

# Center Independent School District

## Code of Conduct



***2021-2022***

# ACKNOWLEDGMENT

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*Student Code of Conduct Acknowledgement/  
Electronic Distribution Acknowledgment*

Dear Student and Parent:

As required by state law, the board of trustees has officially adopted the Student Code of Conduct in order to promote a safe and orderly learning environment for every student.

We urge you to read this publication thoroughly and to discuss it with your family. If you have any questions about the required conduct and consequences for misconduct, we encourage you to ask for an explanation from the student's teacher or campus administrator.

The student and parent should each sign this page in the space provided below, and then return the page to the student's school.

Thank you.

Dr. Brian Morris, Superintendent, CISD

We acknowledge that we have been offered the option to receive a paper copy of the Center ISD Student Code of Conduct and Student Handbook for the current school year or to electronically access them on the district's Web site at [www.centerisd.org](http://www.centerisd.org). We understand that students will be held accountable for their behavior and will be subject to the disciplinary consequences outlined in the Code.

We have chosen to:

- Receive a paper copy of the Student Code of Conduct and the Student Handbook.
- Accept responsibility for accessing the Student Code of Conduct and the Student Handbook on the district's Web site.

Print name of student: \_\_\_\_\_

Signature of student: \_\_\_\_\_

Print name of parent: \_\_\_\_\_

Signature of parent: \_\_\_\_\_

Date: \_\_\_\_\_

School: \_\_\_\_\_

Grade Level: \_\_\_\_\_

**Please sign this page, remove it, and return it to the student's school. Thank you.**

If you have difficulty accessing the information in this document because of disability, please contact Jake Henson, Assistant Superintendent ([Jake.Henson@centerisd.org](mailto:Jake.Henson@centerisd.org), 936-598-5642).

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# STUDENT CODE OF CONDUCT

## *Purpose*

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), or expulsion from school.

This Student Code of Conduct has been adopted by the Center 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.

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 posted on the district’s web site ([www.centerisd.org](http://www.centerisd.org)). Parents shall be notified of any conduct violation that may result in a student being suspended, placed in a DAEP or expelled.

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.

**Please Note:** The discipline of students with disabilities who are eligible for services under federal law (Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973) is subject to the provisions of those laws.

## **Contents**

This Code is organized into the following sections:

1. School District Authority and Jurisdiction...	Page 2
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5. Removal from the Regular Educational Setting.....	Page 10
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## **School District Authority and Jurisdiction**

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. The campus principal is designated to be the Campus Behavior Coordinator.

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 sponsored or 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 or off 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'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.

### **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 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.centerisd.org](http://www.centerisd.org).

### **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.

### **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 the right to search a vehicle driven to school by a student and parked on school property whenever 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.

### ***Reporting Crimes***

School administrators including the campus behavior coordinator 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.

### **Security Personnel**

To ensure sufficient security and protection of students, staff, and property, the board police officers and/or school resource officers. In accordance with law, the board has coordinated with the campus behavior coordinator and other district employees to ensure appropriate law enforcement duties are assigned to security staff. The law enforcement duties of district peace officers are listed in policy CKE(LOCAL).

### ***Speaking at Graduation***

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

In order to be considered as an eligible student speaker at graduation ceremonies, a student shall not have engaged in any serious and/or persistent misconduct in violation of the district's Code, resulting in removal to a DAEP, or expulsion during his or her last two semesters.

See DAEP—Restrictions during Placement on page 18, for information regarding a student assigned to DAEP at the time of graduation.

### **Parent Defined**

Throughout the Code of Conduct and related discipline policies, the term "parent" includes a parent, legal guardian or other person having lawful control of the child.

### **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.

## **Standards for Student Conduct**

### ***Each student is expected to:***

- Demonstrate courtesy, even when others do not.
- Behave in a responsible manner, always exercising self-discipline.
- Attend all classes, regularly and on time.
- Prepare for each class; take appropriate materials and assignments to class.
- Meet district and campus standards of grooming and dress.
- Obey all campus and classroom rules.
- Respect the rights and privileges of students, teachers, and other district staff and volunteers.
- Respect the property of others, including district property and facilities.
- Cooperate with and assist the school staff in maintaining safety, order and discipline.
- Adhere to the requirements of the Student Code of Conduct.

