

SANTA MARIA

INDEPENDENT SCHOOL DISTRICT

Home of the Cougars!



2013-2014

Student Code of Conduct

Board of Trustees

2013-2014

Melissa Aleman, President

Belinda Lugo, Vice President

Noe Aleman, Secretary

Miguel Zavala, Member

Jose F. Gonzales, Member

Leonardo Martinez, Member

Adolfo Hinojosa, Member

Monthly School Board meetings are held on the second Monday of the month at 6:30 p.m. at the Central Office Administration Building located at 11119 Military Road, Santa Maria, Texas.

Central Office Administration

Maria J. Chavez, Superintendent of Schools

Enrique Cuellar, Business Manager

John A. Jauregui, Director of Curriculum, Student Development, and Evaluation

Campus Principals

James P. Jauregui, Principal - Santa Maria High School

Cindy Taylor, Principal - Santa Maria Middle School

Jaime Lopez, Principal - Tony Gonzalez Elementary

ACKNOWLEDGMENT

Student Code of Conduct

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.

Ms. Maria J. Chavez, Superintendent of Schools

We acknowledge that we have received a copy of the Santa Maria Independent School District Student Code of Conduct for the 2013–2014 school year and understand that students will be held accountable for their behavior and will be subject to the disciplinary consequences outlined in the Code.

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.

Table of Contents

STUDENT CODE OF CONDUCT.....	1
Purpose.....	1
School District Authority and Jurisdiction.....	2
Reporting Crimes.....	2
Revoking Transfers.....	2
Participating in Graduation Activities.....	2
Expectations of Student Behavior: standards for Student Conduct/Bullying.....	3-10
Dress Code.....	10
General Conduct Violations.....	11
Disregard for Authority.....	11
Mistreatment of Others.....	11
Property Offenses.....	12
Possession of Prohibited Items.....	12
Possession of Telecommunications or Other Electronic Devices.....	12
Disciplinary Alternative Education Program (DAEP).....	13-15
Conduct That Warrants DAEP Placement.....	16-20
Procedures for Removal to DAEP.....	21-22
Expulsion.....	22-25
Procedures for Expulsion.....	25-30
Illegal, Prescription, and Over-the-Counter Drugs.....	31
Misuse of Technology Resources and the Internet.....	31
Safety Transgressions.....	32
Miscellaneous Offenses.....	32

Transportation/Bus Offenses.....	33-34
Discipline Management Techniques.....	35
Students with Disabilities.....	35
Techniques.....	35-36
Notification.....	36
Appeals.....	36
Formal Removal from Class by Teacher.....	37
In School Suspension.....	38
Detention.....	38
Out of School Suspension.....	39
Discretionary/Mandatory Placement DAEP.....	40-42
Sexual Assault and Campus Assignments.....	42
Length of Placement.....	43
Notice of Criminal Proceedings.....	44
Withdrawal during Process.....	45
Emergency Placement Procedure.....	46
Placement and/or Expulsion for Certain Offenses.....	47-48
Newly Enrolled Students.....	49
Discretionary/Mandatory Expulsion.....	50-54
Length of Expulsion.....	54-55
Emergency Expulsion Procedures.....	56
Glossary.....	57-61

STUDENT CODE OF CONDUCT

Purpose

The Student Code of Conduct is the district's response to the requirements of Chapter 37 of the Texas Education Code.

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

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

This Student Code of Conduct has been adopted by the Santa Maria Independent School District Board of Trustees and developed with the advice of the district-level committee. This Code provides information to parents and students regarding standards of conduct, consequences of misconduct, and procedures for administering discipline. It remains in effect during summer school and at all school-related events and activities outside of the school year until an updated version adopted by the board becomes effective for the next school year.

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. 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.

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 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 or volunteer occurs or is threatened, regardless of time or location;
6. When criminal mischief is committed on or off school property or at a school-related event;
7. For certain offenses committed within 300 feet of school property as measured from any point on the school's real property boundary line;
8. For certain offenses committed while on school property or while attending a school-sponsored or school-related activity of another district in Texas;
9. When the student commits a felony, as provided by Education Code 37.006 or 37.0081; and
10. When the student is required to register as a sex offender.

The district has the right to search a vehicle driven to school by a student and parked on school property whenever there is reasonable cause to believe it contains articles or materials prohibited by the district. The district has the right to search a student's locker or desk when there is reasonable cause to believe it contains articles or materials prohibited by the district.

Reporting Crimes

School administrators 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.

Revoking Transfers

The district has the right to revoke the transfer of a nonresident student for violating the district's Code.

Participating in Graduation Activities

The district has the right to limit a student's participation in graduation activities for violating the district's code. Participation might include a speaking role, as established by district policy and procedures. Students eligible to give the opening and closing remarks at graduation shall be notified by the campus principal. Notwithstanding any other eligibility requirements, in order to be considered as an eligible student to give the opening or closing remarks, a student shall not have engaged in any misconduct in violation of the district's Code resulting in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation. The valedictorian and salutatorian may also have speaking roles at graduation. No student shall be eligible to have such a speaking role if he or she engaged in any misconduct in violation of the district's Code resulting in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation. See **DAEP-Restrictions During Placement** on page , for information regarding a student assigned to DAEP at time of graduation.

Expectations for Student Behavior

Each student is expected to:

- Demonstrate courtesy and respect for others.
- Behave in a responsible manner.
- Attend all classes, regularly and on time.
- Be prepared for each class; take appropriate materials and assignments to class.
- Be groomed and dressed appropriately as articulated in the SMISD student handbook.
- Obey all campus and classroom rules.
- Respect the rights and privileges of other students and of teachers and other District staff.
- Respect the property of others, including District property and facilities.
- Cooperate with and assist the school staff in maintaining safety, order and discipline.
- Avoid violations of the Student Code of Conduct.

General Authority to Impose Discipline

The Texas Legislature has delegated the authority to manage independent school districts and to discipline students to the Board of Trustees and its employees. The school has the authority to administer discipline whenever the interest of the school is involved, on or off school property, in conjunction with or independent of classes and school-sponsored activities. The District's disciplinary authority applies:

- during the regular school day and while the student is going to and from school on District transportation;
- on or within 300 feet of school property;
- while the student is participating in any activity during the school day on school grounds;
- during lunch (whether on or off school campus);
- while the student is in attendance at any school-related activity of the district, regardless of time or location;
- while the student is on school property of another Texas school district or attending a school activity of a school in another Texas school district;
- for any school-related misconduct, regardless of time or location;
- when the student retaliates or threatens retaliation against a school employee, regardless of time and location;

when the District has a reasonable belief that the student has engaged in conduct that would be punishable as a felony, as provided by Texas Education Code § 37.006;

when the student is involved in criminal mischief on or off school property or at a school- related event;

when the student makes a false alarm or report of bombing, fire, or other emergency involving a public school, regardless of time or location;

when the student makes a terrorist threat involving a public school, regardless of time or location; and

when the student commits aggravated robbery against another student or District employee, regardless of time or location

All District facilities, any other real property that is owned, rented, or leased by the District, and the area within 1,000 feet of any of those facilities is a gang-free zone under state law. The penalties from the juvenile or criminal justice systems for certain organized criminal activity occurring within a *gang-free zone* will be enhanced. See *Gang-Free Zones* in the Definitions, PAS, for more complete information

Discipline of Students with Disabilities

Federal law regarding the education of students with disabilities (IDEA and Section 504) imposes specific procedures and limitations on the discipline of students with disabilities. For further information on this topic, please contact the principal, who will direct you to special education staff. Information is also available to parents of students with disabilities in the *Explanation of Rights and Procedural Safeguards of a Parent with a Child with Disabilities in School*, which is provided to parents at the time of admission to special education and annually, upon initial referral, upon request for an evaluation, upon the filing of a request for a special education due process hearing, or upon request by a parent.

Prohibited Conduct

A significant part of the District's educational mission is to inculcate the habits and manners of civility and to teach students the boundaries of socially appropriate behavior. In furtherance of this mission, students will be subject to disciplinary consequences if they engage in any of the following prohibited conduct while they are subject to the school's jurisdiction as described in this Code of Conduct.

Minor (Classroom) Offenses

Including, but not limited to the following:

1. Excessive talking/noise (disruption)
2. Excessive horseplay (disruption)
3. Possessing or consuming food or beverages in the classroom
4. Possession/use of stereo headsets, CD players, cassette players, MP3 players, iPods, electronic games, or any other entertainment device without administrator permission (See Note 1 below)
5. Use of a paging device, cellular telephone, camera telephone, handheld computer, PDA, or similar device without administrator permission (See Note 1 below)
6. Inappropriate use of a graphing calculator
7. Throwing, spitting, or launching objects
8. Being unprepared for class, including missing textbook, course book(s), notebook, paper, and/or pen/pencil
9. Failure to complete and/or submit assignments
10. Failure to do class-assigned work (off-task)
11. Use of non-instructional items during class
12. Disrespect towards other students
13. Violation of computer acceptable use policies
14. Violation of student dress code or grooming standards (See Note 2 below)
15. Tardy and/or unexcused absence from class
16. Violation of specific classroom or teacher rules
17. Failure to follow teacher or substitute directions
18. Violation of safety rules in classroom

NOTE 1: Items listed in numbered offenses 4 and 5 will be confiscated by the teacher and turned in to the principal. Parents may collect the items at the end of the day upon payment of \$15.00. For subsequent offenses, the District may hold the confiscated telecommunication device for a period of 30 days and require payment of the \$15.00 administrative fee before releasing the device. Cellular telephones must be turned off and kept out of sight during the instructional day. Administration is not responsible for the loss or theft of telecommunication devices or any device listed in the Student Code of Conduct in the possession of the student. Staff and administration is also not responsible for items that have been confiscated that are in violation of the Student Code of Conduct.

