

# Agenda of Regular Meeting

## The Board of Trustees

### Marathon ISD

#### *Preparing Each Student for a Successful Future as a Lifelong Learner*

---

A Regular Meeting of the Board of Trustees of Marathon ISD will be held July 20, 2023, beginning at 6:00 PM in the Marathon High School Library.

The subjects to be discussed or considered or upon which any formal action may be taken are listed below. Items do not have to be taken in the same order as shown on this meeting notice. Unless removed from the consent agenda, items identified within the consent agenda will be acted on at one time.

- I. Call Meeting to Order
- II. Pledge of Allegiance to the American and Texas Flags
- III. Board Prayer and Moment of Silence
- IV. Public Comment
- V. Discuss and take possible action on the 2023-2024 TASB Code of Conduct 2
- VI. Budget Amendments 89
- VII. Authorize MISD Business Manager to calculate the 2023 Tax Rate and the No New Revenue Tax Rate in accordance with Truth in Taxation Requirements
- VIII. Closed Meeting  
In accordance with the Texas Open Meetings Act (Subchapter D and F of Chapter 551 of the Texas Government Code), the board will now enter into a closed meeting to deliberate subjects listed on this agenda authorized by Subchapter D. Any final action, decision, or vote on a subject deliberated in the closed meeting will be taken in an open meeting held in compliance with the Texas Open Meetings Act.
  - a. Deliberate and take possible action on proposals received for Silent Panic Alert System. Tex Gov't Code Sec. 551.076 and 551.089
  - b. Deliberate the appointment, employment, evaluation, reassignment, and/or duties of trustees or personnel. Tex Gov't Code Section 551.074
- IX. Open Meeting
  - a. Take action on proposals received for Silent Panic Alert System. Gov't Code Sec. 551.076 and 551.089
- X. Adjourn

***The Marathon ISD seven-member Board of Trustees is focused on student achievement and the overall success of the school district.***

# 2023 MODEL STUDENT CODE OF CONDUCT

Revised July 2023

Annotated to show changes compared to the July 2021 edition

Policy Service

Texas Association of School Boards

The *TASB Model Student Code of Conduct* (MSCOC) is provided to Policy Service subscribers to help maintain the district's local Student Code of Conduct, mandated by Chapter 37 of the Texas Education Code.

The *Model Student Code of Conduct* is copyrighted by TASB but may be reproduced by districts that subscribe to Policy Service in the development of their local Student Codes of Conduct. Further use or copying is prohibited without the written consent of TASB Policy Service.

If you have any questions about this document, please email [Policy Service](#) or call 800-580-7529.

# About the Annotated Model Student Code of Conduct

## Recommendations

- Review relevant changes from the 88th Legislative Session,
- Identify the legal and local policies that align with the Student Code of Conduct,
- Review references to law and policy, and
- Make sure all legal requirements are included in the district's Code of Conduct.
- District staff members who administer discipline for Code of Conduct violations may wish to retain a copy of the annotated Code of Conduct for the Editorial Notes resources.

## Track changes

Track changes indicate revisions from the previous version. Bill numbers are **highlighted in yellow** in the Editorial Notes to indicate new state law.

- Deletions appear in a red strike-through text: ~~deleted~~
- Additions appear in a blue, underline text: new text
- Revision bars appear in the right margin.

## Important Requirements

- State law requires the **board to adopt** your district's Student Code of Conduct. The district's Code of Conduct stands as an authoritative document and, once adopted, has the force of policy. Its provisions should not be repeated in the local policy manual or the student handbook. We recommend the district's attorney review the completed Code of Conduct before the board adopts it.
- The Education Code requires districts to **post and prominently display** the Code of Conduct at each school campus or have it available for review at the office of the campus principal. The Code of Conduct should also be available at the office of the campus behavior coordinator.
- The Glossary includes **legal and local definitions of terms** and must be retained as part of the Code of Conduct.
- Districts are required to **provide parents with the district's Code of Conduct**. Sample acknowledgment forms for parents are included as separate documents. The Code of Conduct may be:
  - Posted on the district website,
  - Distributed as a hardcopy, or
  - Provided through other means.

### **Other Discipline-Related Resources**

- Education Code 37.018 requires the district to provide a copy of [Chapter 37, Subchapter A](#) to educators and administrators.
- The TASB [Regulations Resource Manual](#), available in the Policy Service Resource Library on TASB, has forms addressing discipline issues:
  - FO(EXHIBIT) on use of corporal punishment,
  - FOA(EXHIBIT) on removal of a student by a teacher or bus driver,
  - FOB(EXHIBIT) on out-of-school suspension,
  - FOC(EXHIBIT) on placement in a DAEP,
  - FOCA(EXHIBIT) on transition services and plans to assist a student's transition back into the regular educational setting from a DAEP,
  - FOD(EXHIBIT) on expulsion,
  - FODA(EXHIBIT) on plans to assist a student's transition back into the regular educational setting from a Juvenile Justice Alternative Education Program (JJAEP), and
  - FOE(EXHIBIT) on emergency removal.

