

# Wimberley Independent School District



# Wimberley ISD

*Strength. Innovation. Excellence.*

**2019-2020**

**Wimberley Student Code of Conduct**

# 2019-2020

## Wimberley Student Code of Conduct

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**Wimberley Independent School District**  
**STUDENT CODE OF CONDUCT**  
**Grades K - 12**

**Accessibility**

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**The Purpose of the Student Code of Conduct**

The Wimberley Independent School District Student Code of Conduct communicates the expectations of the WISD Board of Trustees, administrators, and staff regarding student behavior; identifies a range of disciplinary management techniques that may be used to address misconduct of WISD students; and delineates the misconduct outlined in Chapter 37 of the Texas Education Code that carries specific disciplinary consequences and procedures for implementation of such discipline under laws of the United States and the State of Texas.

As required by law, the District has developed and adopted a Student Code of Conduct that prohibits certain behaviors and establishes standards of acceptable behavior – both on and off campus – and consequences for violation of the standards. Students need to be familiar with the standards set out in the Student Code of Conduct, as well as campus and classroom rules.

All students of the WISD are entitled to basic rights of citizenship recognized and protected by law for persons of their age and maturity. In addition, students are expected to demonstrate respect for the rights, privileges, and property of others. The District supports the position that the benefits of education are dependent upon positive student attitudes toward learning and student adherence to high principles of behavioral conduct.

Students who violate the rights of others and/or who violate classroom, campus, or District rules and/or state and federal law will be subject to appropriate disciplinary measures. These actions are designed to correct misconduct and to promote adherence by all students to their responsibilities as citizens in the school community.

In accordance with state law, the Student Code of Conduct will be posted at each school campus or will be available for review at the office of the campus principal. Parents will be notified of any Student Code of Conduct violation that may result in a student being suspended, removed to a DAEP, or expelled from the District.

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## Expectations for Student Behavior

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Schools are places of learning. For individual students and schools as a whole to succeed, courtesy, respect, and diligence are essential and are required. In general, each student is expected to:

1. Demonstrate courtesy and respect for others.
2. Behave in a responsible manner.
3. Be honest.
4. Attend all classes, regularly and on time.
5. Be prepared for each class with appropriate materials and assignments.
6. Follow the WISD dress code.
7. Obey all classroom, campus, and District rules.
8. Demonstrate respect for the rights, privileges, and property of others, including District property and facilities.
9. Cooperate with and/or assist the school staff in maintaining safety, order, and discipline.
10. Avoid all specific violations of the Student Code of Conduct.

## The Disciplinary Authority of the School District

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Classroom, campus and/or District rules may be used to enforce the expectations for student behavior as identified above. Rules may be posted in classrooms, listed in the student handbook, found in District policy, or listed in the Student Code of Conduct. The District has the authority to administer discipline whenever the interest of the school is involved on or off school grounds in conjunction with, or independent of, classes and school-sponsored activities. The District's disciplinary authority encompasses, but is not limited to, the following:

The district has disciplinary authority over a student:

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

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 whenever there is reasonable cause to believe that it contains articles or materials prohibited by the District (FNF Local).

A school administrator will report crimes as required by law. A school administrator who suspects that a crime has been committed on campus will call local law enforcement.

The District has the right to revoke the transfer of a transfer student for violating the District's code of conduct (FDA Local).

The District may impose campus or classroom rules in addition to those found in the Student Code of Conduct. These rules may be posted in classrooms or given to the student and may or may not constitute violations of the Student Code of Conduct.

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

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

## **Security Personnel**

To ensure sufficient security and protection of students, staff, and property, the board employs School Resource Officers. In accordance with law, the board has coordinated with the campus behavior coordinator and other district employees to ensure appropriate law enforcement duties are assigned to security staff. The law enforcement duties of district peace officers are listed in policy CKE(LOCAL). The law enforcement duties of school resource officers are to work in conjunction with the Hays County Sheriff's Department and Wimberley ISD.

## **Discipline Management Techniques**

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The following examples of discipline management techniques represent a range of consequences that may be used alone, or in combination, for violations of the Student Code of Conduct:

- Oral correction
- Cooling-off time or brief, "time out" period in accordance with law.
- Seating changes in the classroom
- Counseling by teachers, counselors, or administrative personnel Behavioral contracts
- Demerit(s) and/or detention(s)
- Parent telephone calls, letters and/or conferences
- Behavior Coaching
- Anger management classes
- Mediation
- Family group conferencing
- Grade reductions for cheating, plagiarism, and as otherwise permitted by policy.
- Temporary confiscation of items that disrupt the educational process Grade reductions as permitted by local policy
- Sending the student to the office or other assigned areas
- Assigning school duties other than class tasks

- Excluding student from school for remainder of the day
- Withdrawal of privileges, such as attendance at or participation in school sponsored or school related activities, eligibility for seeking and holding honorary offices. This is mandatory when a student is assigned to an Alternative Education Program (AEP).
- Restricting or withdrawing bus privileges
- Assigning students to in-school suspension
- Assigning students to at-home suspension (limited to 3 days per incident)
- Restitution to the District or an individual
- Referral to outside agency(ies) and/or legal authority(ies) for criminal prosecution in addition to disciplinary measures imposed by the District
- Other strategies and consequences as specified by the (DAEP)
- Emergency removal to an AEP or emergency expulsion
- Friday Evening Detentions – “Friday Night Live”
- Detention – Before school, during lunch, or after school
- The Principal or Behavior Coordinator may restrict a student from attending or participating in Extra-curricular activities based on behaviors at school or school events.