NOTE 2: Violation of student dress code (Offense #14) will require an immediate correction by the student, or he/she will be sent to the principal. The principal will place the child in ISS and call the parent to have the violation changed. If the parent does not or cannot address the problem, the child will remain in ISS for the day.

Discipline Procedures

All District teachers will follow the guidelines below unless campus principal approval is granted for an exception.

1. First Offense - Verbal reprimand
2. Second Offense - Assign teacher detention (See Note 1)
3. Third Offense – Teacher contacts parent and assigns detention (See Note 2)
4. Fourth Offense - Submit discipline referral to administration (See Note 3)

NOTE 1: Teachers will maintain student discipline documentation.

NOTE 2: Teachers may use other approved discipline-management techniques in lieu of or in addition to detention. These are outlined elsewhere in the student code of conduct.

NOTE 3: Discipline referral will direct principal to schedule a parent, student, teacher, and principal conference, if necessary.

Minor (Campus) Offenses

Including, but not limited to the following:

1. Running inside campus buildings
2. Loitering between class periods
3. Throwing, spitting, or launching objects
4. Throwing, tossing, shooting, dribbling, or rolling balls inside campus buildings, excluding athletic facilities
5. Excessive horseplay
6. Excessively LOUD talking, shouting, or making noises inside District school buildings
7. Possessing open food or beverage containers outside of the cafeteria(s)
8. Consuming food or beverages outside of the cafeteria(s)
9. Disrespect directed towards other student(s)
10. Possession/use of stereo headsets, CD players, cassette players, MP3 players, iPods, electronic games, or any other entertainment device without administrator permission
11. Use of a paging device, cellular telephone, camera telephone, handheld computer, PDA, or a similar device without permission (See Note 1 below)
12. Selling of non-school approved items
13. Public display of affection beyond holding hands, such as hugging, kissing, or arms around shoulder or waist
14. Being outside classroom or appropriate instructional areas without a hallway pass (permission) during class periods
15. Violation of computer acceptable use policies on common use District computers
16. Violation of student dress code or grooming standards (See Note 2 Below)
17. Violation of campus/District policies not explicitly specified elsewhere in these "prohibited conduct" passages
18. Failure to follow staff, faculty, or paraprofessional directions
19. Violation of school safety rules

NOTE 1: Items listed in numbered offenses 10 and 11 will be confiscated by the teacher and turned in to the principal. Parents may collect the items at the end of the day upon payment of \$15.00. For subsequent offenses, the District may hold the confiscated telecommunication device for a period of 30 days and require payment of the \$15.00 administrative fee before releasing the device. Cellular telephones must be turned off and kept out of sight during the instructional day. Administration is not responsible for the loss or theft of telecommunication devices or any device listed in the Student Code of Conduct in the possession of the student. Staff and administration are also not responsible for items that have been confiscated that are in violation of the Student Code of Conduct.

NOTE 2: Violation of student dress code (Offense #16) will require an immediate correction by the student, or he/she will be sent to the principal. The principal will place the child in ISS and

call the parent to have the violation changed. If the parent does not or cannot address the problem, the child will remain in ISS for the day.

Discipline Procedures

All District employees will follow the guidelines below unless campus principal approval is granted for an exception to policy.

1. First Offense - Verbal reprimand
2. Second Offense -Assign teacher or principal detention (See Note 2)
3. Third Offense - Contact parent and assign detention (See Note 2)
4. Fourth Offense -Submit discipline referral to administration (See Note 3)

NOTE 1: Teachers will document campus offenses by students assigned to their classes. Principals will document campus offenses by other students.

NOTE 2: Teachers may use other approved discipline management techniques in lieu of or in addition to detention. These are outlined elsewhere in the student code of conduct.

NOTE 3: Discipline referral will direct principal action to arrange a parent, student, teacher, and principal conference in person.

NOTE 4: For any students not known (not assigned) to a reporting teacher or staff, a discipline referral or campus approved form will be completed and/or the student will be escorted to the principal.

Moderate Offenses

Including, but not limited to the following:

1. Using profanity, lewd or vulgar language, or obscene gestures not directed at any specific person (See Note 1)
2. Making ethnic, racial, or religious slurs not directed at any specific person (See Note 1)
3. Lying about the conduct of other students to a District employee
4. Verbal abuse or derogatory or offensive remarks (disrespect) directed towards a District employee
5. Scholastic dishonesty, which includes but is not limited to, cheating on a test or any other assignment, plagiarism, or unauthorized collaboration with another person in preparing written work or any other assignment for which a grade is awarded.
6. Any misbehavior that a classroom teacher believes substantially disrupts the learning environment for the class period
7. Any misbehavior that school officials believe substantially disrupts the learning environment for the school program
8. Failure to follow staff, faculty, or paraprofessional directions after repeated requests/directives (defiance of authority)
9. Pushing, shoving, hitting, or other inappropriate physical contact with other students
10. Failure to report the commission of a serious offense by another student to a school official
11. Repeated violations of classroom, campus, or District policies and rules that resulted in a discipline referral
12. More than three tardies and/or trancies (all classes) in a single semester

NOTE 1: Students of all ages will be removed from the classroom for the remainder of the day and placed in ISS (first offense). Students of all ages will be placed in ISS 2-3 days (second offense). Students 10 years of age and older will be placed in DAEP (third offense); students 5 years of age and younger will again be suspended 1-3 days (third offense).

Discipline Procedures

All District principals will follow the minimum guidelines below unless the District Superintendent grants approval for an exception to policy.

1. First Offense - 1/2 to 1 hour school detention
2. Second Offense - 1 to 3 hours school detention
3. Third Offense – 1 day of ISS
4. Fourth Offense – 3 days of ISS or 3 days home suspension
5. Administrators will follow the disciplinary procedures for moderate offenses. (See Note 4)

NOTE 1: Principals will maintain student discipline documentation.

NOTE 2: Parents will be contacted by a school principal for each violation in the moderate offense category.

NOTE 3: Following investigation by a school principal, the reported offense could be dismissed (if found to be a mistake), or elevated to a higher category offense if warranted.

NOTE 4: Principals may use other District approved discipline management techniques in lieu of or in addition to detention (excluding oral correction) as outlined elsewhere in the student code of conduct.

Major Offenses

Including, but not limited to the following:

1. Bullying or harassment which include the following offenses:
 - Committing extortion, coercion, or blackmail (obtaining money or another object of value from an unwilling person), or forcing an individual to act through the use of force or threat of force
 - Making ethnic, racial, or religious slurs or any other harassment based on race, color, national origin, religion, or disability
 - Verbal abuse or derogatory or offensive remarks addressed to others
 - Damaging or vandalizing property of other students
 - Conduct that constitutes sexual harassment or sexual abuse whether the conduct is by word, gesture, or any other sexual conducts including, without limit, requests for sexual favors
2. Using profanity, lewd or vulgar language, or obscene gestures directed towards another student or District employee (See Note 3 and 4)
3. Lying or making false accusations about a District employee
4. Stealing property, whether belonging to another student, employee, or the school district
5. Committing or assisting in a robbery, theft, or burglary
6. Conveying a threat directed towards another student or District employee (See Note 5)
7. Possession or use of any instrument, including but not limited to, any weapon, knife, or gun which does not fit the Texas Penal Code definition (examples: pocket knife and fake

- gun), fireworks, ammunition, taser, stun gun, or similar device, and instruments of martial arts that might reasonably cause bodily harm, but have not been used as a threat to inflict bodily harm (See Note 5)
8. Any misbehavior that school officials believe will incite violence or significantly disrupt school
 9. Scuffling or other inappropriate or offensive physical contact with another student (See Note 3)
 10. Committing sexual acts which do not qualify as public lewdness or indecent exposure
 11. Possession or distribution of sexually explicit or sexually oriented material of any media (See Note 4)
 12. Possession, use, or distribution of matches, lighter, tobacco products or paraphernalia (See Note 5)
 13. Possession, use, distribution or selling of drug paraphernalia as defined by the Texas Controlled Substance Act (Article 4476-15) (See Note 5)
 14. Possession or use of substances or items portrayed as drugs or contraband
 15. Tampering, changing, or altering records or documents of the District by any method
 16. Damaging, destroying, or altering District computer hardware or software by any method
 17. Lying or committing forgery on school documents
 18. Gambling of any kind
 19. Disorderly conduct
 20. Gang activity
 21. Assault against a school employee not resulting in bodily injury (See Note 5)
 22. Hazing (See Note 5)
 23. Leaving school grounds or school-sponsored events without permission

Discipline Procedures

All District principals will follow the minimum guidelines below unless the District superintendent grants approval for an exception to policy.

1. First Offense - ISS, Suspension (1-3) days
2. Second Offense - Suspension (1-3) days - DAEP placement consideration

NOTE 1: Principals will maintain student discipline documentation.

NOTE 2: Parents will be contacted by a school principal for each violation of this major offense category.

NOTE 3: Student to Student. Students of all ages will be suspended 1-3 days. Students 10 years of age and older will be referred to DAEP. Students 5 years of age and younger will be suspended 1-3 days.

NOTE 4: Student to Staff. Students of all ages will be suspended 1-3 days. Students 10 years of age and older will be placed in DAEP.

NOTE 5: Students 10 years or older will be suspended 3 days then placed in DAEP.

Student Welfare: Freedom from bullying, FFI (LOCAL)

A safe and civil environment is needed for students to learn and attain high academic standards and to promote healthy human relationships. The purpose of this policy is to assist the District in its goal of preventing and responding to acts of bullying, intimidation violence, and other similar disruptive behavior. An act of bullying, by either an individual student or a group of students, is expressly prohibited on District property or at school-related functions. This policy applies not only to students who directly engage in an act of bullying but also to students who, by their indirect behavior, condone or support another student's act of bullying.