## **General Conduct Violations**

The categories of conduct below are prohibited at school, in vehicles owned and operated by the district, and all school-related activities, but the list does not include the most serious offenses. In the subsequent sections on Out-of-School Suspension, DAEP Placement, Placement and/or Expulsion for Certain Serious Offenses, and Expulsion, severe offenses that require or permit specific consequences are listed. Any offense, however, may be serious enough to result in Removal from the Regular Educational Setting as detailed in that section.

### ***Disregard for Authority***

Students shall not:

- Fail to comply with directives given by school personnel (insubordination).
- Leave school grounds or school-sponsored events without permission.
- Disobey rules for conduct on school buses.



- Refuse to accept discipline management techniques assigned by a teacher or principal.

## **Mistreatment of Others**

Students shall not:

- Use profanity or vulgar language or make obscene gestures.
- Fight or scuffle. (For assault see DAEP Placement and Expulsion.)
- Threaten a district student, employee, or volunteer, including off school property, if the conduct causes a substantial disruption to the educational environment.
- Engage in bullying, cyberbullying, harassment, or making hit lists. (See glossary for all four terms.)
- Release or threaten to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- Engage in conduct that constitutes sexual harassment or sexual abuse, whether by word, gesture, or any other conduct, directed toward another person, including a district student, employee, or volunteer.
- Engage in conduct that constitutes dating violence. (See glossary.)
- Engage in inappropriate or indecent exposure of private body parts.
- Participate in hazing. (See glossary.)
- Cause an individual to act through the use of or threat of force (coercion).
- Commit extortion or blackmail (obtaining money or an object of value from an unwilling person).
- Engage in inappropriate verbal, physical, or sexual conduct directed toward another person, including a district student, employee, or volunteer.
- 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.

## **Property Offenses**

Students shall not:

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

## **Possession of Prohibited Items**

Students shall not possess or use:

- Fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;
- A razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
- A “look-alike” weapon; that is intended to be used as a weapon or could reasonably be

- perceived as a weapon;
- An air gun or BB gun;
- Ammunition;
- A stun gun;
- A pocketknife or any other small knife;
- A club;
- Mace or pepper spray;
- Pornographic material;
- Tobacco products; e-cigarettes; and any component, part or accessory for an e-cigarettes device
- Matches or a lighter;
- A laser pointer for other than an approved use; or
- Any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists. (For weapons and firearms see DAEP Placement and Expulsion.)

### ***Possession of Telecommunications or Other Electronic Devices***

Students shall not:

- Display, turn on, or use a telecommunications device, including a cellular telephone, or other electronic device in violation of district and campus rules.

### **Illegal, Prescription and Over-the-Counter Drugs**

***Students shall not:***

- Possess, use, give, or sell alcohol or an illegal drug. (Also see DAEP Placement and Expulsion for mandatory and permissive consequences under state law.)
- Possess or sell seeds or pieces of marijuana in less than a usable amount. (For illegal drugs, alcohol, and inhalants see DAEP Placement and Expulsion.)
- Possess, use, give, or sell paraphernalia related to any prohibited substance. (See glossary for “paraphernalia.”)
- Possess or sell look-alike drugs or attempt to pass items off as drugs or contraband. 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.”)
- 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.”)
- Have or take prescription drugs or over-the-counter drugs at school other than as provided by district policy.

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

Students shall not:

- Violate policies, rules, or agreements signed by the student or the student’s parent regarding the use of technology resources.

- 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.
- 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.
- Use the Internet or other electronic communications to threaten or harass district students, employees, or volunteers, including off school property if the conduct causes a substantial disruption to the educational environment.
- 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.
- 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.