Disciplinary action will draw upon the professional judgment of teachers and administrators and on a range of discipline management techniques. Disciplinary action will be correlated to the seriousness of the offense, the student's age, grade level, individual educational plan (IEP) for a student receiving special education services, frequency of the 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 (unless otherwise specified by law) may bring into consideration varying techniques and responses.

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 list until an ARD Committee had been held to review the conduct.

In deciding whether to order suspensions, DAEP placement, or expulsion the District will take into consideration a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.

The district will also take into consideration for DAEP placement when a student's status in the conservatorship of the Department of Family and Protective Services (foster care), or a student's status is homeless.

Parents who have questions and/or concerns regarding disciplinary techniques or applications should address their concerns to the teacher or campus administrator, as appropriate, and in accordance with policy FNG (Local).

*Note: A D.A.E.P. is an educational setting in which the student is separated from regular education students and is provided instruction in the core subjects (English, mathematics, science, and social studies) and self-discipline, as well as the opportunity for counseling.*

## LEVEL I:

### Student Code of Conduct Violations That Will Result In an In-School Consequence or an At-Home Suspension

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The following Student Code of Conduct violations will result in an in-school consequence or an at-home suspension:

- Engaging in scholastic dishonesty which includes, but is not limited to, cheating on a test,
- Plagiarism, or unauthorized collaboration with another person in preparing written work
- Engaging in activities that can cause injury
- Leaving school grounds or school-sponsored events without permission
- Using profanity, vulgar language, or obscene gestures
- Fighting which does not cause bodily injury
- Stealing
- Disobeying school rules about conduct on school buses
- Failing to comply with lawful directives given by school personnel
- 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 (if less than a felony act)
- Committing or assisting in a robbery or theft that does not constitute a felony according to the Penal Code
- Engaging in ethnic or racial slurs
- Engaging in verbal abuse or derogatory remarks addressed to others
- Engaging in any misbehavior that gives school officials reasonable cause to believe that such conduct will substantially disrupt the school program or incite violence
- Engaging in inappropriate physical or sexual contact
- Possessing, smoking, or using tobacco products. That includes nicotine or electronic cigarettes.
- Possessing or using matches or a lighter
- Possessing or using a pocket knife
- Possessing or using a location-restricted knife
- A hand instrument designed to cut or stab another by being thrown
- A firearm
- Truancy
- Possessing a paging device, radio, CD player, iPod, or any other electronic device which disrupts the educational environment (Firefighting or emergency medical service volunteers are exempt from this standard.)

- Unless the use of such devices at special events or activities has been approved by the coach/sponsor or teacher
- Gambling of any kind
- Violating safety rules
- Violating dress and/or grooming standards
- Skateboards and roller blades. Due to safety and liability implications, skateboards and roller blades will not be permitted on school grounds and will be confiscated for the semester.
- Damaging or vandalizing school property less than \$1500.00
- Possessing or using a laser pointer for other than an approved use
- Possessing material that is pornographic
- Violating extracurricular standards of behavior
- Possessing ammunition
- Possessing mace or pepper spray
- Discharging a fire extinguisher
- Possessing razors, box cutters, chains, or any other object used in any way that threatens or inflicts bodily injury to another person
- Possessing air guns or BB guns
- Possessing fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device
- Discharging a fire extinguisher
- Possessing or selling a 'look-alike' weapon that is intended to be used as a weapon or could reasonably be perceived as a weapon
- Possessing a stun gun
- Possessing or using any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists
- Using a cellular telephone or other telecommunications device at school during structured class time
- Forcing an individual to act through the use of force or threat of force
- Committing or assisting in a robbery or theft even if it does not constitute a felony according to the Penal Code. (Felony robbery or theft offenses are addressed later in the Student Code of Conduct.)
- Inappropriate or indecent exposure of a student's private body parts
- Possessing or selling look-alike drugs or items attempted to be passed off as drugs or contraband
- Possessing or selling seeds or pieces of marijuana in less than a usable amount
- Possessing, using, giving, or selling paraphernalia related to any prohibited substance (See glossary)



- Abusing the student’s own prescription drug, giving a prescription drug to another student, or possessing or being under the influence of another person’s prescription drug on school property or at a school-related event
- Violating the District’s policy on taking prescription drugs and over-the-counter drugs at school
- Violating computer use policies, rules, or agreements signed by the student, and/or agreements signed by the student's parent
- Using the Internet or other electronic communications to threaten students or employees, or cause disruption to the educational program or infringes on the rights of another student at school
- Sending, posting, delivering or possessing electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, including cyberbullying and “sexting” either on or off school property, if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school
- Engaging in verbal or written exchanges that threaten the safety of another student, a school employee, or school property
- Possessing published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety; using e-mail or Web sites at school to encourage illegal behavior; or threatening school safety
- Urinating outside on the playground or other areas outside of designated facilities.
- Placing illegal, dangerous, or poisonous items in another student’s food or drink or deceiving a student by giving them a substance, represented to be a safe substance, which may cause the student to become ill.
- Selling or buying items at school that are not part of a school related fundraiser, for example trading cards, cd’s, video games, etc.
- Encouraging, promoting, or attempting to assist another student in violating the Code of Conduct can result in a Level 1 or Level 2 consequence depending on the type of violation that is being promoted.

General misconduct identified in the list of prohibited behaviors will result in application of one or more discipline management techniques consistent with law and the Student Code of Conduct.

