



# **STUDENT CODE OF CONDUCT**

**2010-2011**



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1319 New Sunnybrook • P.O. Box 2035 • Tyler, Texas 75710 • 903/262-1000 • Dr. Randy Reid, Superintendent

Dear Parent:

It is a fundamental responsibility of school boards to establish safe learning environments for all students. A rigorous code of conduct ensures that each student has the opportunity to learn OR be educated in a secure environment. The District's Student Code of Conduct establishes expectations for desired behavior and spells out the consequences that will be applied to those who jeopardize the safety, health, or educational opportunities of other students.

Please review the Student Code of Conduct with your child and contact your campus principal with any questions you or your child may have regarding the Code. We appreciate your support of safe learning environments in Tyler Independent School District.

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# ***TYLER ISD STUDENT CODE OF CONDUCT***

## **PURPOSE OF THE CODE**

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 Tyler Independent School District Board of Trustees and developed with the advice of the district-level planning committee. This code provides information to parents and students regarding standards of conduct, consequences of misconduct, and procedures for administering discipline.

In accordance with state law, the Code will be posted at each school campus or will be available for review at the office of the campus principal. Additionally, the Code will be posted on the district’s Web site at [www.tylerisd.org](http://www.tylerisd.org). Parents will be notified of any conduct violation that may result in a student’s being suspended, placed in a DAEP, or expelled.

### **This Code is organized into the following sections:**

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| 1. School District Authority and Jurisdiction              | page 2  |
| 2. Standards for Student Conduct                           | page 2  |
| 3. General Conduct Violations                              | page 6  |
| 4. Discipline Management Techniques                        | page 10 |
| 5. Removal from the Regular Educational Setting            | page 12 |
| 6. Out-of-School Suspension                                | page 13 |
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| 8. Placement and/or Expulsion for Certain Serious Offenses | page 23 |
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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 will 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 on district transportation;
2. During lunch periods;
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.

## **REPORTING CRIMES**

School administrators will report crimes as required by law and will 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 any inter-district or intra-district transfer for violating the district's Student Code of Conduct or for violation of state compulsory attendance laws (including excessive tardiness and absenteeism). Please refer to policies FDA (local) and FDB (local) for more information regarding student transfers.

## **STANDARDS FOR STUDENT CONDUCT**

TISD strives to provide a safe, positive learning environment for all students that is free from unnecessary distractions or other factors that interfere with student learning. Students, parents, and the school district must work collaboratively to create and maintain quality learning environments in all of our schools. Parents play a vital role in assisting the district to set standards for expected behavior and to explain consequences for failure to comply.

TISD asks parents to review, study, and support the district's behavioral management plan (Student/Parent Guidebook and Student Code of Conduct) and any local campus handbooks. By

cooperating with school personnel, participating in conferences and training sessions as needed, and communicating factors which might affect student behavior, parents can help create a quality learning environment for their child. Students also share responsibility for the effectiveness of the district's Student Code of Conduct.

Each campus administrator should review the Student Code of Conduct in an age-appropriate manner with students at the beginning of the school year. Students are expected to become familiar with expected standards of behavior and to demonstrate appropriate behavior. School rules and the authority of TISD to administer discipline apply whenever the interest of the district is involved, on or off school property, in conjunction with or independent of classes or school-sponsored activities.

**Each student is expected to:**

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

**STUDENT SEARCHES**

The district has the right to search a vehicle driven to school by a student and parked on school property whenever there is reasonable cause to believe it contains articles or materials prohibited by the district. Similarly, the district has the right to search a student's locker, desk, or person where there is reasonable suspicion to believe the individual OR he or she may possess articles or materials prohibited by the district.

**EDUCATIONAL ENVIRONMENT**

TISD seeks to foster a climate of mutual respect for the rights of others that enhances the educational purpose for which the district exists. All students enjoy the basic rights of citizenship guaranteed by law for persons of their age and maturity. Each student must, in turn, respect the rights of classmates, teachers and other school personnel. All personnel will recognize and respect the rights of students, just as students are expected to exercise their rights responsibly toward others. Students are expected to demonstrate due regard for the rights of others and to comply with the rules and regulations established to create an atmosphere in which TISD's educational mission can be achieved. Students who violate the rights of others or the rules of the school district will be subject to appropriate disciplinary measures.