## **Safety Transgressions**

Students shall not:

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

## ***Miscellaneous Offenses***

Students shall not:

- Violate dress and grooming standards as communicated in the student handbook.
- Cheat or copy the work of another.
- Gamble.
- Falsify records, passes, or other school-related documents.
- Engage in actions or demonstrations that substantially disrupt or materially interfere with school activities.
- Repeatedly violate other communicated campus or classroom standards of conduct.  
The district may impose campus or classroom rules in addition to those found in the Code. These rules may be posted in classrooms or given to the student and may or may not constitute violations of the Code.

## **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 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.

## ***Students with Disabilities***

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).

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.

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.

## ***Techniques***

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

- Verbal correction, oral or written.
- Cooling-off time or a brief "time-out" period, in accordance with law.
- Seating changes within the classroom.
- Temporary confiscation of items that disrupt the educational process.
- Rewards or demerits.
- Behavioral contracts.
- Counseling by teachers, counselors, or administrative personnel.
- Parent-teacher conferences.
- Behavior coaching.
- Anger management sessions
- Grade reductions for cheating, plagiarism, and as otherwise permitted by policy.
- Detention.
- Sending the student to the office or other assigned area, or to in-school suspension.
- Assignment of school duties such as cleaning or picking up litter.
- Withdrawal of privileges, such as participation in extracurricular activities, eligibility for seeking and holding honorary offices, or membership in school-sponsored clubs and organizations.
- Penalties identified in individual student organizations' extracurricular standards of behavior.
- Withdrawal or restriction of bus privileges.
- School-assessed and school-administered probation.
- Corporal punishment, unless the student's parent or guardian has provided a signed statement prohibiting its use.

- Out-of-school suspension, as specified in the Out-of-School Suspension section of this Code.
- Placement in a DAEP, as specified in the DAEP section of this Code.
- Placement and/or expulsion in an alternative educational setting, as specified in the Placement and/or Expulsion for Certain Serious Offenses section of this Code.
- Expulsion, as specified in the Expulsion section of this Code.
- Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the district.
- Other strategies and consequences as determined by school officials.

### ***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:

- Using techniques designed or likely to cause physical pain, other than corporal punishment as permitted by district policy. [See policy FO(LOCAL).]
- Using techniques designed or likely to cause physical pain by electric shock or any procedure involving pressure points or joint locks.
- Directed release of noxious, toxic, or unpleasant spray, mist, or substance near a student's face.
- Denying adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility.
- 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.
- Employing a device, material, or object that immobilizes all four of a student's extremities, including prone or supine floor restraint.
- 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.
- Restricting the student's circulation.
- Securing the student to a stationary object while the student is standing or sitting.
- Inhibiting, reducing, or hindering the student's ability to communicate.
- Using chemical restraints.
- 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.
- 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).

### ***Notification***

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, or expulsion. The campus behavior coordinator shall notify a student's parent if the student is taken into custody by a law enforcement officer. Notification will be made on the day the administrator becomes aware of the violation.

## ***Appeals***

Questions from parents regarding disciplinary measures should be addressed to the teacher or campus administration, as appropriate. Appeals or complaints regarding the use of specific discipline management techniques should be addressed in accordance with policy FNG(LOCAL). A copy of the policy may be obtained from the principal's office or the central administration office or through Policy On Line at the following address: [www.centerisd.org](http://www.centerisd.org).

The district shall not delay a disciplinary consequence while a student or parent pursues a grievance. . In the instance of a student who is accused of conduct that meets the definition of sexual harassment as defined by Title IX, the district will comply with applicable federal law, including the Title IX formal complaint process. See policies FFH(LEGAL) and (LOCAL).

## **Removal from the School Bus**

A bus driver may refer a student to the principal's office or the district transportation office to maintain effective discipline on the bus. The campus Principal/Assistant Principal or Transportation Supervisor 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, campus Principal/Assistant Principal or Transportation may restrict or revoke a student's transportation privileges, in accordance with law.

## **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.

### ***Routine Referral***

A routine referral occurs when a teacher sends a student to the principal's office as a discipline management technique. The principal may then employ additional techniques. A teacher or administrator may remove a student from class for a behavior that violates this Code to maintain effective discipline in the classroom.