The principal or appropriate administrator will notify a student’s parent by phone or in writing of any violation of the Student Code of Conduct that may result in a suspension, removal to a Disciplinary Alternative Education Program (DAEP), or expulsion. Notification will be made within three school days after the administrator becomes aware of the violation.

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. For more information regarding discipline of students with disabilities, see policy FOF(LEGAL).

General misconduct violations will not necessarily result in the formal removal of the student from class or another placement but may result in a routine referral, formal removal, or the use of one or more discipline management techniques.

In deciding whether to order suspension, the District will take in to consideration: self-defense, intent or lack at the time the student engaged in the conduct, and the student’s disciplinary history.

Each day of at-home suspension is considered an unexcused absence. A student who is suspended at home may not attend or participate in school sponsored or school-related events and shall receive a grade no higher than 70 for all graded work. Students will be responsible for securing all make-up work; one day of make-up time will be allowed for each two days of at home suspension time. A student who is suspended at home may not visit any District campus unless arrangements have been made with the campus principal. If a student appears on any WISD campus without the principal's permission, the student may be charged with criminal trespass.

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

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

**NOTE: Consequences will not be deferred pending the outcome of a grievance**

**Note: All students participating in a fight, inciting a fight by words or deed, or by any other action contributing to a fight (regardless of who starts it) may be suspended. Other students in the area should make an attempt to prevent the fight to seek assistance, or to move away from the fight. Students involved may receive a citation for fighting and the incident may be reported to the Justice of the Peace.**

First Offense – Up to 5 Days Suspension and may result in a citation

Second Offense – may result in an AEP Placement

## **Scholastic Dishonesty**

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The penalty for any form of scholastic dishonesty (cheating, plagiarism, etc.) will be a zero for the work involved. There will also be a disciplinary consequence.

## LEVEL II:

### Code of Conduct Violations That Will Result In an At-Home Suspension and/or Placement in an Alternative Education Program

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

- Engaging in conduct punishable as a felony, other than those listed as offenses involving injury to a person in Title 5 of the Penal Code, that occurs off school property and not at a school-sponsored or school-related event, if the student's presence in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.
- In accordance with Education Code 37.0081, after an opportunity for a hearing before the Board or its designee, a student may be placed in a DAEP if:
  - The student receives deferred prosecution for conduct defined as a felony offense in Title 5 of the Penal Code;
  - or
  - The student has been found by a court to have engaged in delinquent conduct for conduct defined as a felony offense in Title 5 of the Penal Code.
- The Board or the Board's designee must determine that the student's presence in the regular classroom:
  - Threatens the safety of other students or teachers;
  - Will be detrimental to the educational process;
  - or
  - Is not in the best interest of the District's students.
- A student's placement in the DAEP as a result of receiving deferred prosecution or delinquent conduct, as described above, may occur regardless of:
  - The date on which the student's conduct occurred;
  - The location at which the conduct occurred;
  - Whether the conduct occurred while the student was enrolled in the District;
  - or
  - Whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.
- Involvement in gang activity, including participating as a member or pledge, or soliciting another person to become a pledge or member of a gang.
- 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, or secret society.
- Criminal mischief not punishable as a felony.

- A federal firearms violation, for a student six years of age or younger.

In addition, the District has determined that the following behaviors may result in a student's placement in a DAEP:

- Cheating or copying the work of another
- Throwing objects that can cause bodily injury or property damage
- Failing to comply with directives given by school personnel
- Leaving school grounds or school-sponsored events without permission
- Disobeying rules for conduct on school buses
- Directing profanity, vulgar language, or obscene gestures toward other students or a District employee
- Fighting
- Hazing
- Stealing from students, staff, or the school
- Damaging or vandalizing property owned by others
- Defacing or damaging school property—including textbooks, lockers, furniture, and other equipment—with graffiti or by other means
- Possessing fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device
- Discharging a fire extinguisher
- Possessing a razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person
- Possessing or selling a "look-alike" weapons that is intended to be used as a weapon or could reasonably be perceived as a weapon.
- Possessing an improvised explosive device
- Possessing an air gun or BB gun
- Possessing ammunition
- Possessing a stun gun
- Possessing mace or pepper spray
- Possessing or using any articles not generally considered to be a weapon, including school supplies, when the principal or designee determines that a danger exists
- Gambling
- Making false accusations or hoaxes regarding school safety
- Falsifying records, passes, or other school-related documents
- Committing extortion, coercion, or blackmail (obtaining money or another object of value from an unwilling person)

- Engaging in disruptive actions or demonstrations that substantially disrupt or materially interfere with school activities
- Being insubordinate
- Refusing to accept discipline management techniques assigned by a teacher or principal
- Forcing an individual to act through the use of force or threat of force
- Committing or assisting in a robbery or theft even if it does not constitute a felony according to the Penal Code (Felony robbery or theft offenses are addressed elsewhere in the Student Code of Conduct.)
- Bullying, including intimidation by name-calling, using ethnic or racial slurs, or making derogatory statements that could disrupt the school program or incite violence
- Engaging in bullying that encourages a student to commit or attempt to commit suicide
- Inciting violence against a student through group bullying
- Engaging in threatening behavior toward another student or District employee, on or off school property
- Engaging in harassment motivated by gender, gender identity, race, color, religion, national origin, disability, or age and directed toward another student or a District employee
- Engaging in any misbehavior that gives school officials reasonable cause to believe that such conduct will substantially disrupt the school program or incite violence
- Engaging in inappropriate verbal, physical, or sexual contact directed toward another student or a District employee
- Engaging in conduct that constitutes sexual harassment or sexual abuse whether the conduct is by word, gesture, or any other sexual conduct, including requests for sexual favors directed toward another student or a District employee
- Inappropriate or indecent exposure of a student's private body parts
- Releasing or threatening to release visual material of a minor or a student who is 18 years of age or older without the student's consent
- Possessing or using matches or a lighter
- Possessing, smoking, or using tobacco products
- Possessing or selling look-alike drugs or items attempted to be passed off as drugs or contraband
- Possessing or selling seeds or pieces of marijuana in less than a usable amount
- Possessing, using, giving, or selling paraphernalia related to any prohibited substance
- Abusing the student's own prescription drug, giving a prescription drug to another student, or possessing or being under the influence of another person's prescription drug on school property or at a school-related event
- Violating the District's policy on taking prescription drugs and over-the-counter drugs at school