These measures are designed to correct misconduct, maintain a safe and orderly school environment, and promote a sense of responsibility among all individuals as citizens of the school community. Each student is responsible for helping the district create and maintain a positive learning environment at school and school-sponsored activities.

### **STAFF RESPONSIBILITY**

District staff will approach student behavior management from a positive standpoint to help students learn and internalize standards of appropriate, responsible behavior and will administer discipline when necessary to protect students, employees, or property and to maintain order. Staff will treat students fairly and in an equitable manner. Discipline, when required, will be administered based on careful assessment of the circumstances.

In general, discipline will be designed to correct misconduct and encourage all students to adhere to their responsibilities as citizens of the school community. Teachers and administrators will draw on their professional judgment and discretion and employ a range of discipline management strategies when assigning disciplinary consequences.

### **DISCIPLINARY ACTION**

Disciplinary action will be correlated to the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, the effect of the misconduct on the school environment and other persons, any statutory requirements, and other relevant factors. Where an order of an out-of-school suspension, removal to a Disciplinary Alternative Education Program (DAEP), or expulsion may be appropriate, the district will consider (i) whether the student's actions were in self-defense; (ii) the student's intent or lack of intent when he/she engaged in the conduct; (iii) the student's disciplinary history; (iv) a disability if any, that substantially impairs the student's capacity to appreciate the wrongfulness of his/her conduct.

Please note that 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 provision of those laws. The principal or other appropriate administrator will notify a student's parent verbally or in writing of any violation of the Student Code of Conduct that may result in a suspension, removal to a DAEP, or expulsion. Notification will be made within three school days after the administrator becomes aware of the violation.

### **DISRUPTIONS**

A key factor in managing the educational environment to support student learning is eliminating unnecessary disruptions during the school day. Unauthorized conduct by students (in or out of class) that for any reason—whether because of time, place, or manner of behavior—disrupts class work, creates substantial disorder, or diminishes OR limits OR threatens the rights of others is prohibited.

No student, acting alone or with a group, will be permitted to disrupt classes or other school activities. This prohibition applies to conduct occurring on school property and public property within 300 feet of school property and/or while attending school-related or school-sponsored activities on or off school property.

## **PROHIBITED CONDUCT**

**Prohibited conduct that may disrupt the educational activities of a school includes but is not limited to:**

- Disrupting or attempting to disrupt an assembly by means of force or threat of force.
- Emitting noise of an intensity or tone that prevents or hinders classroom instruction.
- Entering a classroom without the consent of the principal or teacher and causing disruption of class activities either through acts of misconduct and/or the use of loud or profane language.
- Enticing or attempting to entice students away from classes or required school activities.
- Obstructing the passage of persons in an exit, entrance, or hallway of a building without authorization from school administrators.
- Preventing or attempting to prevent students from attending classes or required school activities.
- Preventing or attempting to prevent a lawful assembly authorized by school administrators by means of force or threat of violence.
- Restraining or attempting to restrain the passage of any person at an exit or entrance to a campus or building by force, violence, or threats, and without the authorization of school administrators.
- Seizing control of a building or portion of a building for the purpose of interfering with an administrative, educational, research, or other authorized activity.
- Using an electronic communication device during the school day and/or having such a device ring or make any other audible sound during the school day.
- Wearing or displaying language, signs, logos, pictures, or other communications of lewd or pornographic or sexual content; of violence or displays advocating violence against any person or group; or of the promotion of OR advertisement for alcohol or any other illegal drug or narcotic.

Student demonstrations, boycotts, and similar activities are prohibited if they lead administrators to determine that substantial disruption or interference of normal school operations will occur.

Students who participate in unauthorized disruptive activities, including those described above, are subject to disciplinary action, based on the severity of the violation and its overall effect on the welfare of other students and disruption of the school environment.

### **Citations**

Citations will be issued in accordance with state and federal law. Criminal offenses will result in a citation being issued by the campus police officer. The principal should be informed of any citations and/or criminal charges being issued on campus to any student(s).