### **Formal Removal**

A teacher **may** also initiate a formal removal from class if:

1. 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
2. The behavior is so unruly, disruptive, or abusive that the teacher cannot teach, and the students in the classroom cannot learn.

Within three school days of the formal removal, the appropriate administrator shall schedule a conference with the student's parent; the student; the teacher who removed the student from class, in the case of removal by a teacher; and any other administrator.

At the conference, the appropriate administrator shall inform the student of the misconduct for which he or she is charged and the consequences. The student shall have an opportunity to give his or her version of the incident.

When a student is removed from the regular classroom by a teacher and a conference is pending, the principal may place the student in:

- Another appropriate classroom
- In-school suspension
- Out-of-school suspension
- DAEP

A teacher or administrator must remove a student from class if the student engages in behavior that requires or permits the student to be placed in a DAEP or expelled.

### ***Returning Student to Classroom***

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.

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 determines that the teacher's class is the best or only alternative available.

### **Out-of-School Suspension**

#### ***Misconduct***

Students may be suspended for any behavior listed in the Code 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 in 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.

## ***Process***

State law allows a student to be suspended for no more than three school days per behavior violation, with no limit on the number of times a student may be suspended in a semester or school year.

Before being suspended a student shall have an informal conference with the appropriate administrator, who shall advise the student of the conduct of which he or she is accused. The student shall be given the opportunity to explain his or her version of the incident before the administrator's decision is made.

The number of days of a student's suspension shall be determined by the appropriate administrator, but shall not exceed three school days.

Out-of-School suspension of a student shall not result in a mandatory bar of that student from school-related extra-curricular and co-curricular activities, including, but not limited to, Prom and Senior Trip, but rather the appropriate administrator shall determine what restrictions, if any, should be placed on the student's participation in those activities as a result of his/her being placed in out-of-school suspension.

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

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct, and
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.

## ***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***

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 5 and secondary



classification shall be grades 6–12.

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 district shall take into consideration:

1. Self-defense (see glossary)
2. Intent or lack of intent at the time the student engaged in the conduct, and
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.

### ***Discretionary Placement: Misconduct That May Result in DAEP Placement***

A student may be placed in a DAEP for behaviors prohibited in the General Conduct Violations section of this Code.

### **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:

- Engaging in bullying that encourages a student to commit or attempt to commit suicide.
- Inciting violence against a student through group bullying.
- 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.
- 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.)
- Involvement in criminal street gang activity. (See glossary.)
- Any criminal mischief, including a felony.
- Assault (no bodily injury) with threat of imminent bodily injury.
- Assault by offensive or provocative physical contact

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.

The appropriate administrator **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.

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

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

- Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school. (See glossary.)
- 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:
  - Engages in conduct punishable as a felony.
  - Commits an assault (see glossary) under Penal Code 22.01(a)(1).
  - 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.")
  - 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.)
  - Behaves in a manner that contains the elements of an offense relating to abusable volatile chemicals.
  - Behaves in a manner that contains the elements of the offense of public lewdness or indecent exposure.
- Engages in expellable conduct and is between six and nine years of age.
- 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).
- Commits a federal firearms violation and is younger than six years of age.
- 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.)
- 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.

### ***Sexual Assault and Campus Assignments***

If a student has been convicted of continuous sexual abuse of a young child or children 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.

## **Process**

Removals to a DAEP shall be made by the principal or assistant principal of the appropriate campus.

## **Conference**

When a student is removed from class for a DAEP offense, the 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.

At the conference, the 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.

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.

## **Consideration of Mitigating Factors**

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, or
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.

## **Emergencies**

In an emergency, the principle or the principal's designee may order the immediate placement of a student in a DEAP for any reason for which placement in a DEAP may be made on a nonemergency basis.

## **Placement Order**

After the conference, if the student is placed in the DAEP, the appropriate administrator shall write a placement order. A copy of the DAEP placement order shall be sent to the student and the student's parent.