- Using a telecommunication device, including cellular telephone or other electronic device in violation of district and campus rules.
- Possessing or using a laser pointer for other than an approved use
- Violating computer use policies, rules, or agreements signed by the student, and/or agreements signed by the student's parent
- Using the Internet or other electronic communications to threaten students, employees, or cause disruption to the educational program
- Sending or posting electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal
- Engaging in verbal or written exchanges that threaten the safety of another student, a school employee, or school property
- Possessing published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety, using e-mail or Web sites at school to encourage illegal behavior, or threatening school safety
- Possessing material that is pornographic
- Violating dress and grooming standards as communicated in the student handbook
- Repeatedly violating other communicated campus or classroom standards of behavior
- Criminal mischief, not punishable as a felony
- Encouraging, promoting, or attempting to assist another student in violating the Code of Conduct can result in a Level 1 or Level 2 consequence depending on the type of violation that is being promoted
- 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 non-emergency basis.
- In decision whether to order placement in a DAEP, the District will take into consideration:
  - Self-defense
  - Intent or lack of intent at the time the student engaged in the conduct, and the student's disciplinary history.

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

### **Students may be suspended for any behavior**

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

A student in grade 2 or below shall not be placed in out-of-school suspension unless, while on school property or while attending a school-sponsored or school-related activity on or off school property, the student engages in:

- Conduct that contains the elements of a weapons offense, as provided in Penal Code Section 46.02 or 46.05;

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

The district shall use a positive behavior program as a disciplinary alternative for students in grade 2 or below who commit general conduct violations instead of suspension or placement in a DAEP. The program shall meet the requirements of law.

## LEVEL III:

### Code of Conduct Violations That Will Result in Placement in an Alternative Education Program As Mandated By the Texas Education Code

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A student **must be placed** in a Disciplinary Alternative Education Program (DAEP) if the student engages in conduct relating to a false alarm or report (including a bomb threat) or a terrorist threat involving a public school. (See glossary)

A student **must be placed** in a DAEP for any of the following offenses, if the student commits these 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 under Penal Code 22.01(a)(1). (See glossary)
  - Assault (no bodily injury) with threat of imminent bodily injury.
  - Assault by offensive or provocative physical contact
- 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, or any other mind-altering substance, including but not limited to synthetic drugs like bath salts and Spice, K2. (School-related felony drug offenses are addressed in the expulsion section of this Student Code of Conduct.) (See glossary)
- 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 in this Student Code of Conduct.) Behaves in a manner that contains the elements of an offense relating to abusing volatile chemicals.
- Behaves in a manner that contains the elements of the offense of public lewdness.
- Behaves in a manner that contains the elements of the offense of indecent exposure.
- Engages in expellable conduct, if the student is between six and nine years of age.
- Engages in conduct that contains the elements of the offense of retaliation against any school employee on or off school property. (Committing retaliation in combination with another expellable offense is addressed in the expulsion section of this Student Code of Conduct.)
- Engages in conduct punishable as a felony listed under Title 5 (see glossary) of the Penal Code when the conduct occurs off school property and not at a school-sponsored or school-related event and:
  - The student receives deferred prosecution. (See glossary)
  - A court or jury finds that the student has engaged in delinquent conduct. (See glossary)
  - The Superintendent or designee has a reasonable belief that the student engaged in the conduct. (See glossary)
- *A principal or other 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 principal or other appropriate administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.*



## LEVEL IV:

### Code of Conduct Violations for Which a Student May Be Expelled From School, As Mandated By the Texas Education Code

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A student **may be expelled** for engaging in conduct relating to a false alarm or report (including a bomb threat) or a terrorist threat involving a public school.

A student **may be expelled** for any offense that is a state-mandated expellable offense if the offense is committed on the property of another District in Texas or while the student is attending a school-sponsored or school-related activity at a school in another District in Texas.