## ***Category I – General Conduct Violations***

Students who engage in conduct characterized as a general misconduct violation (Category I violation) will be disciplined by the appropriate administrator. Category I violations are generally less serious than offenses listed as Category II or III violations. The categories of conduct below are prohibited at school and all school-related activities, but the list does not include the most serious offenses. In the subsequent sections on Out- of- School Suspension, DAEP Placement, Placement and/or Expulsion for Certain Serious Offenses, and Expulsion, severe offenses that require or permit specific consequences are listed. Any offense, however, may be serious enough to result in Removal from the Regular Educational Setting as detailed in that section. **If any of the following occur, students will be disciplined in accordance with the Student Code of Conduct:**

### **DISREGARD FOR AUTHORITY**

*Students shall not:*

- Fail to comply with directives given by school personnel.
- Leave school grounds or school-sponsored events without permission.
- Disobey rules for conduct on school buses.
- Refuse to accept discipline management techniques assigned by a teacher or principal.

### **MISTREATMENT OF OTHERS**

*Students shall not:*

- Direct profanity, vulgar language or obscene gestures toward another student or district employee.
- Commit Hands-off Violations. (For assault see DAEP Placement and Expulsion)
- Engage in Mutual Combat.
- Cause Intentional Injury.
- 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, and making hit lists (See glossary for all three terms.), including intimidation by name-calling, using ethnic or racial slurs, or making derogatory statements that could disrupt the school program or incite violence.
- Engage in conduct that constitutes sexual harassment or sexual abuse, whether by word, gesture, or any other sexual conduct, including requests for sexual favors directed toward a district student, employee, volunteer, or other individual.

- Engage in conduct that constitutes dating violence, including the intentional use of physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person with whom the student has or has had a dating relationship.
- 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 or transmit 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, buildings, 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 and theft see DAEP Placement and Expulsion.)

**POSSESSION OF PROHIBITED ITEMS**

*Students must not use or possess any of the following items on school property:*

- 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;
- a “look alike” explosive device;
- an air gun or BB gun;
- ammunition;
- a stun gun;
- a pocket knife or any other small knife;
- mace or pepper spray;

- pornographic material;
- tobacco products;
- matches or a lighter;
- a laser pointer for other than an approved use; or

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)

### **BULLYING/ CYBERBULLYING**

Students are not allowed to threaten or harass other students in any manner. Students may be disciplined for threats made outside of school if the threat causes material or substantial disruption at school.

- Communicate oral or written threats to cause harm or bodily injury to another student, district employee, official, volunteer, or school property, including threats made using the Internet or other computer resources at school.
- Send or post electronic messages that are abusive, obscene, sexually oriented, harassing, or illegal.
- Violate policies or rules for computer use or Internet access.
- Transmit/display material that is sexually oriented, pornographic, obscene, or reveals a person's private body parts.

### **ELECTRONIC COMMUNICATIONS DEVICES**

The district prohibits students from using electronic communication devices without permission at school during the instructional day and lunch. The instructional day is determined by the principal. Electronic communication devices include but are not limited to:

Portable telephones (including cellular, digital, camera, Internet capable, etc.) two- way radios, pagers, beepers. Any other electronic device capable of transmitting electronic signals (including: Bluetooth and/or infrared technology, iPods, MP3 players, handheld games, Blackberries, Smartphones, etc.)

Students may possess electronic communication devices at school; however, such devices, including accessories for such devices, shall not be visible and shall remain off during the school day. Students may use PDA's (Personal Digital Assistants) during the school day with the permission of the classroom teacher for instructional purposes only. *To help ensure the testing environment is not compromised, schools may impose different rules for possession of electronic communication devices on days that statewide assessments or district benchmark tests are administered.*

A student violates this policy if the electronic communication device is either visible and/or turned on without the express permission of a school official. A violation of this policy will result in the confiscation of the device. **The device will be returned to the student upon payment of a \$15.00 administrative fee. Repeated violations of this policy can result in the administrator request of a parent conference/pickup or confiscation of the phone for the**

**remainder of the semester or school year. Students who use their cell phones to record inappropriate behavior at school may lose the right to bring cell phones to school.**

The district expects that parents will promptly retrieve electronic communication devices confiscated under this policy. The district is not responsible for theft, damage, or loss of such confiscated devices. Any devices not retrieved by noon on the last school day of the semester in which the device is confiscated will not be returned and will be forwarded to Student Services for disposal.