Dress Code: FNCA (LOCAL)

Students shall be dressed and groomed in a manner that is clean and neat and that will not be a health or safety hazard to themselves or others. The District prohibits any clothing or grooming that in the principal's judgment may reasonably be expected to cause disruption of or interference with normal school operations. The District prohibits pictures, emblems, or writings on clothing that:

1. Are lewd, offensive, vulgar, or obscene.
2. Advertise or depict tobacco products, alcoholic beverages, drugs, or any other substance prohibited under FNCF (LEGAL).

The students must comply with the general guidelines set out above and with the student dress code outlined in the student handbook.

General Conduct Violations

The categories of conduct below are prohibited at school, in vehicles owned or operated by the district, and at all school-related activities, but the list does not include the most severe offenses. In the subsequent sections on Out-of-School Suspension, DAEP Placement, Placement and/or Expulsion for Certain Offenses, and Expulsion, certain offenses that require or permit specific consequences are listed. Any offense, however, may be severe 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 district vehicles.
- 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, harassment, or making hit lists. (See glossary for all three terms.)
- Engage in conduct that constitutes sexual or gender-based 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;

An air gun or BB gun;

Ammunition;

A stun gun;

A pocketknife or any other small knife;

Mace or pepper spray;

Pornographic material;

Tobacco products, including electronic cigarettes;

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 on school property during the school day.

Disciplinary Alternative Education Program

General DAEP Information

What is a DAEP?

The District operates a Disciplinary Alternative Education Program (DAEP) for students who have committed serious offenses or persistent misbehavior. The DAEP:

1. is in a setting other than the student's regular classroom;
2. is located off a regular school campus;
3. separates students in the DAEP from students in the regular program or in another disciplinary setting in the same building as the DAEP;
4. separates elementary school students assigned to DAEP from secondary school students assigned to DAEP;
5. focuses on English language arts, mathematics, science, history, and self-discipline;
6. provides for students' educational and behavioral needs;
7. provides supervision and counseling;
8. employs only teachers who are fully certified; and

No student who has engaged in behavior warranting a DAEP assignment will be placed in an unsupervised setting, other than an out-of-school suspension pending the DAEP conference.

Where is the DAEP? Will it operate during the school day? Is transportation provided?

SMISD's disciplinary alternative education program is located at Student Alternative Program Inc., 813 East Pike St. Weslaco, TX 78596 and operates between the hours of 7:30 a.m. and 2:30 p.m. District transportation is provided. Failure to attend the DAEP is a violation of compulsory attendance laws, and students and parents may be prosecuted for failure to attend while assigned.

What kinds of courses are taught at the DAEP?

Instruction in the DAEP will focus on English language arts, mathematics, science, history, and self-discipline. The District is not required to provide electives, foreign languages, or honors or advanced courses of any kind at the DAEP.

The District will provide an opportunity for students who have been placed in the DAEP to complete a foundation curriculum course in which the student was enrolled at the time of removal before the beginning of the next school year, if the term of the student's placement is such that the student is not able to continue enrollment in all his or her courses. The opportunity to complete coursework will be provided through any method available, which may include summer school, distance learning, or correspondence courses. The District will not assess any charge for the student to complete a course under this provision.

TERM OF PLACEMENT: Students are assigned to DAEP with a written removal order stating a specific term of placement that is the number of successful school days that must be served. Students will be credited with a "successful day" of DAEP assignment if the student is present, completes all assigned work, follows all rules of the DAEP, and engages in no additional violations of the Student Code of Conduct. The length of all DAEP assignments is at the discretion of the administration, within the guidelines stated below.

What are the guidelines for the term of DAEP placement?

A removal to DAEP may be for as brief a time as three school days up to thirty days from the date. The administrator issuing the removal order will use his or her best professional judgment,

taking into account the factors considered in all disciplinary actions, in setting the term of a DAEP placement.

Ordinarily a DAEP assignment will not extend beyond the end of a school year. However, if the administrator making the placement determines: 1) that the student's presence in the regular classroom or at the student's regular campus poses a danger of physical harm to the student or another individual; or 2) the student has engaged in serious or persistent misbehavior that violates the District's Student Code of Conduct, then the assignment may be continued to the next school year. Serious offenses occurring during the last grading period of the school year will generally extend into the next school year.

The DAEP administrator may extend the original term of removal based on new violations that occur while the student is assigned to the DAEP, including violation of DAEP rules, by following the procedures for initial DAEP placement, i.e., a conference with student and parents.

Are some offenses subject to a different length of assignment?

Yes. A student who has received punishment through the criminal or juvenile justice system for sexually assaulting another student, regardless of whether the conduct occurred on or off school property, and who cannot be assigned to a campus other than a campus where the victim of the assault is assigned may be assigned to the DAEP for so long as both students are enrolled in the District.

SCHOOL- RELATED ACTIVITIES: Students assigned to a DAEP may not attend or participate in extracurricular activities during the term of their assignment. Students are not allowed to be on SMISD property during the DAEP assignment.

STUDENTS YOUNGER THAN TEN: Students younger than ten who commit an expellable offense will be placed in a disciplinary alternative education program for elementary age students.

STUDENTS YOUNGER THAN SIX: Students younger than six will not be placed in a disciplinary alternative education program for any reason other than bringing a firearm to school.

EFFECT OF WITHDRAWAL: Withdrawing a student from school does not affect the District's authority to schedule and conduct a conference on the conduct and enter an order of removal, regardless of whether the student or parent is present to participate. The order of removal will be included with the records sent to any transferring school, including another public school, a campus charter program, or an open-enrollment charter school, and that District or school will be empowered to exercise its authority to honor the removal. Furthermore, even if we do not complete the removal process and issue a removal order, we will send disciplinary records to the next school, and that school has the authority to complete the removal process and issue a removal order.

Students who transfer out of this District to another public or private school, including students who withdraw from this District for the purpose of home schooling, and students who do not attend SMISD's disciplinary alternative education program for the duration of the placement for any reason (other than reasons which constitute an "excused absence" under District policy), will be required upon return to this District to complete the number of days missed in the disciplinary alternative education program before being allowed to return to the regular campus, unless their records indicate that the term of removal was served in another school District or charter school.

EFFECT OF TRANSFER INTO DISTRICT: If a student transfers into this District from another school District in which the student was placed in a disciplinary alternative education

program, SMISD will continue the DAEP placement under the terms of the order provided by the sending school District.

If a student transfers into this District from an open-enrollment charter school or from another state and the District receives a copy of the removal order in the records from the other school, the District will enforce the terms of that removal order, provided the grounds for removal to DAEP in the charter school or other state are grounds for removal in the District.

GRADUATING SENIORS IN THE DAEP: If a student is placed in the DAEP during the 12th grade the District may allow the student to participate in the graduation ceremonies. All prerequisites for graduation have to be met and must successfully complete all of the days that the student was placed for in the DAEP. If the student in question has unexcused absences or has not completed his or her days in the DAEP for any other reason, such as withdrawal or transfer to another school District, the student will not be allowed to participate in graduation ceremonies. Furthermore, senior students initially assigned to the DAEP during the final grading period of the school year generally will not be permitted to participate in graduation ceremonies or activities. Any decision concerning participation in graduation ceremonies will be made by the student's home campus principal, whose decision is final.

Conduct That Warrants DAEP Placement

DEFINITIONS: Definitions of offenses and other key terms are found in the Definition section of the Code, beginning on page 36.

SCHOOL-RELATED CONDUCT: The campus principal or other appropriate administrator will place a student in DAEP if the student:

- makes a false report of bombing, fire, or other emergency involving a public school, regardless of when the false report is made or the place from which the false report is made
- makes a terroristic threat involving a public school, regardless of when the threat is made or the place from which the threat is made.

The campus principal or other appropriate administrator will place a student in DAEP if the student commits 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:

Conduct punishable as a felony

- distribution of any substance represented to be an illegal drug, a dangerous drug, or a controlled substance
- placing graffiti on any tangible property owned by the District
- harassment of a public servant, i.e., causing an employee to be in contact with the blood, bodily fluids, saliva, urine, or feces of any person or animal with the intent to assault, harass, or alarm
- online harassment

Assault resulting in bodily injury

Offenses relating to marijuana, controlled substances, and dangerous drugs

Offenses relating to alcohol

Offenses relating to abusable volatile chemicals

Indecent exposure

Public lewdness

Retaliation against a school employee, regardless of where the conduct takes place

Serious or persistent misbehavior, subject to administrative discretion and the guidelines on pp 7-12.

A student who is charged with an offense warranting expulsion will be suspended for three days and then placed in the DAEP pending the expulsion hearing.

"What is "serious offense" or "persistent misbehavior"?"

"Serious offense" includes the following offenses, which will always result in DAEP placement:

Conduct punishable as a felony, which includes without limitation:

- distribution of any substance represented to be an illegal drug, a dangerous drug, or a controlled substance
- placing graffiti on any tangible property owned by the District
- harassment of a public servant, i.e., causing an employee to be in contact with the

blood, bodily fluids, saliva, urine, or feces of any person or animal with the intent to assault, harass, or alarm

- online harassment

Assault resulting in bodily injury

Making a false report of bombing, fire, or other emergency involving a public school, which includes the following offenses:

- pulling a fire alarm or discharging a fire extinguisher in a building owned or operated by the District when there is no smoke, fire, or danger that requires evacuation
- calling 9-1-1 when no emergency exists

Terroristic threat involving a public school

Offenses relating to marijuana, controlled substances and dangerous drugs

Offenses relating to alcohol

Offenses relating to abusable glue, volatile chemicals and aerosol paint

Indecent exposure

Public lewdness

Retaliation against a school employee, regardless of where the conduct takes place

Persistent misbehavior consists of two or more separate violations of the Student Code of Conduct in general or repeated violations of the same offense.