A student **may be expelled** for 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 any amount of marijuana, a controlled substance, or a dangerous drug, if the conduct is not punishable as a felony
- Selling, giving, or delivering to another person, or possessing, using, or being under the influence of any amount 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 abusing 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)

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

- Committing aggravated assault, sexual assault, or aggravated sexual assault
- Committing arson
- Committing murder, capital murder, or criminal attempt to commit murder or capital murder
- Committing indecency with a child, aggravated kidnapping, manslaughter, criminally negligent homicide, or aggravated robbery
- Committing a felony drug- or alcohol-related offense
- Using, exhibiting, or possessing a firearm (as defined by state law, an illegal knife, a club, or prohibited weapon, or possessing a firearm (as defined by federal law)
- A student **may be expelled** if the student engages in the following conduct no matter where the conduct takes place:
  - Engaging in conduct that contains the elements of assault under Penal Code 22.01(a)(1) in retaliation against a school employee or volunteer
  - Engaging in criminal mischief, if punishable as a felony

A student **may be expelled** if the student engages 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

A student **may be expelled** for engaging in serious or persistent misbehavior that violates the District's Student Code of Conduct, while placed in a DAEP. The District defines "persistent" as two or more violations of the Student Code of Conduct in general or repeated occurrences of the same violation. Serious offenses include, but are not limited to, the following:

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

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 non-emergency basis. In deciding whether to order the expulsion the District will consider self-defense, intent or lack thereof, and the student's disciplinary history.

## LEVEL V:

### Code of Conduct Violations for Which a Student Will Be Expelled As Mandated By the Texas Education Code

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

- 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.Using, exhibiting, or possessing the following, as defined by the Penal Code 46.02.
  
- 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).
- An illegal knife, such as a knife with a blade over 5½ inches; hand instrument, designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; or spear.
- A club 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. (See glossary)
- A prohibited weapon, such as an explosive weapon; a machine gun; a short-barrel firearm; a firearm silencer; a switchblade knife; knuckles; armor-piercing ammunition; a chemical dispensing device; or a zip gun. (See glossary)
- Behavior containing elements of the following offenses under the 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.
  - Behavior punishable as a felony that involves the selling, giving, or delivering to another person, possessing, using, or being under the influence of marijuana, a controlled substance, a dangerous drug, or alcohol; or committing a serious act or offense while under the influence of alcohol.

Retaliation against a school employee combined with one of the above-listed offenses on or off school property or at a school-related activity.

## Procedures for Implementation of Discipline For All Student Code of Conduct Violations

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A student who violates classroom, campus, or District rules, which are not specifically listed in the Student Code of Conduct, may be disciplined by one or more discipline management techniques. For violations not specifically referenced in the Student Code of Conduct, the teacher/administrator is not required to make a Student Code of Conduct violation report, and the principal is not required to notify the parent/guardian.

Discipline shall be designed to improve conduct and to encourage students to adhere to their responsibilities as members of the school community. Disciplinary action shall draw on the professional judgment of teachers and administrators and on a range of discipline management techniques, including restorative practices. Discipline shall be based on 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.

The procedures described in this document will be followed when assigning or recommending:

1. Routine referral
2. In-school or at-home suspension
3. Formal removal from class by a teacher
4. Placement in a Disciplinary Alternative Education Program (DAEP)
5. Expulsion

**Note:** *Prior to the placement of a special education student in an AEP or expulsion of a special education student, the appropriate Admissions, Review, and Dismissal (ARD) committee will determine whether or not the misconduct is a manifestation of the student's disability.*

### ROUTINE REFERRAL

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Teachers may refer a student to the principal's office for violations of campus or classroom rules that may be printed, perhaps in the student handbook, or posted in a classroom. For a routine referral, the principal may employ one of the discipline management techniques found in this manual. If a teacher repeatedly refers a student to the office for misconduct, the principal should alert the student's parents to the recurring misconduct and the possibility of placement in a DAEP if documented misconduct continues.

### In-school Consequences or At-home Suspension

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If the Student Code of Conduct violation requires an in-school or at-home suspension consequence, the administrator will explain the allegations to the student and allow the student an opportunity to respond to the allegations. The administrator will render a ruling based on the information and notify the parent/guardian within 72 hours if a consequence is administered. A student who is suspended at home may not attend or participate in school sponsored or school-related activities.

***Students may be suspended for any behavior listed in the Student Code of Conduct as a general misconduct violation, Disciplinary Alternative Education Program placement, or expellable offense.***

State law allows a student to be suspended for as many as 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.

A student who is to be suspended will have an informal conference with the principal or appropriate administrator advising the student of the alleged misconduct. The student will have the opportunity to respond to the allegation before the administrator makes a decision.

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

The principal or other appropriate administrator will determine any restrictions on participation in school-sponsored or school-related extracurricular and co-curricular activities.

Students with disabilities are 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 will prevail.

## FORMAL REMOVAL

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Formal removal from class will be initiated by a teacher if:

1. The student's behavior has been documented by the teacher as repeatedly interfering with the teacher's ability to teach his or her class; or
2. The behavior is so unruly, disruptive, or abusive that the teacher cannot teach, and the students in the classroom cannot learn.

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

A teacher or administrator may remove a student from class for a behavior that the District has determined is a violation of the Student Code of Conduct.

Within three school days, the principal will schedule a conference with the student's parent, the student and the teacher in the case of a teacher, principal, or administrator removal

At the conference, the principal or appropriate administrator will inform the student of the misconduct for which he or she is charged and will give the student an opportunity to give his or her version of the incident. The principal or administrator will notify the student of the consequences of the Student Code of Conduct violation.

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

- Another appropriate classroom.
- In-school suspension.
- Out-of-school suspension.
- A Disciplinary Alternative Education Program.
- When a teacher has formally removed a student from class, the principal may not return the student to the teacher's class without the teacher's consent, unless the placement review committee determines that the teacher's class is the best or only alternative available.

## PLACEMENT IN D.A.E.P. (District Alternative Education Program)

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Removals to a DAEP will be made by the principal or assistant principal.  
The duration of a student's placement in a DAEP will be determined by the campus administration.