**ILLEGAL, PRESCRIPTION and OTC DRUGS**

- Possess or take prescription drugs, over-the-counter drugs, or other compounds at school other than as provided by district policy (in the nurse's office).
- 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.")

**MISUSE OF COMPUTERS/INTERNET**

- Violate computer use policies, rules, or agreements signed by the student and/or agreements signed by the student's parent.
- 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, in order to cause a substantial disruption to the educational environment.
- Attempt to alter, destroy, or disable district computer equipment, district data, the data of others, or other networks connected to the district's system, including off-school property in an attempt to cause 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, in an effort to cause a substantial disruption to the educational environment.
- Send or post electronic messages, on or off school property, that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, in an attempt to cause a substantial disruption to the educational environment.
- Use e-mail or Web sites at school to encourage illegal behavior or threaten school safety.

## **SAFETY TRANSGRESSIONS**

- Possess published or electronic material that is designed to promote or encourage illegal behavior to 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**

- 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.
- Loiter or stand in hallways between classes.

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.

## **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 will 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 determining whether to order suspension, DAEP placement, or expulsion--regardless of whether the action is mandatory or discretionary-- the district will take into consideration a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.

## **DISCIPLINE MANAGEMENT TECHNIQUES**

Discipline will be designed to improve conduct and to encourage students to adhere to their responsibilities as members of the school community. Disciplinary action will draw on the professional judgment of teachers and administrators and will include a range of discipline management techniques. Discipline will 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 (unless otherwise specified by law) may involve a variety of disciplinary techniques and responses.

## **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.
- Temporary confiscation of items that disrupt the educational process.
- Rewards or demerits.
- Behavioral contracts.
- Counseling by teachers, counselors, or administrative personnel.
- Parent-teacher conferences.
- Grade reductions for cheating or plagiarism, and as otherwise permitted by policy.
- Detention [Policy FO (LOCAL) requires prior parent notification].
- Sending the student to the office or other assigned area, or to in-school suspension. (ISS) [Parent notification required for ISS.]
- Proximity.
- Charting/tallying behaviors.
- Corporal Punishment [In accordance to policy FO (LOCAL)].
- Nonverbal correction.
- Citizenship grade reduction.
- Assignment to campus-based discipline program.
- Assignment of school duties, such as cleaning or picking up litter.
- Withdrawal of privileges, such as participation in extracurricular activities, eligibility for seeking and holding honorary offices, or membership in school-sponsored clubs and organizations.

- Penalties identified in individual student organizations' extracurricular standards of behavior.
- Withdrawal or restriction of bus privileges.
- School-assessed and school-administered probation.
- Out-of-school suspension, as specified in the Out-of-School Suspension section of this Code.
- Placement in a DAEP, as specified in the DAEP section of this Code.
- Placement and/or expulsion in an alternative educational setting, as specified in the Placement and/or Expulsion for Certain Serious Offenses section of this Code.
- Expulsion, as specified in the Expulsion section of this Code.
- Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the district.
- Other strategies and consequences as determined by school officials.

### **Notification**

The principal or appropriate administrator will notify a student's parent by phone or in writing of any violation that may result in an 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**

Parental questions or complaints regarding disciplinary measures should be addressed to the teacher or campus administration, as appropriate, and 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 *Tyler ISD Policy on-line* at the following address: [www.tylerisd.org](http://www.tylerisd.org).

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

### **Removal from the Regular Educational Setting**

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

### **Routine Referral**

A routine referral occurs when a teacher sends a student to the principal's office as a discipline management technique. The principal may then employ additional techniques.