DAEP PLACEMENT CONSIDERATION - Students who violate the student code of conduct will be considered for DAEP placement for the following combination of violations of Student Code of Conduct:

Any combination of 10 minor and moderate offenses (not to exceed 4 moderate offenses)

4 moderate offenses

2 major offenses

1 serious offense or persistent misbehavior

10 days of ISS placement

CONDUCT UNRELATED TO SCHOOL - TITLE 5 OFFENSES: A student will be removed from class and placed in a disciplinary alternative education program based on off-campus criminal conduct punishable as a felony under Title 5, Texas Penal Code. See the chart in the Definitions for a list of these offenses. However, if more than a year passes from the date of the off-campus criminal offense to the time that a school administrator learns of the offense, the administrator is not required to place the student in the DAEP.

CONDUCT UNRELATED TO SCHOOL - NON-TITLE 5 OFFENSES: A student will be removed from class and placed in an disciplinary alternative education program for off-campus criminal conduct punishable as a felony, other than offenses defined by Title 5, Texas Penal Code, if the administration determines that the student's continued presence in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process. However, if more than a year passes from the date of the off-campus criminal offense to the time that a school administrator learns of the offense, the administrator is not required to place the student in the DAEP.

RELATIONSHIP OF CRIMINAL OR JUVENILE JUSTICE SYSTEM AND THE SCHOOL DISTRICT:

The school District may place a student in the DAEP regardless of any action or lack of action taken by the criminal or juvenile justice system. However, in some circumstances, the District may reassess the punishment based on information from law enforcement authorities.

When will the school contact law enforcement about a student's conduct?

The principal or designee is required to notify the sheriff's department or the city police department if he or she has reasonable grounds to believe that a student or anyone else has engaged in certain criminal conduct on school property or at a school activity. Those activities include any conduct that would be an offense listed in Government Code § 508.149 (see Definitions); deadly conduct; a terroristic threat; drug, paraphernalia, or marijuana offenses; possession of a prohibited weapon; organized criminal activity; criminal conduct that would support mandatory expulsion. The District will contact law enforcement officials at any time the administrator determines that their presence will assist the District.

Does a student have to be arrested or convicted of a felony offense before the District can place the student in a DAEP?

No. A student may be removed from class and placed in a DAEP if the administration determines that the student committed an offense requiring DAEP assignment while he or she was under the school's jurisdiction. The District will send the required information about the removal to the juvenile authorities. When the assignment is necessary because of CONDUCT UNRELATED TO SCHOOL, the removal is based on the administrator's reasonable belief that the student has committed a felony offense. If the out-of-school offense is a non-Title 5 felony, before the student is placed in the DAEP, the administration must also determine that the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense in the Penal Code, the administrator may consider all information available, including information furnished by law enforcement.

What options does the school have if the student is found guilty of a Title 5 felony offense?

The administration must place the student in DAEP if the conviction, deferred prosecution, or determination of delinquency occurs during the school year while the student is enrolled in a District school and the student is not otherwise confined under the authority of the criminal or juvenile justice system. The administration also has the authority to expel the student to a JJAEP in which the District participates. See PERMISSIVE EXPULSION TO JJAEP OF STUDENTS WITH CRIMINAL HISTORIES in the Expulsion portion of the Code for more complete information.

What happens if the courts say the student did not commit the offense or the student is not prosecuted for other reasons?

If, after the placement, the administration receives notice from an appropriate law enforcement agency that the student was found not guilty of the felony offense and the case was dismissed with prejudice, or that the student was not prosecuted and no formal proceedings, deferred adjudication, or deferred prosecution was initiated, the administration will review the student's placement in the DAEP. The student will remain in the DAEP pending the review, which will take place within three class days of the administration's receiving the notice. The parents or guardian will be provided an opportunity for input. However, if after the review the administration believes that the presence of the student in the regular classroom threatens the safety of other students or teachers, the administration may continue the student's placement in the DAEP.

This review is not necessary if the reason for the removal is an offense that must result in DAEP placement because (1) it is a false report or terroristic threat or (2) the conduct occurred on or within 300 feet of school property or at any school-related activity or event, regardless of time or place. The student will ordinarily remain in the DAEP until the term of removal has been completed, regardless of additional information from an appropriate law enforcement agency.

If the student is not being prosecuted for the out-of-school offense, but the school wants to continue the DAEP placement, what rights of appeal does the student have?

The student or the parent or guardian may appeal the decision of the administration to continue the student's placement in the DAEP to the MISD Board of Trustees. The appeal will be heard at the next regularly scheduled board meeting, where the board will review the notice letter from law enforcement and receive information from the administration and the student or the student's parent or guardian. The decision of the Board of Trustees is appealable to the Commissioner of Education. The student remains in the DAEP pending all appeals.

JUVENILE COURT-ORDERED PLACEMENT IN DAEP: The juvenile court may order a student to attend the District's DAEP as a condition of probation, regardless of whether the school District has a basis for imposing discipline on the student. When the juvenile court orders a student to attend the DAEP as a condition of probation, the District, after receiving a copy of the order, will immediately transfer the student to the DAEP for the period of time designated by the court. However, state law prohibits the juvenile court from ordering a student who has been expelled from the District to attend the DAEP.

OTHER COURT-ORDERED PLACEMENT IN DAEP: When the District receives a copy of an order from a justice or municipal court indicating that a student must attend the DAEP as a condition of a term of probation under Code of Criminal Procedure 45.051, the principal or other administrator will hold a conference as described in Procedures for Removal to an DAEP and determine whether the student should be assigned to the DAEP or should remain in the regular school setting. The principal or other administrator will consider the nature of the misdemeanor offense resulting in the order in making this determination.

PLACEMENT OF STUDENTS WHO ARE REGISTERED SEX OFFENDERS: A student who is currently required to register as a sex offender may be removed from the regular classroom and placed in another setting according to the requirements of state law.

A student who is a registered sex offender under any form of court supervision must be placed in the DAEP or a JJAEP in which the District participates, in accordance with the District's agreement with the juvenile board or in accordance with a court order, for at least one semester. If a student who is a registered sex offender under court supervision moves or transfers into the District, the District may require the student to complete an additional semester in the appropriate alternative setting without conducting a review or it may count any time the student has been in an alternative setting toward the mandatory one semester assignment.

A student who is a registered sex offender and who is not under any form of court supervision may be placed in the DAEP or a JJAEP in which the District participates, in accordance with the District's agreement with the juvenile board or in accordance with a court order, for at least one semester or in the regular classroom. However, the District may not place a student in the regular classroom if District officials determine that 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.

At the end of the first semester of placement in an appropriate alternative setting, the District

shall convene a committee to review the student's placement. The committee will be composed of a teacher from the student's home campus, the student's parole, probation, or juvenile probation officer, an instructor from the alternative setting, the principal of the home campus or other person designated by the District, and a District counselor. The committee by majority vote will determine a recommendation to be made to the superintendent or designee regarding whether the student should continue placement in the alternative setting or be returned to the regular campus.

The superintendent or designee shall follow the committee's recommendation on placement unless the superintendent or designee determines that the student's presence in the regular classroom (1) threatens the safety of other teachers and students, (2) will be detrimental to the educational process, or (3) is not in the best interest of the District's students. If the superintendent or designee determines that the student should remain in the alternative setting, then before the beginning of the next school year, and any additional school years, the District must convene the committee to review and determine the student's placement, using the same standards set out in this paragraph.

A student who is a registered sex offender not under court supervision who moves or transfers into the District will be placed in the regular classroom or an appropriate alternative setting using the committee recommendation and review process described above.

The student or parent may appeal the District's decision regarding placement by asking for a conference among the superintendent or designee, the parent, and the student. The conference is limited to the factual question of whether the student is or is not a registered sex offender. If the District determines that the student is a registered sex offender, then student will be placed as described above, and that decision is final and cannot be appealed.

An ARD committee will make decisions about placement of a student with disabilities who is a registered sex offender.

Procedures for Removal to DAEP

Will the student have a chance to dispute the allegations?

Before a student is placed in a disciplinary alternative education program, the principal or other administrator will tell the student briefly why he or she is being removed to that program and explain that the student will have an opportunity to give his or her version of events at a conference to be scheduled and held within three class days. In most circumstances, the student will be suspended pending the placement conference.

Will parents have an opportunity to provide input?

Within three class days after the date the student is charged with the offense, the principal or other administrator will contact the parent by telephone or in writing to schedule and hold a conference with the student, the teacher who removed the student from class (if any), and the parents and will make efforts to ensure that all invited parties can attend.

What if the parent cannot attend the conference?

The District may proceed with the conference without the parents or student present, so long as the parents and student have been notified of the conference. Whether or not the parents attend the conference, the student will receive oral or written notice at the conference from the administrator of the reason(s) for the removal and the offense the student is charged with violating. The student will have an opportunity at that time to explain or respond to the reasons for removal. The student and parents will receive a written notice no later than two days after the conference memorializing the conference and stating the length of the removal to the DAEP, if applicable, and any conditions or other requirements related to the DAEP assignment, i.e., a written removal order.

What information will be provided to the juvenile authorities?

When a student is placed in the DAEP for a mandatory placement reason, a copy of the removal order, the child and parent's names and address, name and address of any witnesses, and a complete statement of the circumstances surrounding the conduct will be forwarded to the authorized officer of the juvenile court in the county in which the student resides.