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.

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.

## **Coursework Notice**

The parent or guardian of a student placed in DAEP shall be given written notice of the student's opportunity to complete coursework required for graduation, at no cost to the student. The notice shall include information regarding all methods available for completing the coursework.

## ***Length of Placement***

The duration of a student's placement in a DAEP shall be determined by the principal or assistant principal of the appropriate campus.

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.

The maximum period of DAEP placement shall be one calendar year except as provided below. 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

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.

## **Exceeds One Year**

Placement in a DAEP may exceed one year when a review by the district determines that:

1. The student is a threat to the safety of other students or to district employees, or
- 2, Extended placement is in the best interest of the student.

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.

## **Exceeds School Year**

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.

For placement in a DAEP to extend beyond the end of the school year, the principal or assistant principal 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 serious or persistent misbehavior (see glossary) that violates the district's Code.

## **Exceeds 60 Days**

For placement in a DAEP to extend beyond 60 days or the end of the next grading period, whichever is sooner, a student's parent shall be given notice and the opportunity to participate in a proceeding before the board or the board's designee

## ***Appeals***

Questions from parents regarding disciplinary measures should be addressed to the campus administration. Appeals regarding the decision to place a student in a DAEP should be addressed to the Superintendent or designee in accordance with policy FNG(LEGAL). A copy of this policy may be obtained from the principal's office or the central administration office or through Policy On Line at the following address: [www.centerisd.org](http://www.centerisd.org).

Disciplinary consequences shall not be deferred pending the outcome of an appeal. The decision to place a student in a DAEP cannot be appealed beyond the board.

## **Restrictions During Placement**

State law prohibits a student placed in a DAEP for reasons specified in state law from attending or participating in school-sponsored or school-related extracurricular activities.

Students placed in a DAEP are allowed to tryout or audition for school-sponsored or school-related extracurricular activities that occur outside the placement period. High School students assigned to a DAEP or who are expelled during the current school year are prohibited from attending the prom that year. Senior students who are assigned to a DAEP or are expelled during the Senior year, are also prohibited from attending the Senior Trip.

A student placed in a DAEP shall not be provided transportation unless he or she is a student with a disability who has transportation designated as a related service in the student's IEP.

For seniors who are eligible to graduate and are assigned to a DAEP at the time of graduation, 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 DAEP placement order.

## ***Placement Review***

A student placed in a DAEP shall be provided a review of his or her status, including academic status, by the appropriate campus administrator 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.

## ***Additional Misconduct***

If during the term of placement in a DAEP 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 appropriate administrator may enter an additional disciplinary order as a result of those proceedings.

## ***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:

1. 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
2. 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.

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.

After reviewing the notice and receiving information from the student's parent, the superintendent or designee may 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.

The student or the student's parent may appeal the superintendent'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.

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.

## ***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 district may complete the proceedings and issue a placement order. If the student then reenrolls 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 appropriate administrator 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.

## **Newly Enrolled Students**

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 including a district in another state.

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.

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.

## ***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.

## ***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.

## **Placement and/or Expulsion for Certain Serious Offenses**

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

## ***Registered Sex Offenders***

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.

If the student is under any form of court supervision, including probation, community supervision, or parole, the placement shall be in either DAEP or JJAEP for at least one semester.

If the student is not under any form of court supervision, the placement may be in DAEP or JJAEP 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:

1. Threatens the safety of other students or teachers,
2. Will be detrimental to the educational process, or
3. Is not in the best interests of the district's students.

## **Review Committee**

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.

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

## **Newly Enrolled Student**

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.

## **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.

## ***Certain Felonies***

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 its designee 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:

- Have received deferred prosecution for conduct defined as aggravated robbery or a Title 5 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 5 felony offense;
- Have been charged with engaging in conduct defined as aggravated robbery or a Title 5 felony offense;
- 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
- Have received probation or deferred adjudication or have been arrested for, charged with, or convicted of aggravated robbery or a Title 5 felony offense.