### **Formal Removal**

A teacher or administrator **may** remove a student from class for a behavior that violates this Code to maintain effective discipline in the classroom. A teacher **may** also initiate a formal removal from class if:

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

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. When removing for those reasons, the procedures in the subsequent sections on DAEP or expulsion will be followed. Otherwise, ***within three school days of the formal removal, the appropriate administrator will schedule a conference with the student's parent; the student; the teacher, in the case of removal by a teacher; and any other administrator.***

At the conference, the appropriate administrator will inform the student of the misconduct for which he or she is charged and the consequences. The administrator will give the student an opportunity to give his or her version of the incident. When a student is removed from the regular classroom by a teacher and a conference is pending, the principal may place the student in:

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

### **Returning Student to Classroom**

When a student has been formally removed from class by a teacher for conduct against the teacher containing the elements of assault, aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, or criminal attempt to commit murder or capital murder, the student may not be returned to the teacher's class without the teacher's consent.

When a student has been formally removed by a teacher for any other conduct, the student may be returned to the teacher's class without the teacher's consent, if the placement review committee determines that the teacher's class is the best or only alternative available.

### **Out-of-School Suspension for Misconduct:**

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

- 1. Self-defense (See glossary.),**
- 2. Intent or lack of intent at the time the student engaged in the conduct, and**
- 3. The student's disciplinary history.**

### **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 will 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 will 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 will be determined by the appropriate administrator, but **will not exceed three school days.**

The appropriate administrator will determine any restrictions on participation in school-sponsored or school-related extracurricular and co-curricular activities during the period of suspension.

## ***Category II Offenses- Removal From the Regular Educational Setting (DAEP)***

### DISCIPLINE ALTERNATIVE EDUCATION PROGRAM (DAEP)

*PLYLER COMPLEX 807 W. Glenwood Tyler, TX 75701*

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 separately from those students who are not assigned to the program.

The minimal assignment for an elementary student to the DAEP is 15 days. The minimal assignment to the DAEP for a secondary student is 30 days. Adjustments to the length of assignment for students assigned to DAEP may be recommended by the campus administration based on a case-by-case basis, but must have approval from the Executive Director of Student Services.

Each student's length of placement will be for a set term of days.

For example: Secondary: A minimum of 30 to a maximum of 120 days may be assigned to students for DAEP placement. Elementary: A minimum of 15 to a maximum of 120 days may be assigned to students for DAEP placement. Placements to the DAEP may extend beyond 120 days but must meet the review criteria outlined in the code.

A student's initial placement to the DAEP will be the minimal number of days unless the review committee determines that an adjustment is necessary. This will be determined on a case by case basis and must be approved by the Executive Director of Student Services.

A student's assignment to DAEP will not be shortened or lengthened by determining "good days" or "bad days." If the student's placement to the DAEP is not productive and the student's behavior continues to violate the code of conduct and warrants a lengthened placement, an additional placement conference for a new assignment to the DAEP must be conducted. (TEC 37.009 (d).)

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 determining placement of a student in a DAEP--regardless of whether the action is mandatory or discretionary--the district will take into consideration:**

- 1. Self-defense (See glossary.),**
- 2. Intent or lack of intent at the time the student engaged in the conduct, and**
- 3. The student's disciplinary history.**

**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***

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

A. Involvement in a public school fraternity, sorority, or secret society, including participating as a member or pledge, or soliciting another person to become a pledge or member of a public school fraternity, sorority, secret society, or gang. (See glossary.)

B. Involvement in criminal street gang activity. (See glossary.)

C. Any criminal mischief, including a felony.

D. Reckless Speech; this prohibition extends to all such statements regardless of whether the student intends to carry out the plan, scheme or threat.

E. Use/Possession of a knife with a blade less than 5 (1/2) inches.

F. Conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(i) The superintendent or superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than those defined in Title 5, Penal Code.

(ii) 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. Student misconduct may include:

(a) Bullying, harassment, hazing, intimidation, or making a hit list.

(b) Engaging in offensive or unwelcome verbal or physical conduct of a sexual nature which may include requests for sexual favors, or other intimidating or unwelcome sexual conduct directed toward another student.

(c) Engaging in sexual intercourse or other intimate sexual conduct at school or during any school-related or school-sponsored activity (even if such conduct is consensual).

(d) Possessing or distributing any pornographic material.

(e) Selling, delivering to another person, possessing, or using drug paraphernalia.

(f) Selling, delivering, using, possessing, or knowingly ingesting prescription or non-prescription medication (Exception: medication possessed and taken in accordance with the Health Services section of the Student/Parent Guidebook and as directed by a doctor's prescription or label directions).