Emergency Placement

A campus administrator or the superintendent may order a student immediately placed in a disciplinary alternative education program if his or her behavior is so unruly, disruptive, or abusive that it seriously interferes with school operations or activities. At the time the student is placed in DAEP under this emergency provision, the student will be told of the reason for the placement, which must be one of the District's reasons for DAEP placement under this Code.

Appeal of DAEP Placement

The student remains in the DAEP during all appeals.

The student or the student's parent or guardian may appeal the decision to place a student in the DAEP to the Superintendent. The request for appeal must be in writing and must be received by the Superintendent within five days of the date of the DAEP order. The Designee will schedule a conference with the student and the parent to be held within five days, after which a written decision will be issued. If the parent is dissatisfied with the decision of the Assistant Superintendent/Designee, the student or the student's parent may appeal the decision to the Board of Trustees. The request for appeal must be in writing and must be received by the Superintendent within seven days of the date of the Assistant Superintendent's decision. The appeal will be heard at the next regularly scheduled board meeting after the appeal

is received and for which proper notice can be posted. Any decision by the Board is final and may not be appealed.

Terms of Placement DAEP

First placement: 30 days or less

Second placement: 60 days or less if offense is not drug related

Third placement: JJAEP placement term no less than 90 days

Second placement: Drug related JJAEP placement for no less than 180 year

☐ Campus administration determines term of placement at DAEP within the terms listed above.
No DAEP placement can exceed 60 days.

Expulsion

STUDENTS YOUNGER THAN TEN: Students younger than ten who commit expellable offenses will be placed in a disciplinary alternative education program.

STUDENTS YOUNGER THAN SIX: Students younger than six will not be expelled or placed in an disciplinary alternative education program for any reason other than bringing a firearm to school.

Conduct that Warrants Expulsion

MANDATORY EXPULSION: A student will be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off school property:

1. Uses, possesses, or exhibits a firearm, an illegal knife or any knife prohibited by local policy, a club, or a prohibited weapon, unless pursuant to written regulations or written authorization of the District;
2. Commits aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, criminally negligent homicide, or continuous sexual abuse of a young child or children;
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of marijuana or a dangerous drug, if the conduct is punishable as a felony.
4. Sells, possesses, gives, or delivers to another person an alcoholic beverage, or commits a serious act or offense while under the influence of alcohol, or uses or is under the influence of an alcoholic beverage, if the conduct is punishable as a felony.

A student will also be expelled if he or she commits any offense listed in items 1-4 above against a District employee or volunteer in retaliation for or as a result of the person's employment or other work in the District, without regard to where the conduct occurs.

Definitions of the above offenses can be found in the Definitions section of the Code of Conduct.

DISCRETIONARY EXPULSION FOR CONDUCT ON OR IN PROXIMITY TO

SCHOOL: A student may be expelled, in the discretion of the administration in view of all the facts and circumstances, for any of the following offenses when they occur on or within 300 feet of school property, as measured from any point on the school's real property boundary line:

1. Drug, alcohol, or abusable volatile chemical offenses, regardless of the amount.
2. Assault resulting in bodily injury against a school employee or volunteer.
3. Deadly conduct.
4. Making a false alarm or report of bombing, fire, or other emergency involving a public school.
5. Making a terroristic threat involving a public school.
6. Committing any offense stated in item 1 and 2 under MANDATORY EXPULSION.
7. Committing a serious offense or engaging in persistent misconduct while assigned to the DAEP.

DISCRETIONARY EXPULSION FOR CONDUCT OUTSIDE OF SCHOOL: A student may be expelled, in the discretion of the administration in view of all the facts and circumstances, for any of the following offenses, regardless where they occur:

1. Intentionally or knowingly damaging personal property, including real estate and tangible personal property belonging to any public school or institution of higher education, and the amount of loss is greater than \$1,500.
2. Intentionally or knowingly damaging the property of any other person without the person's consent, and the amount of loss is greater than \$1,500.
3. Making a false report or alarm or a terroristic threat involving a public school.
4. Assaulting an employee or volunteer in retaliation for or because of the person's relationship with the school and the assault results in bodily injury.
5. Committing aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery against another student.
6. Committing any offense listed at item 1-4 under MANDATORY EXPULSION on the school property of another Texas school District or while attending a school-sponsored or school-related activity of another Texas school District.

DISCRETIONARY EXPULSION TO JJAEP OR DAEP FOR STUDENTS WITH CRIMINAL HISTORIES: Unless a student would be subject to mandatory expulsion, a student may be expelled and placed in a JJAEP in which the District participates or the DAEP if the student has any criminal history described as follows:

1. Received deferred adjudication under the Family Code for a Title 5 felony offense;
2. Been found to have engaged in delinquent conduct under the Family Code for a Title 5 felony offense;
3. Is charged with engaging in a Title 5 felony offense;
4. Has been referred to a juvenile court for allegedly engaging in a Title 5 felony offense;
5. Has received probation or deferred adjudication for a Title 5 felony offense;
6. Has been convicted of a Title 5 felony offense; or
7. Has been arrested for or charged with a Title 5 felony offense.

A student will be expelled and placed as indicated if the board or its designee determines, after the student has an opportunity for a hearing, that the student has a criminal history as described above and that 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 interests of the District's students. At the hearing, the issues shall be limited to the determination

whether or not the student has a criminal history, as described, and the District's determination as indicated.

The decision of the board or its designee is final and may not be appealed.

The student may be expelled and placed in a JJAEP in which the District participates or the DAEP regardless of the date on which the conduct occurred, the location at which the conduct occurred, whether the student was enrolled in the District at the time the conduct occurred, or whether the student has completed any court disposition requirements associated with the conduct.

A student expelled and placed under these circumstances is subject to that placement until one of the following occurs:

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

The term of placement continues to apply if the student transfers to another Texas school District.

The student will receive the periodic assessment and review during the expulsion and JJAEP or DAEP placement as described above for students assigned to the DAEP.

Procedures for Expulsion

Before a student is expelled, the student will have an opportunity for a due process hearing that will include the following:

1. At least three days' prior written notice of the charges and the proposed sanctions so as to afford a reasonable opportunity for preparation, including a written invitation to the student's parent or guardian to attend the expulsion hearing. The notice will also include the date, time, and location of the hearing and the names of adult witnesses who will present evidence at the hearing;
2. Right to a hearing before the Director of Safe Schools;
3. Opportunity to testify and to present evidence and witnesses in his or her defense; and
4. Opportunity to examine the evidence presented by the school administration and to question the administration's witnesses.

REPRESENTATIVE: At the hearing, the student is entitled to an adult representative or legal counsel who can provide guidance to the student and who is not an employee of the District. The District may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends, provided the District makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing.

EVIDENCE: In an expulsion hearing, the District may rely on the testimony of school administrators who investigate disciplinary infractions. This means that the school administration may present evidence or statements taken from students without revealing the identity of the student. The decision will be based exclusively on the evidence presented at the hearing. The student may be expelled based on the Assistant Superintendent's/Designee's reasonable belief that the evidence shows it is more likely than not that the student engaged in the conduct with which he or she was charged.

EXPULSION ORDER: The administration will deliver a copy of the order expelling the student to the student's parent or guardian, who is responsible for providing adequate supervision for the student during the period of expulsion.

In addition to notifying the parents, and not later than the second business day after the date an expulsion hearing is held, the administration will deliver a copy of the expulsion order to the authorized officer of the juvenile court in the county in which the student resides. The administration will also provide the child's and parent's names and address, names and addresses of any witnesses, and a complete statement of the circumstances surrounding the conduct to the juvenile board, as required by Family Code § 52.041.

GUIDELINES FOR TERM OF EXPULSION: An expulsion may be for as brief a time as one school day up to one full year from the date of the order. The administrator issuing the expulsion order will use his or her best professional judgment, taking into account the factors considered in all disciplinary actions, in setting a term of expulsion.

EFFECT OF WITHDRAWAL: Withdrawal from school does not affect the District's authority to schedule and conduct a hearing on the conduct and enter an order of expulsion, regardless of

whether the student or parent is present to participate. The order of expulsion will be included with the records transferred to the new school District, including another public school, a campus charter program, or an open-enrollment charter school, and that District will be empowered to exercise its authority to honor the expulsion. Furthermore, even if we do not complete the expulsion process and issue an expulsion order, we will send disciplinary records to the next school, and that school has the authority to complete the expulsion process and issue an expulsion order.

Students who transfer out of this District to another public or private school, including students who withdraw from the District for the purpose of home schooling, and students who do not attend the Juvenile Justice Alternative Education Program for the duration of the placement for any reason (other than reasons that constitute an "excused absence" under District policy), will be required upon return to the District, to complete the number of days missed in the JJAEP program before being allowed to return to the regular campus, unless the student's records indicate the student served the days of expulsion in another District.

EFFECT OF TRANSFER INTO DISTRICT: If a student transfers into this District from another school District in which the student was expelled, MISD may continue the expulsion under the terms of the order provided by the sending school District.

If a student transfers into this District from an open-enrollment charter school or from another state and the District receives a copy of the expulsion order in the records from the other school, the District may enforce the terms of that expulsion order, provided the grounds for expulsion in the open- enrollment charter school or other state are grounds for expulsion in the District.

If a student transfers into this District from another school District in which the student was placed in the juvenile justice alternative education program, this District shall continue the placement in the District's JJAEP.

EFFECT ON CREDITS: Expelled students will not receive credit for courses not completed because of an expulsion. Students may use correspondence courses or credit by examination, within the limits set by District policy, to earn graduation units. Students are responsible for all costs associated with correspondence courses or credit by examination.