For purposes of DAEP, elementary classification shall be kindergarten–grade 5 and secondary classification shall be grades 6–12.

The duration of a student's placement shall be determined case- by- case based on the seriousness of the offense, the student's age and grade level, the frequency of misconduct, the student's attitude, and statutory requirements.

<b>Conduct</b>	<b>Maximum length of time</b>
▪ Engages in conduct punishable as a felony	2 semesters
▪ Commits an assault under Penal Code 22.01(a)(1)	2 semesters
▪ Sells, gives, delivers, or possesses; or is under the influence of prohibited drugs or alcohol	2 semesters
▪ Engages in conduct punishable as offense relating to abuse-able volatile chemicals	2 semesters
▪ Behaves in a manner that contains the offense of public lewdness or indecent exposure	2 semesters
▪ Engages in conduct that contains the elements of the offense of retaliation against any school employee on or off school	2 semesters
▪ Threatens the safety of teachers or other students	2 semesters
▪ Persistent misbehavior	2 semesters
▪ Involvement in gang activity	2 semesters
▪ Criminal mischief	2 semesters
▪ A federal firearms offense for student six years of age or younger	2 semesters
▪ Hazing	2 semesters
▪ Any and all offense listed under Level(s) I, II, III, IV, or V in this code of conduct that are not individually listed	

DAEP placement will 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.

Students with disabilities are 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 will prevail.

The District will decide on a case-by-case basis whether to place in a DAEP or expel a student who:

1. Sells, gives, delivers, possesses, uses, or is under the influence of prohibited drugs or alcohol or
2. Engages in conduct punishable as an offense relating to abusing volatile chemicals if the conduct is not punishable as a felony.

When a student is removed from class by a teacher (formal removal) or an administrator for a mandatory or discretionary DAEP offense, the principal or other appropriate administrator will schedule a conference within three school days with the student's parent, the student, and the teacher, in the case of a teacher removal.

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

- Another appropriate classroom
- In-school suspension
- Out-of-school suspension
- A Disciplinary Alternative Education Program

At the conference, the principal or appropriate administrator will inform the student, orally or in writing, of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal.

Following valid attempts to require their attendance, the District may hold the conference and make a placement decision regardless of whether the student or the student's parent attends the conference.

After the conference, if the student is placed in the DAEP and the length of placement is inconsistent with the guidelines included in the Student Code of Conduct, the DAEP placement order will give notice of the inconsistency.

Placement in a DAEP may not exceed one year unless 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.

A DAEP placement in accordance with Education Code 37.0081 may be for any length of time determined necessary by the Board or its designee in light of the factors considered before placement. A student placed under this section is entitled to periodic status reviews by the Board or designee at intervals not to exceed 120 days.

The Board's designee will send the student and the parents a copy of the DAEP order. Not later than the second business day after the conference, the Board's designee will deliver to the juvenile court a copy of the order placing the student in a DAEP and all information required by Section 52.04 of the Family Code.

After the conference, if the student is placed in a DAEP, the appropriate administrator will write a DAEP placement order. A copy of the DAEP placement order will be sent to the student and the student's parent. Parental questions or complaints regarding disciplinary measures should be addressed to the campus administration, in accordance with policy FNG (LOCAL). A copy of this policy may be obtained from the principal's office or the central administration office. Consequences will not be deferred pending the outcome of an appeal. The decision to place a student in a DAEP cannot be appealed beyond the Board.

State law prohibits students placed in a DAEP for mandatory removal reasons from attending or participating in school-sponsored or school-related extracurricular activities.

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

A student placed in a DAEP will 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.

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

A student placed in a DAEP will be provided a review of his or her status, including academic status, campus administration 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 will also be reviewed. At the review, the student or the student's parent will 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.

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 will be given notice and the opportunity to participate in a proceeding before the Board or the Board's designee. Any decision is final and may not be appealed beyond the Board.

For placement in a DAEP to extend beyond the end of the school year, campus administration 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 that violates the District's Student Code of Conduct.

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.

When a student violates the District's Student Code of Conduct in a way that requires or permits the student to be placed in a DAEP and the student withdraws from the District before a DAEP placement order is completed, the District may complete the proceedings and issue a DAEP 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 principal, or other appropriate administrator, or the Board fails to issue a DAEP placement order after the student withdraws, the next District in which the student enrolls may complete the proceedings and issue a DAEP placement order.

A student assigned to a DAEP placement in another District or open-enrollment charter school at the time he or she enrolls in the District will be placed directly into the District's DAEP.

For seniors who are eligible to graduate and are assigned to a DAEP at the time of graduation, the last day of placement in the program will be the last instructional day, and the student will be allowed to participate in the graduation ceremony and related graduation activities unless otherwise specified in the DAEP placement order.

The office of the prosecuting attorney will notify the District if a student was placed in a DAEP 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 conduct other than a false alarm or report or terrorist threat



involving a public school or conduct on or within 300 feet of school property for which DAEP placement is required by law, on receiving the notice from the prosecutor, the Superintendent or designee will review the student's placement in the DAEP and schedule a review of the student's placement 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 in the DAEP 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.

The Board will, 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 will make a record of the proceedings.

If the Board confirms the decision of the Superintendent or designee, the Board will inform the student and the student's parent of the right to appeal to the Commissioner of Education. The student may not be returned to the regular classroom pending the appeal.

When an emergency placement occurs, the student will be given oral notice of the reason for the action. Not later than the tenth day after the date of the placement, the student will be given the appropriate conference required for placement in a DAEP. If emergency placement involves a student with disabilities who receives special education services, the term of the student's emergency removal is subject to the requirements of federal law.