- (g) Possession of an unauthorized prescription medication.
  - (h) Vandalizing, damaging, setting fire to or stealing property owned by the district, other students, or district employees.
  - (i) Engaging in serious misbehavior that affects the orderly environment of the school, not excluding conduct listed in Category I.
  - (j) Exhibiting persistent misbehavior including repeated violations of standards of student conduct and/or the Student Code of Conduct.
  - (k) Using the district's electronic communication systems, including the Internet or intranet, to obtain a benefit from, defraud, or harm another; or to alter, damage or delete property or information from the system without permission.
  - (l) Violating the district's Acceptable Use Plan or Electronic Communication and Data Management Policy.
  - (m) Engaging in unwelcome verbal or physical harassment on the basis of a person's sex, age, race, color, religion, or national origin.
  - (n) Criminal mischief not punishable as a felony.
- (iii) If a student has previously attended the district's DAEP within a particular school year for continued persistent or serious misbehavior, he/she must repeat the district's stated disciplinary process before being returned to Plyler DAEP.

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

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 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 has no knowledge of the conduct before the first anniversary of the date the conduct occurred.

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

1. A student must be removed from class and placed in a DAEP if the student commits any of the following conduct *on or within 300 feet of school property* (as measured from any point on the school district's real property boundary line) or while attending a school-sponsored or school-related activity on or off of school property:
  - a. Engages in conduct punishable as a felony
  - b. Engages in conduct that contains the elements of the offense of assault under § 22.01 (a) (1), Penal Code.
  - c. Sells, gives, or delivers to another person or possesses or uses, or is under the influence of: (i) Marijuana or a controlled substance, as defined by Chapter 481, Texas Health and Safety Code, or 21 U.S.C. §. 801. (ii) A dangerous drug, as defined by Chapter 483, Health and Safety Code.
  - d. Sells, gives, or delivers to another person an alcoholic beverage as defined by § 1.04, Alcoholic Beverage Code; commits a serious act or offense while under the influence of alcohol; or possesses, uses, or is under the influence of an alcoholic beverage.
  - e. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under § 485.03 - 485.035, Health and Safety Code.
  - f. Engages in conduct that contains the elements of the offense of public lewdness under § 21.07, Penal Code, or indecent exposure under § 21.08, Penal Code (Reference: Texas Education Code §37.006).
  - g. Uses/possesses a look-alike weapon, stun gun or other incapacitating device, or uses any object to threaten or cause bodily harm.
  - h. Uses/possesses an air rifle, air pistol or pellet gun of any description that is capable of discharging any object by means of compressed air, gas, springs, or other means.
  - i. Possesses a look-alike explosive.
  - j. Admits to possession, use, sale, or delivery of any amount of alcohol or any other illegal substance.**
  
2. A student shall be removed from class and placed in a disciplinary alternative education program if the student:
  - a. Engages in conduct involving a public school that contains the elements of the offense of false alarm or report (including a bomb threat) under § 42.06, Penal Code, or terroristic threat under §22.07, Penal Code.

b. Engages in conduct that contains the elements of the offense of retaliation under § 36.06, Penal Code, against any school employee or volunteer.

c. Engages in conduct occurring off campus and while a student is not in attendance at a school-sponsored or school-related activity if:

- (i) The student receives deferred prosecution under § 53.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code.
- (ii) A court or jury finds that the student has engaged in delinquent conduct under §54.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code.
- (iii) The superintendent or superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as a felony offense in Title 5, Penal Code (Reference: Texas Education Code § 37.006).

d. Engages in expellable conduct and is between six and nine years of age.

e. Commits a federal firearm violation and is younger than six years of age.

**Students Under the Age of Ten.**

The law regarding young students is as follows:

- Students under age six cannot be placed in a DAEP unless they commit a federal firearms offense.
- Students between six and nine years of age who commit expellable offenses must be placed in a DAEP.
- Elementary students cannot be placed in a DAEP with students not in elementary school.

**Sexual Assault and Campus Assignment:**

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 will 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.