GRADUATING SENIORS AND EXPULSION: When a student is expelled during the 12th grade, the District may allow that student to participate in graduation ceremonies, provided that all prerequisites for graduation are met. However, a senior student initially expelled during the final grading period of the school year generally shall not be permitted to participate in graduation ceremonies. Any decision concerning participation in graduation ceremonies will be made by the student's home campus principal, whose decision is final.

Appeal of Expulsion to Board of Trustees

A student will remain at DAEP pending the appeal.

A decision by the administration to expel a student will be appealed to the Board of Trustees. The request for appeal must be in writing and must be received by the Director of Safe Schools within 10 days of the date of order of expulsion. The appeal will be heard at the next regularly scheduled board meeting.

At the meeting, the Board will review the record made at the expulsion hearing and will provide the parent and/ or student with an opportunity to make a presentation to the Board. The administration may also be asked to speak. The Board may set reasonable time limitations for presentations. The Board has the final decision-making authority in JJAEP discretionary placements.

Summer School

Our summer school program is not part of the regular school year program. Some students voluntarily attend summer school to earn additional credits, to retake courses they did not pass in the regular school year, or to complete courses necessary for graduation that were incomplete because of the student's expulsion or placement in DAEP. Other students are required to attend summer school in order to receive intensive instruction in those subjects or areas where the student was not successful on the state assessment instruments.

During summer school, all students are expected to abide by the rules of conduct that are in place during the school year. We will handle minor, isolated violations of conduct expectations through parent conferences; however, students who commit serious offenses or who have persistent behavior problems while enrolled in summer school will be withdrawn from the program after a parent conference for DAEP removal or expelled after an expulsion hearing if the conduct warrants expulsion. When a student is withdrawn from summer school for conduct that would warrant DAEP removal or expulsion, the summer campus administrator may withdraw the student and defer the assessment of the term of removal or expulsion to be served during the following school year.

Definitions

ABUSABLE VOLATILE CHEMICAL OFFENSES

No student shall inhale, ingest, apply, use, or possess an abusable volatile chemical with intent to inhale, ingest, apply or use any of these in a manner:

1. Contrary to the directions for use, cautions, or warnings appearing on a label of a container of the chemical;
2. Designed to affect the central nervous system, create or induce a condition of intoxication, hallucination, or elation, or change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.

Health and Safety Code 485.031

No student shall knowingly deliver to a person younger than 18 an abusable volatile chemical that does not contain additive material III accordance with rules adopted by the Commissioner of Health.

Health and Safety Code 485.032

No student shall knowingly use or possess with intent to use inhalant paraphernalia to inhale, ingest, or otherwise introduce into the human body an abusable volatile chemical. No student shall knowingly deliver, sell, or possess with intent to deliver or sell inhalant paraphernalia knowing that that person who receives it intends to use it to inhale, ingest, apply, use, or otherwise introduce into the human body an abusable volatile chemical.

Health and Safety Code 485.033

AGGRAVATED ASSAULT

"Aggravated assault" is defined as causing serious bodily injury to another or using or exhibiting a deadly weapon during the commission of any assault.

Penal Code 22.02(a)

"Serious bodily injury" is defined as bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

"Deadly weapon" is defined as a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

Penal Code 1.07(46), (17)

AGGRAVATED KIDNAPPING

- a) A person commits an offense if he/she intentionally or knowingly abducts another person with the intent to:
 - 1) hold him/her for ransom or reward;
 - 2) use him/her as a shield or hostage;
 - 3) facilitate the commission of a felony or the flight after the attempt or commission of a felony;
 - 4) inflict bodily injury on him/her or violate or abuse him sexually;
 - 5) terrorize him/her or third person; or
 - 6) interfere with the performance of any governmental or political function.
- b) A person commits an offense if the person intentionally or knowingly abducts another person and uses or exhibits a deadly weapon during the commission of the offense.

Penal Code 20.04

AGGRAVATED ROBBERY

A person commits an offense if he/she commits robbery and he/she:

- a) causes serious bodily injury to another;
- b) uses or exhibits a weapon; or
- c) causes bodily injury to a person or threatens or places another person in fear of imminent bodily injury or death if the other person is 65 years of age or older or a disabled person, i.e., an individual with a mental, physical, or developmental disability who is substantially unable to protect himself from harm.

Penal Code 29.031

A person commits robbery if, in the course of committing theft as defined in Chapter 31 and with intent to obtain or maintain control of the property, he/she

- a) intentionally, knowingly, or recklessly causes bodily injury to another;
or
- b) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

Penal Code 29.02

AGGRAVATED SEXUAL ASSAULT

"Aggravated sexual assault" is defined as sexual assault (see page _53_) in which the actor:

1. Causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode;
or
2. By acts or words, places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person; or
3. By acts or words occurring in the presence of the victim, threatens to cause death, serious bodily injury, or kidnapping; or
4. Uses or exhibits a deadly weapon in the course of the same criminal episode; or
5. Acts in concert with another, who commits a sexual assault directed toward the same victim and occurs during the same criminal episode; or
6. Assaults a victim who is younger than 14 years of age or is 65 years of age or older.

Penal Code 22.021

ARSON

- a) A person commits an offense if the person starts a fire, regardless of whether the fire continues after ignition, or causes an explosion with intent to destroy or damage:
 - 1) any vegetation, fence, or structure on open-space land; or
 - 2) any building, habitation, or vehicle:
 - a) knowing that it is within the limits of an incorporated city or town;
 - b) knowing that it is insured against damage or destruction
 - c) knowing that it is subject to a mortgage or other security interest;
 - d) knowing that it is located on property belonging to another;
 - e) knowing that it has located within it property belonging to another; or
 - f) when he is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.
- a-2) A person commits an offense if the person intentionally starts a fire or causes an explosion and in so doing:
 - 1) recklessly damages or destroys a building belonging to another;
or
 - 2) recklessly causes another person to suffer bodily injury or death.
- b) It is an exception to the application of Subsection (a) (1) that the fire or explosion was a part of the controlled burning of open-spaced land.

Penal Code 28.02

ASSAULT

Assault is defined as:

1. Intentionally, knowingly, or recklessly causing bodily injury to another. Penal Code

22.01(a)(1)

2. Intentionally or knowingly threatening another with imminent bodily injury. Penal Code 22.01(a)(2)
3. Intentionally or knowingly causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. Penal Code 22.01(a)(3);

"Bodily injury" is defined as physical pain, illness, or any impairment of physical condition.

Penal Code 1.07(8)

BULLYING

Engaging in written or verbal expression or physical conduct that the administration determines:

1. will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to student's person or of damage to the student's property; or
2. is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

Education Code 25.0341 (a)

CONDUCT UNDER TEXAS. GOV'T CODE § 508.149 (A)

1. murder (first or second degree felony);
2. capital murder;
3. aggravated kidnapping (first or second degree felony);
4. harassment of a public servant;
5. sexual assault (felony);
6. aggravated assault (first or second degree felony);
7. aggravated sexual assault (first degree felony);

Illegal, Prescription, and Over-the-Counter Drugs

Students shall not:

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 district students, employees, or volunteers, including off school property if the conduct causes a substantial disruption to the educational environment.

Send, post, 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.

Use e-mail or Web sites 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.

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.

Transportation

Bus Offenses

Class I Offenses

General: Due to the inherent danger or risk to the safety and well-being of other passengers and the school bus driver, the following conduct is prohibited and the discipline procedures listed are to be implemented within the school District.

Including, but not limited to the following:

1. Excessively LOUD talking, shouting, or other noise
2. Excessive horseplay
3. Spitting, whether or not, directed at any person
4. Consuming food or beverages without permission
5. Standing or leaving seat while the bus is in motion
6. Possession or use of water guns, water balloons, other liquid propellant devices, or liquid containers (excluding a lunch thermos)
7. Use of profanity, lewd or vulgar language, or obscene gestures, whether directed at a person or undirected
8. Possession or distribution of sexually explicit material, sexually oriented material, or other material in violation of District policy
9. Possession/use of stereo headsets, CD players, cassette players, MP3 players, iPods, electronic games, or any other contraband entertainment device without teacher permission
10. Use of a paging device, cellular telephone, camera telephone, handheld computer or PDA, or a similar device without permission
11. Riding an unassigned bus, getting on or off the bus at an unassigned bus stop without permission
12. Other District policy violations as reported by the bus driver or as recorded on the Bus Safety Violation Report

Discipline Procedures

Campus principals will determine appropriate consequences for student violations of the bus policy. Principals will use District guidelines established for ALL students as outlined in the previous "prohibited conduct" pages. However, the following additional student consequences will be used in determining the student's transportation eligibility. Campus principals will maintain documentation. The following policy is contingent on a referral from transportation for violation of the same offense. A bus driver may refer a student to the principal's office to maintain effective discipline on the bus. The principal must employ additional discipline management techniques, as appropriate, which can include restricting or revoking a student's bus riding privileges.

Students: Pre-K through 5th Grade

1. First Offense - Verbal reprimand
2. Second Offense - Bus Suspension (1 to 5 days)
3. Third Offense - Bus Suspension (5 to 10 days)
4. Fourth Offense - Loss of Bus Service (School Year)

Students: 6th through 12th Grades

1. First Offense - Bus Suspension (1 to 5 days)
2. Second Offense - Bus Suspension (5 to 10 days)
3. Third Offense - Bus Suspension (10 to 30 days) Loss of bus service consideration
4. Fourth Offense - Loss of bus service (School year)

NOTE 1: Parent/guardian will be contacted for each incident.

NOTE 2: Principals may assess more severe consequences than those stated above, if the offense justifies a harsher bus consequence.