## ***EXPULSION***

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Students with disabilities are 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 will prevail.

When a student under the age of ten engages in behavior that is expellable behavior, the student will not be expelled, but will be placed in a Disciplinary Alternative Education Program (DAEP). Students under age six will not be removed from class or placed in a DAEP unless the student commits a federal firearm offense.

State and federal law require a student to be expelled from the regular classroom for a period of at least one calendar year for bringing a firearm, as defined by federal law, to school. However, the Superintendent or other appropriate administrator may modify the length of the expulsion on a case-by-case basis, and/or the District may provide educational services to the expelled student in a DAEP. The District must provide educational services in the DAEP if the student is less than ten years of age.

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

- A Disciplinary Alternative Education Program.

The duration of a student’s expulsion will be determined on a case-by-case basis. The maximum period of expulsion is as follows:

<u>Conduct</u>	<u>Maximum length of time</u>
1. Level IV Offense *	2 Semesters
2. Level V Offense *	2 Semesters

\* As found and described in the WISD Code of Conduct

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

A student facing expulsion will be given 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.
3. An opportunity to question the District's witnesses.

The Board delegates to the Superintendent or designee the authority to expel students.

A student expelled by the *(principal, hearing officer, Superintendent, or other appropriate administrator)* after the due process hearing may request that the Board review the expulsion decision. 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. Consequences will not be deferred pending the outcome of 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 Board will 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 will 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 will make and communicate its decision orally at the conclusion of the presentation. Consequences will not be deferred pending the outcome of the hearing.

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

If the length of the expulsion is inconsistent with the guidelines included in the Student Code of Conduct, the expulsion order will give notice of the inconsistency. 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.

When a student has violated the District's Student Code of Conduct in a way that requires or permits expulsion from the District and the student withdraws from the District before the expulsion hearing takes place, the District may conduct the hearing after sending written notice to the parent and student. 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 principal, another 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. 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 principal, another appropriate administrator, or the Board may issue an additional disciplinary order as a result of those proceedings.

Not later than the second business day after the hearing, the Superintendent will deliver to the juvenile court a copy of the order expelling the student and the information required by Section 52.04 of the Family Code.

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.

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 will be earned for work missed during the period of expulsion (unless the student is enrolled in a Juvenile Justice Alternative Education Program or another District-approved program).

The District will continue the expulsion of any student expelled from another District during the period of the expulsion order.

The District will continue the expulsion of any student expelled from another open-enrollment charter school during the period of the expulsion order.

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 will 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.

When an emergency expulsion occurs, the student will be given verbal notice of the reason for the action. Within ten days after the date of the emergency expulsion, the student will be given appropriate due process required for a student facing expulsion. If emergency expulsion involves a student with

disabilities who receives special education services, the term of the student's emergency expulsion is subject to the requirements of federal law.

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

1. Prosecution of a student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication (see glossary), or deferred prosecution will be initiated; or
2. The court or jury found a student not guilty, or made a finding that the student did not engage in delinquent conduct or conduct indicating a need for supervision, and the case was dismissed with prejudice.

If a student was placed in a DAEP for such conduct, on receiving the notice from the prosecutor, the superintendent or designee shall review the student's placement and schedule a review with the student's parent not later than the third day after the superintendent or designee receives notice from the prosecutor. The student may not be returned to the regular classroom pending the review.

After reviewing the notice and receiving information from the student's parent, the superintendent or designee may continue the student's placement if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

The student or the student's parent may appeal the superintendent's decision to the board. The student may not be returned to the regular classroom pending the appeal. In the case of an appeal, the board shall, at the next scheduled meeting, review the notice from the prosecutor and receive information from the student, the student's parent, and the superintendent or designee, and confirm or reverse the decision of the superintendent or designee. The board shall make a record of the proceedings.

If the board confirms the decision of the superintendent or designee, the student and the student's parent may appeal to the Commissioner of Education. The student may not be returned to the regular classroom pending approval.

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

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

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

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

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

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

### **Appeal of Discipline Consequences assigned by Campus Administration**

**Detentions or ISS assignments of 5 days or less-** If parents disagree with these administrative consequences they may informally appeal to the campus principals. The campus principal's decision is final.

**AEP Placement Appeals-** If a parent of a student who is placed in AEP wishes to appeal the decision of the campus level hearing. The first appeal is to the campus principal. If the parent is not satisfied with the principal's decision then they may file a level 2 complaint with the Superintendent or designee. If the parent is still not satisfied with the level 2 outcome they may file a level 3 complaint to the board of trustees. The board of trustee's decision is final.

### **Notes on Appeals:**

The district shall not delay a disciplinary consequence while a student or parent pursues a grievance.

- 1.) The initial appeal must be filed 10 school days from the original campus placement hearing.
- 2.) The results of the appeal may be given to the parent verbally or in writing within 10 school days of the appeal hearing.
- 3.) The parent/guardian must appeal a ruling within 10 days of receiving level 2 or level 3 hearing result.
- 4.) The student's placement will not be affected until or unless the original placement is overruled.

## **REMOVAL FROM THE BUS**

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

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

Anyone in the state of Texas that rides a school bus that is equipped with seatbelts, **MUST** ride with the seatbelt on and fastened. Students may be given a discipline referral from an adult on the bus if they do not abide by this rule. A repeated offense can result in the student being removed from the bus.

## GLOSSARY-Student Code of Conduct

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**Armor-piercing ammunition** is handgun ammunition designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers.