**Emergency removals to DAEP will be made only by the approval of the Superintendent or Superintendent's designee.**

**Process**

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

**Conference**

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

Following documented 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.

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

**Placement 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 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 will give notice of the inconsistency.

**Length of Placement**

The duration of a student's placement in a DAEP will be determined by the campus principal with approval by the Facilitator of Discipline.

The duration of a student's placement will be determined on a case-by-case basis. DAEP placement will 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.***

***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 Superintendent or Superintendent's designee must determine that:

1. The student's presence in the regular classroom or campus presents a danger of physical harm to the student or others, or
2. The student has engaged in 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 will 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 Executive Director of Student Services in accordance with policy FOC (LEGAL). A copy of this policy may be obtained from the principal's office or the central administration office or through Policy on line at the following address: [www.tylerisd.org](http://www.tylerisd.org).

***Disciplinary 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.***

### **Restrictions during DAEP Placement**

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

**Transportation:** 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.

**Seniors:** For seniors who are eligible to graduate and are assigned to a DAEP during the last grading period of the spring semester, the placement in the program will continue through graduation, and the student will not be allowed to participate in the graduation ceremony and related graduation activities.

### **Placement Review**

A student placed in a DAEP will be provided a review of his or her status, including academic status, by the Facilitator of Discipline Services 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 if it is for one of the offenses listed in the teacher formal removal section on page 13 under section "Returning Student to the Classroom."***

### **Additional Misconduct**

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

### **Notice of Criminal Proceedings**

The office of the prosecuting attorney will 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 will 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 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 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 will decide on a case-by-case basis whether to continue the placement of a student who enrolls in the district and was assigned to a DAEP in an open-enrollment charter school or another district. The district may place the student in the district's DAEP or a regular classroom setting. A newly enrolled student with a DAEP placement from a district in another state will 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, will 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**

The Superintendent or Superintendent's designee may order an emergency placement to DAEP in order to maintain a secure and orderly educational environment.

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 assignment to a DAEP.

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

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

#### ***Registered Sex Offenders***

Upon receiving notification in accordance with state law that a student is currently required to register as a sex offender, the 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 will 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 will 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 a felony offense under Title 5 (See glossary.) of the Texas Penal Code 54. The student must:

- Have received deferred prosecution for conduct defined as a Title 5 felony offense;
- Have been found by a court or jury to have engaged in delinquent conduct for conduct defined as a Title 5 felony offense;
- Have been charged with engaging in conduct defined as a Title 5 felony offense;
- Have been referred to a juvenile court for allegedly engaging in delinquent conduct for conduct defined as a Title 5 felony offense; or
- Have received probation or deferred adjudication or have been arrested for, charged with, or convicted of 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.

## ***CATEGORY III OFFENSES: Expulsion***

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

- 1. Self-defense (see glossary),**
- 2. Intent or lack of intent at the time the student engaged in the conduct, and**
- 3. The student's disciplinary history.**

### **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:
  - a. Aggravated assault.
  - b. Sexual assault.
  - c. Aggravated sexual assault.
  - d. Murder.
  - e. Capital murder.
  - f. Criminal attempt to commit murder or capital murder.
  - g. Aggravated robbery.
  - h. 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]**

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]**

Engaging in the following conduct while within **300 feet** of school property, as measured from any point on the school's real property boundary line:

- Aggravated assault, sexual assault, or aggravated sexual assault.
- Arson.
- Murder, capital murder, or criminal attempt to commit murder or capital murder.
- Indecency with a child, aggravated kidnapping, manslaughter, criminally negligent homicide, or aggravated robbery.
- Continuous sexual abuse of a young child or children.
- Felony drug- or alcohol-related offense.
- 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]**

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]**

Engaging in serious offenses or persistent misbehavior (See glossary.) that violates the district's Code while placed in a DAEP.

**Mandatory Expulsion: Misconduct That Requires Expulsion**

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:

***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.

***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 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 (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, a switchblade knife, knuckles, armor-piercing ammunition, a chemical dispensing device, a zip gun. (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, with the exception of a federal firearm offense, on or off school property or at a school-related activity.

**Students Under Age Ten**

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 DAEP. A student under age six will not be placed in a DAEP unless the student commits a federal firearm offense.