Class II Offenses

Including, but not limited to the following:

1. Hanging any part of the body or head out of an open window
2. Throwing, spitting, or launching any object
3. Possession, use, selling, giving, or delivering any tobacco product, alcoholic beverage, controlled substance, or dangerous or illegal drug including marijuana
4. Possession or use of matches, lighters, fireworks, or any flammable substance
5. Pushing, shoving, scuffling, fighting, or any other inappropriate physical contact with another person(s)
6. Willful damage or vandalism to the property of other students, District employees, the school District, or the bus itself
7. Holding onto or attempting to hold onto any portion of the exterior of the bus
8. Unauthorized entering or exiting the bus through an emergency door without permission
9. Tampering with bus equipment
10. Any offense not explicitly stated in the prohibited conduct (bus policy) that would constitute a bus safety violation
11. Other offenses as reported by the bus driver or as recorded on the Bus Safety Violation Report that would not be a Class I offense

Discipline Procedures

Campus principals will determine appropriate consequences for student violations of the bus policy. Principals will use District guidelines established for ALL students as outlined in the previous "prohibited conduct" pages. However, the following additional consequences will be considered in regards to riding the bus. Campus principals will maintain documentation. The following policy is contingent on a referral from transportation for violation of the same offense.

Students: Pre- K through 5th Grade

1. First Offense -Bus Suspension (1 to 5 days)
2. Second Offense -Bus Suspension (5 to 10 days)
3. Third Offense - Loss of bus service (School year)

Students: 6th through 12th Grades

1. First Offense - Bus Suspension (5 to 10 days)
2. Second Offense - Bus Suspension (10 to 30 days) Loss of bus service consideration
3. Third Offense - Loss of bus service (School year)

NOTE 1: Parent/guardian will be contacted for each incident.

NOTE 2: Any student violation occurring on a District school bus that would be a "serious offense" or higher under the student code of conduct will result in loss of bus service for the school year.

NOTE 3: The District will actively seek financial restitution for any student violation that results in damage or vandalism to a District school bus.

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. Discipline shall be correlated to 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.

Because of these factors, discipline for a particular offense, including misconduct in a district vehicle owned or operated by the district, unless otherwise specified by law, may bring into consideration varying techniques and responses.

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

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, state and/or federal law shall prevail.

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, 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 "time-out."

- Seating changes within the classroom or vehicles owned or operated by the district.

- Temporary confiscation of items that disrupt the educational process.

- Rewards or demerits.

- Behavioral contracts.

- Counseling by teachers, school counselors, or administrative personnel.

- Parent-teacher conferences.

Grade reductions for cheating, plagiarism, and as otherwise permitted by policy.

Detention, including outside regular school hours.

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.

Restriction or revocation of district transportation privileges.

School-assessed and school-administered probation.

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 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.

The Board prohibits the use of corporal punishment in the District.

Notification

The principal or appropriate administrator shall notify a student's parent by phone or in writing of any violation that may result in a detention outside of regular school hours, out-of-school suspension, placement in a DAEP, or expulsion. Notification will be made within three school days after 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: www2.smisd.net.

Consequences shall not be deferred pending the outcome of a grievance.

Formal Removal from Class by Teacher

What is the difference between being sent to the office and formal teacher removal? Students may be sent to the principal's office for committing minor classroom infractions. However, a student who has been documented to repeatedly interfere with a teacher's ability to communicate effectively with the students in the class or with the ability of the students to learn, or who behaves in a manner the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students or with the ability of other students to learn will be formally removed from the teacher's classroom.

What is the process for formally removing a student from a teacher's classroom? Within three days of the removal, a conference will be held between the principal or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, and the student. Pending the conference, the principal may place the student in another appropriate classroom, in-school suspension, or a disciplinary alternative education program. Following the conference, the principal will order the placement of the student. The principal will not return the student to the teacher's class without that teacher's consent, unless the Placement Review Committee determines that such placement is the best or only alternative.

Are there any special limitations associated with formal teacher removal?

If a teacher removes a student from class because the student committed any kind of assault against the teacher, the student may not be returned to the teacher's class without the teacher's consent.

In-School Suspension

For minor infractions of the Student Code of Conduct or campus or classroom rules administrators may assign a student to one or more days of in-school suspension where students will complete assignments given them by their regular teachers. Both the length of the assignment and restrictions on participation in school-sponsored or school-related extracurricular activities during the suspension are left to the discretion of the campus administrator.

ISS classrooms allow students to participate in the District's curriculum. Special education students are able to obtain services described in their IEP and continue to participate with non-disabled peers to the same extent they would in their current placement. IEPs and BIPs will be provided to the ISS staff. Special Education students will be released from ISS to receive resource class support and/or other related services. The ISS classroom is staffed with a general education teacher. Special Education and other general education teachers will visit the classroom on a daily basis. Current assignments will be provided to the ISS classroom by the student's teachers.

Detention

For minor infractions of the Student Code of Conduct or campus or classroom rules, teachers or administrators may detain students after school hours or during lunch on one or more days. When detention is used, notice shall first be given to the student's parent to inform him or her of the reason for the detention and permit arrangements for the necessary transportation of the student.

Suspension

When and for how long will a student be suspended?

The principal or other appropriate administrator may suspend a student for a maximum of three school days at a time if the student violates the Code of Conduct by engaging in any prohibited conduct. Both the length of the suspension and restrictions on participation in school-sponsored or school-related extracurricular activities during the suspension are left to the discretion of the campus administrator.

How many times can a student be suspended?

Neither state law nor this Code of Conduct imposes a limit on the number of times a student may be suspended during a semester or school year.

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.

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.

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.

The appropriate administrator shall determine any restrictions on participation in school-sponsored or school-related extracurricular and cocurricular activities.

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.

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:

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.

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 involving injury to a person in Title 5 (see glossary) of the Texas 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 Texas 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. (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.

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 Texas Penal Code when the conduct occurs off school property and not at a school-sponsored or school-related event and:

1. The student receives deferred prosecution (see glossary),
2. A court or jury finds that the student has engaged in delinquent conduct (see glossary), or

3. 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.

Emergencies

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

Process

Removals to a DAEP shall be made by the by the campus principal or designee.

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.

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 a foundation curriculum course in which the student was enrolled at the time of removal and which is required for graduation, at no cost to the student. The notice shall include information regarding all methods available for completing the coursework.

Length of Placement

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

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.

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 designee must determine that:

1. The student's presence in the regular classroom or campus presents a danger of physical harm to the student or others, or
2. The student has engaged in 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 Principal or designee in accordance with policy FOC(LEGAL).

Student or parent appeals regarding the process used for the placement decision, such as issues related to the administrator's handling of the conference or proper notice being provided, should be addressed in accordance with policy FNG(LOCAL). 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: www2.smisd.net.

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

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

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 placement in the program shall continue through graduation, and the student shall not be allowed to participate in the graduation ceremony and related graduation activities.

Placement Review

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

Additional Misconduct

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

Notice of Criminal Proceedings

The office of the prosecuting attorney shall notify the district if a student was placed in a DAEP for certain offenses including any felony, unlawful restraint, indecent exposure, assault, deadly

conduct, terroristic threats, organized crime, certain drug offenses, or possession of a weapon, and:

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.

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.

Emergency Placement Procedure

When an emergency placement occurs, 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 Offenses

This section includes two categories of 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 administration 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 Texas 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.

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 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.

Discretionary Expulsion: Misconduct That May Result in Expulsion

Any Location

A student **may** be expelled for:

Engaging in the following, no matter where it takes place:

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. (See glossary for "under the influence.")

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. (See glossary.)

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.

Use, exhibition, or possession of a firearm (as defined by state law), an illegal knife, a club, or prohibited weapon, or 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 documented serious misbehavior that violates the district's Code, despite documented behavioral interventions while placed in a DAEP. For purposes of discretionary expulsion from a DAEP, 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; or
- e. Harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

Mandatory Expulsion: Misconduct That Requires Expulsion

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

Under Federal Law

Bringing to school a firearm, as defined by federal law. “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 Texas Penal Code

Using, exhibiting, 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 5 ½ inches; hand instrument, designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; or spear.

A club (see glossary) such as an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk.

A prohibited weapon, such as an explosive weapon, a machine gun, a short-barrel firearm, a firearm silencer, 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 witnesses called by the district at the hearing.

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 hearing shall be conducted by the board of trustees and the decision to expel shall be made by the board.

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 will 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

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 or designee shall deliver to the juvenile court a copy of the expulsion order and the information required by Section 52.04 of the Family Code.

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 correlated to the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, the student's attitude, and statutory requirements.

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.*Expulsion*

State and federal law require a student to be expelled from the regular classroom for a period of at least one calendar year for bringing a firearm, as defined by federal law, to school. However, the superintendent may modify the length of the expulsion on a case-by-case basis.

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 reenrolls in the district during the same or subsequent school year, the district may enforce the expulsion order at that time, less any expulsion period that has been served by the student during enrollment in another district.

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.

The district shall decide on a case-by-case basis the placement of a student who is subject to an expulsion order from another district or an open-enrollment charter school upon enrollment in the district. 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 occurs, 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.

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 Texas 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 handgun ammunition used in pistols and revolvers and designed primarily for the purpose of penetrating metal or body armor.

Arson is:

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 Texas Penal Code 22.01(a)(1) as intentionally, knowingly, or recklessly causing bodily injury to another; §22.01(a)(2) as intentionally or knowingly causing physical contact with another that can reasonably be regarded as offensive or provocative.

Bullying is when a student or group of students engages in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a

school-sponsored or school-related activity, or in a vehicle operated by the district and a school district's board of trustees or the board's designee determines that the behavior:

1. Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or
2. Is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

This conduct is considered bullying if it:

1. Exploits an imbalance of power between the student perpetrator who is engaging in bullying and the student victim through written or verbal expression or physical conduct; and
2. Interferes with a student's education or substantially disrupts the operation of a school.