**Arson** occurs when a 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 the person is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.

**Assault** is defined in part by Penal Code 22.01(a)(1). A person commits an assault if the person intentionally, knowingly, or recklessly causes bodily injury to another.

**Bullying** includes cyberbullying. (See below) This state law on bullying prevention conduct is considered bullying if it applies to:

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

**Chemical dispensing device** is a device, other than a small chemical dispenser sold commercially for personal protection, designed, made, or adapted for the purpose of causing an adverse psychological or physiological effect on a human being.

**Club** is 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, mace, and tomahawk.

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

**Criminal street gang** is defined by Penal Code 71.01 as three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.

**Cyber-Bullying** - is defined by Section 37.0832 of the Education Code as bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.

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

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

**Deferred adjudication** may be offered to a student who is 17 or older, as an alternative to seeking a conviction in court.

**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. Delinquent conduct also includes conduct that violates certain juvenile court orders, including probation orders. Delinquent conduct does not, however, include violations of traffic laws.

**Explosive weapon** is any explosive or incendiary bomb, grenade, rocket, or mine 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 load report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon.

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

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

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

**Harassment** includes

1. Conduct that meets the definition established in district policies DIA(LOCAL) and FFH(LO-CAL); or
2. Conduct that threatens to cause harm or bodily injury to another person, including a district student, employee, board member, or volunteer; is sexually intimidating; causes physical damage to the property of another student; subjects another student to physical confinement or restraint; or maliciously and substantially harms another student's physical or emotional health or safety, as defined in Section 37.001(b)(2) of the Education Code; or
3. Conduct that is punishable as a crime under Penal Code 42.07, including the following types of conduct if carried out with the intent to harass, annoy, alarm, abuse, torment, or embarrass another:
  - a. Initiating communication and, in the course of the communication, making a comment, request, suggestion, or proposal that is obscene, as defined by law;

- b. Threatening, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;
- c. Conveying, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury. Sending repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another.

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

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

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

**Knuckles** means any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of 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.

**Paraphernalia** is any device that can be used to inhale, ingest, inject, or otherwise introduce a controlled substance into a human body.

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

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

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

1. The following items unless registered with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the U.S. Department of Justice:
  - a. An explosive weapon;
  - b. A machine gun;
  - c. A short-barrel firearm;
2. Armor-piercing ammunition;



3. A chemical dispensing device;
4. A zip gun;
5. A tire deflation device;
6. An improvised explosive device; or
7. A firearm silencer, unless classified as a curio or relic by the U.S. Department of Justice or the actor otherwise possesses, manufactures, transports, repairs, or sells the firearm silencer in compliance with federal law.

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

**Self-defense** Is reasonable force that one would use to protect themselves from immediate harm. The amount of force can only be that which is adequate to remove oneself from the potential harm in order for it to be considered self-defense. In addition, self-defense is not a excuse for aggressive actions that would lead to a fight or assault. Self Defense cannot be provoked by a verbal or electronic exchange.

**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 1.07, Texas Penal Code; or
4. Conduct that constitutes the offense of:
  - a. Public lewdness under Penal Code 21.07, Texas Penal Code;
  - b. Indecent exposure under Penal Code 21.08; Texas Penal Code;
  - c. Criminal mischief under Penal Code 28.03, Texas Penal Code;
  - d. Hazing under Education Code 37.152, Education Code; or
  - e. Harassment under Penal Code 42.07(a)(1), Texas Penal Code, of a student

**Switchblade** is any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or by the force of gravity or centrifugal force.

**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.

**Terrorist threat** occurs when a person threatens to commit any offense involving violence to any person or property with intent to:

1. Cause a reaction of any type to his or her threat 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).

**Title 5 felonies** are those crimes listed in Title 5 of the Texas Penal Code that typically involve in-jury to a person and may include:

- Murder, manslaughter, or homicide under Sections 19.02, – .05, Texas Penal Code;
- Kidnapping under Section 20.03, Texas Penal Code;
- Trafficking of persons under Section 20A.02, Texas Penal Code;
- Smuggling or continuous smuggling of persons under Sections 20.05 – .06, Texas Penal Code;
- Assault under Section 22.01, Texas Penal Code;
- Aggravated assault under Section 22.02, Texas Penal Code;
- Sexual assault under Section 22.011, Texas Penal Code;
- Aggravated sexual assault under Section 22.021, Texas Penal Code;
- Unlawful restraint under Section 20.02, Texas Penal Code;
- Continuous sexual abuse of a young child or children under Section 21.02, Texas Penal Code;
- Bestiality under Section 21.09, Texas Penal Code;
- Improper relationship between educator and student under Section 21.12, Texas Penal Code;
- Voyeurism under Section 21.17, Texas Penal Code;
- Indecency with a child under Section 21.11, Texas Penal Code;
- Invasive visual recording under Section 21.15, Texas Penal Code;
- Disclosure or promotion of intimate visual material under Section 21.16, Texas Penal Code;
- Sexual coercion under Section 21.18, Texas Penal Code;

**Under the influence** means not having the normal use of mental or physical faculties; however, the student need not be legally intoxicated. Impairment of a person’s physical and/or mental faculties may be evidenced by a pattern of abnormal or erratic behavior and/or the presence of physical symptoms of drug or alcohol use.

**Use** means that a student has voluntarily introduced into his or her body by any means a prohibited substance recently enough that it is detectable by the student's physical appearance, actions, breath, or speech.

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