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

1. The date on which the student's conduct occurred,
2. The location at which the conduct occurred,
3. Whether the conduct occurred while the student was enrolled in the district, or



4. 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's presence in the regular classroom:

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

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

## **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.

## **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.

## **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**

In deciding whether to order expulsion, regardless of whether the action is mandatory or discretionary, the district will take into consideration:

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct, and
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.

### ***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)

#### **Any Location**

A student **may** be expelled for:

- Engaging in bullying that encourages a student to commit or attempt to commit suicide.
- Inciting violence against a student through group bullying.
- 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.
- Conduct that contains the elements of assault under Penal Code 22.01(a)(1) in retaliation against a school employee or volunteer.
- Criminal mischief, if punishable as a felony.
- 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.
  - Breach of computer security.
- Engaging in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school.

#### **At School, 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:

- 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.")
- Offense of 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.

- Engaging in conduct that contains the elements of an offense relating to abusable volatile chemicals.
- Engaging in conduct that contains the elements of assault under Section 22.01(a)(1) against an employee or a volunteer.
- Engaging in deadly conduct. (See glossary.)

### **Within 300 Feet of School**

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:

- 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.
- Felony drug- or alcohol-related offense.
- Unlawfully carrying on or about the student's person a handgun or a location-restricted knife, as these terms are defined by state law.
- Possessing, manufacturing, transporting, repairing, or selling a prohibited weapon, as defined by state law.
- Possession of a firearm, as defined by federal law.

### **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.

### **While in DAEP**

A student **may** be expelled for engaging in serious offenses or persistent misbehavior (see glossary) that violates the district's Code, while placed in a DAEP.

### ***Mandatory Expulsion: Misconduct That Requires Expulsion***

#### **Federal Law**

A student **must** be expelled for bringing to school a firearm, as defined by federal law, when the offense occurs on school property or while attending a school-sponsored or school-related activity on or off school property. "Firearm" under federal law includes:

- 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.
- The frame or receiver of any such weapon.
- Any firearm muffler or firearm weapon.
- Any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.

#### **Under the Penal Code**

A student **must** be expelled for any of the following offenses that occur on school property or while attending a school-sponsored or school-related activity on or off school property:

- Using or possessing the following, as defined by the Texas Penal Code:
  - A firearm (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), unless the use, exhibition, or possession of the firearm occurs at an off-campus approved target range facility 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.
  - An illegal knife, such as a knife with a blade over 5½ 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 prohibited weapon, such as an explosive weapon, a machine gun, a short-barrel firearm, a firearm silencer, a switchblade knife, knuckles, armor-piercing ammunition, a chemical dispensing device, a zip gun, or a tire deflation device. (See glossary.)
- Behaving in a manner that contains elements of the following offenses under the Texas Penal Code:
  - Aggravated assault, sexual assault, or aggravated sexual assault.
  - Arson. (See glossary.)
  - Murder, capital murder, or criminal attempt to commit murder or capital murder.
  - Indecency with a child.
  - Aggravated kidnapping.
  - Aggravated robbery.
  - Manslaughter.
  - Criminally negligent homicide.
  - Continuous sexual abuse of a young child or children.
  - 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.
- Engaging in retaliation against a school employee or volunteer combined with one of the above-listed mandatory expulsion offenses.

### ***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.

### ***Emergency***

In an emergency, the principal or the principal's designee **may** order the immediate expulsion of a student for any reason for which expulsion may be made on a nonemergency basis.

### ***Process***

If a student is believed to have committed an expellable offense, the principal or other appropriate administrator shall schedule a hearing within a reasonable time. The student's parent shall be

invited in writing to attend the hearing.

Until a hearing can be held, the principal may place the student in:

- Another appropriate classroom.
- In-school suspension.
- Out-of-school suspension.
- DAEP.

## **Hearing**

A student facing expulsion shall be given a hearing with appropriate due process. The student is entitled to:

1. 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,
2. An opportunity to testify and to present evidence and witnesses in the student's defense, and
3. An opportunity to question the district's witnesses.