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.

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 the use of any electronic communication device to engage in bullying or intimidation.

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 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 means any device designed, made, or adapted to muffle the report of a firearm.

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.

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.

Hazing is an intentional or reckless act, on or off campus, by one person alone or acting with others, that endangers the mental or physical health or safety of a student for the purpose of pledging, initiation into, affiliation with, holding office in, or maintaining membership in an organization.

Hit list is 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.

Knuckles 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.

Machine gun 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.

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.

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 excepted 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; or
 - e. Harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

Serious or persistent misbehavior includes but is not limited to:

Behavior that is grounds for permissible expulsion or mandatory DAEP placement.

Behavior identified by the district as grounds for discretionary DAEP placement.

Actions or demonstrations that substantially disrupt or materially interfere with school activities.

Refusal to attempt or complete school work as assigned.

Insubordination.

Profanity, vulgar language, or obscene gestures.

Leaving school grounds without permission.

Falsification of records, passes, or other school-related documents.

Refusal to accept discipline assigned by the teacher or principal.

Short-barrel firearm is 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.

Terroristic threat is 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 that involve injury to a person and include murder; kidnapping; assault; aggravated assault; sexual assault; aggravated sexual assault; unlawful restraint; indecency with a child; injury to a child, an elderly person, or a disabled person; abandoning or endangering a child; deadly conduct; terroristic threat; aiding a person to commit suicide; and tampering with a consumer product. [See FOC(EXHIBIT)]

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

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

Zip gun is 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.

Index

- admission, review, and dismissal (ARD)
 - committee, 20, 35, 47
- appeals process
 - board review of expulsion, 26
 - DAEP appeals, 19, 21, 44
 - discipline management techniques, 12
 - sex offender registry, 20, 47
- attendance, 2, 3, 13
- authority of the district, 2
- board of trustees, 1
- campus rules, 3-12
- cell phones. *See* electronic devices.
- cheating. *See* prohibited behavior.
- classroom rules, 3-12
- computers, 6, 31
 - abusive behavior, 21, 30, 37
 - breach of security, 31, 50
 - cyberbullying, 31
 - hacking/cracking, 31
 - illegal activity, 31
 - online impersonation, 31
 - threatening behavior, 31
 - vandalism, 31
 - See also* technology resources.
- confiscation of student property
 - confiscation of property. *See* discipline management techniques.
- corporal punishment. *See* discipline management techniques.
- counseling, 35
- courtesy, 3
- crimes
 - aggravated robbery, 4, 12, 22, 40, 48, 50-51
 - breach of security, 31, 50
 - criminal mischief, 2, 4, 12, 40, 50, 52
 - criminal proceedings and placement in DAEP, 19
 - felonies, 2, 4, 16-18, 23, 28, 30, 40, 41, 44, 48
 - reporting, 2
 - Title 5 offenses, 17, 18, 23, 40-41, 48
 - expulsion and placement, 18, 23 hearing and required findings, 23, 25, 28
 - length of placement, 48
 - newly enrolled students, 49
- delinquent conduct, 23, 41, 45, 48
- demonstrations, 32, 60
- detention. *See* discipline management techniques.
- disciplinary alternative education program (DAEP), 13
 - appeals. *See* appeals process.
 - coursework notice, 43
 - discretionary placement, 40
 - elementary school students, 40
 - emergency placement, 21, 46
 - extracurricular activities, 14
 - grade classification, 40
 - graduation, 15
 - length of placement, 43
 - mandatory placement, 41
 - 300 foot rule, 16, 41
 - notice of criminal proceedings, 44
 - placement review, 44
 - pre- and post-assessments, 43
 - process, 42
 - restrictions during placement, 44
 - summer programs, 27, 40
 - transportation, 13, 44
 - under age six, 53
 - under age ten, 53
- discipline management techniques, 35
 - alternative educational setting, 36, 47
 - appeals. *See* appeals process.
 - behavioral contracts, 35
 - bus privileges, 33
 - confiscation of property, 35
 - corporal punishment, 36
 - counseling, 35
 - criminal prosecution, 36
 - DAEP. *See* disciplinary alternative education program (DAEP).
 - demerits, 35
 - detention, 36
 - expulsion. *See* expulsion.
 - extracurricular organizations, 36
 - grade reductions, 36
 - in-school suspension, 36
 - loss of privileges, 36
 - notification, 36
 - out-of-school suspension, 36

- probation, 36
- referral. *See* routine referral.
- refusal to accept, 60
- rewards, 35
- school duties, 36
- students with disabilities, 35
- time-out, 35
- dress code, 10
- drugs, 31
 - marijuana, 16-18, 22, 31, 34, 41, 50, 53
 - over-the-counter, 31
 - paraphernalia, 9, 18, 27, 31
 - prescription, 31
 - under the influence, 22, 31, 41, 50-51, 53
- electronic devices, 12
- expulsion, 22, 50
 - 300 foot rule, 22, 50-51
 - additional misconduct, 55
 - and DAEP placement, 53, 56
 - emergency, 53
 - for serious misbehavior committed while in DAEP, 51
 - length, 54
 - mandatory, 52
 - newly enrolled students, 55
 - process, 53
 - restrictions, 55
 - under age six, 53
 - under age ten, 53
 - withdrawal during process, 55
- falsification of records, 32
- formal removal from class, 37
 - returning student to the classroom, 37
- fraternity, 40
- gangs, 4, 9, 40
- gender-based harassment, 11, *See also* prohibited behavior.
- graduation
 - participation, 15
 - participation, 26, 44
- inspections, 2
- jurisdiction of the district, 2
 - 300 foot rule, 2
- juvenile justice alternative education program (JJAEP), 25, 26, 34
- lunch period, 2, 18-19, 22-24, 26
- nonresident student, 2
- parent-teacher conferences, 35
- placement review committee, 37, 44
- plagiarism. *See* prohibited behavior:
 - cheating.
- posting
 - of the Student Code of Conduct, 1
- preparation for class, 3
- prohibited behavior, 4-9
 - 300 foot rule, 3, 16, 19, 22, 41, 50-51
 - alcohol, 22, 34, 41, 51, 53
 - assault, 9, 14, 16-17, 22-23, 28-29
 - at another district, 3
 - blackmail, 8, 11
 - bullying, 10, 30
 - cheating, 7, 36
 - coercion, 8, 11
 - cyberbullying, 31
 - dating violence, 11
 - deadly conduct, 44, 51
 - drugs, 16-17, 31
 - false accusations, 8, 32
 - false alarm, 4, 16-17, 19, 23, 41
 - fighting, 34
 - fire extinguishers discharged without cause, 17, 32
 - forgery. *See* falsification of records.
 - gambling, 9
 - gender-based harassment, 11
 - graffiti, 12, 16
 - harassment, 16-17, 30, 52
 - hazing, 9, 11, 52
 - hit lists, 11, 35
 - hoaxes, 32
 - inappropriate conduct, 5, 7, 9, 11, 34
 - inciting violence, 9, 32
 - indecent exposure, 9, 16-17, 41, 44, 51
 - insubordination, 11
 - leaving school grounds, 9
 - misuse of technology resources, 31
 - on school buses, 33-34
 - online impersonation, 31
 - profanity, 7-8, 11, 33
 - recording without consent, 11
 - repeated offenses, 7, 17, 32
 - robbery, 8, 12, 28

- sexting, 31
- sexual abuse, 8, 11, 22, 28, 42, 51
- sexual assault, 22-23, 29, 42, 50
- sexual harassment, 8, 11, 16-17, 35, 52
- stealing, 6
- terroristic threat, 16-19, 23, 41
- theft, 6
- throwing objects, 5-6, 34
- under the influence, 22, 31, 41, 50, 51, 53
- vandalism, 34
- volatile chemicals, 16-17, 41, 51
- prohibited items
 - air guns, 12
 - alcohol, 22, 23, 31
 - ammunition, 12
 - clubs, 36, 44
 - drugs, 9, 31
 - firearms, 41
 - fireworks, 9, 12
 - knives, 8, 12
 - lighters, 12
 - mace, 12
 - matches, 12
 - other dangerous items, 12
 - other weapons, 12
 - pepper spray, 12
 - pornography, 12
 - stun guns, 12
 - tire deflation device, 52
 - tobacco, 9
- property, 2
- protests. *See* demonstrations.
- removal from the regular educational setting, 32
- respect, 3
- retaliation, 2-3, 16-17, 22-23, 41, 50
- routine referral, 5-7
- safety, 3, 5-6
- searches
 - desks, 2
 - lockers, 2
 - vehicles, 2
- secret society, 40
- self-defense, 50
- self-discipline, 13
- serious misbehavior, 51
- sex offender, 2, 19-20, 47
 - appeal of placement as a registered sex offender, 20
 - newly enrolled student, 47
- sexual abuse, 8, *See also* prohibited behavior.
- sexual harassment, 8, *See also* prohibited behavior.
- smart phones. *See* electronic devices.
- sorority, 40
- special education, 4, 35, 38, 47
- standards for student conduct, 3, 10
- student handbook
 - conflict with Student Code of Conduct, 1, 35
- students with disabilities, 4, 35
 - discipline management techniques, 35
 - transportation while in DAEP, 44
- suspension
 - in-school. *See* discipline management techniques.
 - out-of-school, 2, 11, 13, 36, 39
 - technology resources
 - district policy, 31
 - See also* computers.
- telecommunications devices. *See* electronic devices.
- time-out. *See* discipline management techniques.
- Title 5 offenses. *See* crimes.
- transfers
 - campus assignments, 42
 - revoked, 2, 35
- transportation, 2
 - discipline management techniques, 35
 - rules for conduct, 11
 - while in DAEP, 13