**Emergency**

In an emergency, Superintendent or 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 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.
- DAEP.

**Hearing Procedures**

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

1. Representation by the student's parent or another adult who can provide guidance to the student and who is not an employee of the district,
2. An opportunity to testify and to present evidence and witnesses in the student's defense, and
3. An opportunity to question the district's witnesses.

After providing notice to the student and parent of the hearing, the district may hold the hearing regardless of whether the student or the student's parent attends.

**Board Review of Expulsion**

The board of trustees delegates to the Facilitator of Discipline Services the authority to conduct hearings and expel students.

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 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.

### **Expulsion Order**

Not later than the second business day after the hearing, the Facilitator of Discipline will 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 will give notice of the inconsistency.

The length of an expulsion 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.

### **Length of Expulsion**

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

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

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

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

Students who commit offenses that require expulsion at the end of one school year may be expelled into the next school year to complete the term of expulsion.

### **Withdrawal during Process**

When a student has violated the district's Code in a way that requires or permits expulsion from the district and the student withdraws from the district before the expulsion hearing takes place, the district may conduct the hearing after sending written notice to the parent and student.

If the student then 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 will 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 will 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 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.

**Emergency Expulsion Procedures**

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.

**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.

**SMITH COUNTY JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM**  
**(SCJJAEP)**

The TISD Board of Trustees has entered into an agreement with the Smith County Juvenile Board outlining the juvenile board's responsibilities concerning the establishment and operation of the Smith County Juvenile Justice Alternative Education Program (SCJJAEP). (Details of this relationship are specified in agreements available for public inspection upon request to the Office of Records Management.) Students may be placed in the Smith County Juvenile Justice Alternative Education Program (SCJJAEP) under the following conditions:

- Upon expulsion from TISD schools for Category III infractions under Chapter 37 of the Texas Education Code and as specified in TISD's *Student Code of Conduct*.
- As ordered by the juvenile court when the student is expelled from school pursuant to the provisions of the Texas Education Code § 37.007 and/or the TISD Student Code of Conduct, and the student is found to have engaged in delinquent conduct under Title 3 of the *Texas Juvenile Justice Code*.
- When the juvenile court orders such placement pursuant to its authority under the *Texas Juvenile Justice Code*.
- When the Student is expelled for certain serious offenses described in the *Student Code of Conduct*. Any student who has been expelled from school will be referred for placement in the SCJJAEP or in the appropriate school district alternative educational program.

The Smith County Case Review Committee may recommend to the Smith County Juvenile Board (SCJB), a juvenile court, or a school district that any student who has been expelled from school be placed in the TISD disciplinary alternative education program or the SCJJAEP.

Students who are expelled from school pursuant to Texas Education Code §37.007 and are placed in the SCJJAEP by TISD must remain in the program for the full period ordered by the district.

At the conclusion of the student's term of probation and any other requirement imposed by the district, and if the student meets the requirements for admission into the public schools established by law, the school district in which the student resides must re-admit the student, but may assign such student to the school district's DAEP, as determined necessary by the Superintendent or Superintendent's designee.

## **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.

**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:

- (i) Knowing that it is within the limits of an incorporated city or town,
- (ii) Knowing that it is insured against damage or destruction,
- (iii) Knowing that it is subject to a mortgage or other security interest,
- (iv) Knowing that it is located on property belonging to another,
- (v) Knowing that it has located within it property belonging to another, or
- (vi) 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.

**Bullying** is written or oral expression or physical conduct that a school district's board of trustees or the board's designee determines:

1. To 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. To be sufficiently severe, persistent, or pervasive to create an intimidating, threatening, or abusive educational environment for a student.

**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.

**Dating violence** is the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person with whom the student has or has had a dating relationship, 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);
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.

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

**Possession** means to have an item on one's person or in one's personal property, including but not limited to clothing, purse, or backpack; a private vehicle used for transportation to or from school or school-related activities, including but not limited to an automobile, truck, motorcycle, or bicycle; 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 offenses** include but are not limited to:

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

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

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

toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife.

**Terroristic threat** is 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).

**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; coercing, soliciting, or inducing gang membership if it causes bodily injury to a child; 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.