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.

The board of trustees delegates to the principal of the appropriate campus the authority to conduct hearings and expel students.

## **Board Review of Expulsion**

After the due process hearing, the expelled student may request that the board review the expulsion decisions. 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.

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.

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.

## **Expulsion Order**

Before ordering the expulsion, the board or 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, or
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.

After the due process hearing, if the student is expelled, the board or its designee shall deliver to the student and the student's parent a copy of the order expelling the student.

Not later than the second business day after the hearing, the principal shall deliver to the juvenile court a copy of the expulsion order and the information required by Section 52.04 of the Family Code.

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.

### ***Length of Expulsion***

The length of an expulsion shall be based on the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, the student's attitude, and statutory requirements.

The duration of a student's expulsion shall be determined on a case-by-case basis. The maximum period of expulsion is one calendar year except as provided below.

An expulsion may not exceed one year unless, after review, the district determines that:

1. The student is a threat to the safety of other students or to district employees, or
2. Extended expulsion is in the best interest of the student.

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 other appropriate administrator may modify the length of the expulsion on a case-by-case basis.

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.

### ***Withdrawal During Process***

When a student has violated the district's Code 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.

If the student then re-enrolls 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.

If the appropriate administrator 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.

### ***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

appropriate administrator or the board may issue an additional disciplinary order as a result of those proceedings.

### ***Restrictions during Expulsion***

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

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.

### ***Newly Enrolled Students***

The district shall continue the expulsion of any newly enrolled student expelled from another district or an open-enrollment charter school until the period of the expulsion is completed.

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:

1. The out-of-state district provides the district with a copy of the expulsion order, and
2. The offense resulting in the expulsion is also an expellable offense in the district in which the student is enrolling.

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:

1. The student is a threat to the safety of other students or district employees, or
2. Extended placement is in the best interest of the student.

### ***Emergency Expulsion Procedures***

When an emergency expulsion is necessary to protect persons or property from imminent harm, the student shall be given verbal notice of the reason for the action. Within ten days after the date of the emergency expulsion, the student shall be given appropriate due process required for a student facing expulsion.

### ***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.

### ***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 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 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.



**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 a device designed, made, or adapted for the purpose 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 an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death. A blackjack, 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.

**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** *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.

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

**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.

**Graffiti** are 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** is:

1. Conduct that meets the definition established in district policies DIA(LOCAL) and FFH(LOCAL); or
2. 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. 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 exposure** is defined by Penal Code 21.08 as an offense that occurs when a person exposes his or her anus or any part of his or her 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 Texas 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.

**Knuckles** as defined by Penal Code 46.01 are any instrument consisting of finger rings or guards made of a hard substance and designed or adapted for inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles.

**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 two or more violations of the Code in general or repeated occurrences of the same violation.

**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 other school property used by the student, including but not limited to a locker or desk.

**Prohibited weapon** under 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;
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 exempted from this definition.

**Reasonable belief** is a determination made by the superintendent or designee using all available information, including the information furnished under Article 15.27 of the Code of Criminal Procedure.

**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 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 offenses** include but are not limited to:

- Murder.
- Vandalism.
- Robbery or theft.
- Extortion, coercion, or blackmail.
- Actions or demonstrations that substantially disrupt or materially interfere with school activities.
- Hazing.
- Insubordination.
- Profanity, vulgar language, or obscene gestures.
- Fighting, committing physical abuse, or threatening physical abuse.
- Possession or distribution of pornographic materials.
- Leaving school grounds without permission.
- Sexual harassment of a student or district employee.
- Possession of or conspiracy to possess any explosive or explosive device.
- Falsification of records, passes, or other school-related documents.
- Refusal to accept discipline assigned by the teacher or principal.

**Short-barrel firearm** is defined by Texas 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.

**Switchblade** is any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or by the force of gravity or centrifugal force. The term does not include a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife.

**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 offenses** are those crimes listed in Title 5 of the Penal Code that typically involve injury to a person and may 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 children 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

**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.

**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.