriate to the student's disability (e.g. nurse, counselor, etc.), but will not be voting members concerning the manifestation determination. The MD meeting is considered a re-evaluation of the student's disability(ies) and the MD script guides the Committee through that process. Once completed, the 504 Committee must consider whether the student's behavior warrants additional evaluation, beyond that contained in the reevaluation meeting discussion. If the reevaluation process covered within the MD yield changes to the 504 Plan, the behavior would be considered a manifestation of the student's disability. If behavior is found to be a manifestation of the student's disability, student may not be removed for the same amount of time as student without a disability. If the behavior is substance-abuse related, the student must complete awareness-education before returning to campus so as not to jeopardize 504 status.

Special conditions may apply; the student with disabilities may be removed to an appropriate interim alternative placement for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability. The Special Circumstances include: (1) the student carries a weapon to school or to a school function; or (2) the student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function, or (3) the student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function

If behavior is found to not be a manifestation of the student's disability student may be removed for the same amount of time as student without a disability.