### **Disclaimer**

The *Model Student Code of Conduct* is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional adviser. Consult with your attorney or professional adviser to apply these principles to specific fact situations.

**Legislative bills from the 88th Legislative Session that affect the Student Code of Conduct:**

- House Bill (HB) 114 amends Chapter 37 to make clear that conference, hearing, and review provisions in 37.009(a) apply to all removals for mandatory placement in a Disciplinary Alternative Education Program (DAEP) and mandatory expulsions. This bill requires a student to be placed in the DAEP if the student possesses, uses, or is under the influence of, or sells, gives, or delivers marijuana, THC, or an e-cigarette to another person within 300 feet of school property or at a school-related event. The requirement for mandatory expulsion for felony marijuana, THC, and alcohol-related conduct has been removed. In addition, the bill allows a program of educational and support services to be provided to a student and parents for an offense involving e-cigarettes.

If a DAEP is at capacity, a student who commits an offense related to marijuana, THC, e-cigarettes, alcohol, or abusable volatile chemicals shall be placed in in-school suspension (ISS) until a place in a DAEP becomes available or the period of the student's placement ends. If a DAEP is at capacity when a student who engaged in violent conduct needs to be placed, a district may move a student placed in DAEP for conduct related to marijuana, THC, an e-cigarette, alcohol, or an abusable volatile chemical to ISS to make room for the student who engaged in violent conduct. If a district removes a student from a DAEP to ISS, the student must be returned to a DAEP if a place becomes available before the end of the period of placement.

- House Bill (HB) 3928 amends Chapter 37 to require the district to provide information to a student's parent or person standing in parental relation to the student about the process for requesting a full individual and initial evaluation of the student for purposes of special education services both when a student is placed in the DAEP under Section 37.006 and as part of the student's personalized transition plan developed by the campus administrator.
- Senate Bill (SB) 37 amends Chapter 37 to remove the requirement for a report of hazing or planned hazing to be submitted in writing. The bill allows a report to be made to a peace officer or law enforcement agency, in addition to a dean of students or other institutional official. The bill also provides immunity from liability for any person, including an entity organized to support an organization, who reports a specific hazing incident to certain people, including a peace officer or law enforcement agency, if the person makes the report before being contacted by the educational institution or law enforcement agency and cooperates in good faith with the investigation conducted by the institution or law enforcement agency.
- House Bill (HB) 1427 expands the offense of harassment under Penal Code 42.07 to include making obscene, intimidating, or threatening telephone calls or other electronic communications from a temporary or disposable telephone number provided by an internet application or other technological means.

**Note:** This is not an inclusive list of all Legislative bills passed.

The *Model Student Code of Conduct* has been lightly edited throughout for clarity and to incorporate recent changes that have been made to other policies. We encourage administrators to read through the entire *Model* carefully, especially the Editorial Notes, and add the district's unique text to the TASB 2023-24 editable template rather than revising a previous district Code of Conduct to make sure that all changes are included in the district's 2023-24 Code of Conduct.

## Contents

2023 MODEL STUDENT CODE OF CONDUCT .....	1
<b>Student Code of Conduct.....</b>	<b>1</b>
Accessibility.....	1
Purpose .....	1
<b>School District Authority and Jurisdiction.....</b>	<b>3</b>
Campus Behavior Coordinator .....	3
Threat Assessment and Safe and Supportive School Team .....	4
Searches.....	5
Reporting Crimes .....	5
Security Personnel .....	6
“Parent” Defined .....	6
Participating in Graduation Activities .....	7
Unauthorized Persons.....	7
<b>Standards for Student Conduct.....</b>	<b>9</b>
<b>General Conduct Violations .....</b>	<b>10</b>
Disregard for Authority.....	10
Mistreatment of Others.....	10
Property Offenses .....	12
Possession of Prohibited Items .....	13
Possession of Telecommunications or Other Electronic Devices .....	15
Illegal, Prescription, and Over-the-Counter Drugs .....	15
Misuse of Technology Resources and the Internet.....	17
Safety Transgressions .....	18
Miscellaneous Offenses .....	18
<b>Discipline Management Techniques.....</b>	<b>20</b>
Students with Disabilities .....	20

Techniques.....	21
Prohibited Aversive Techniques.....	24
Notification.....	25
Appeals .....	26
<b>Removal from the School Bus .....</b>	<b>27</b>
<b>Removal from the Regular Educational Setting.....</b>	<b>28</b>
Routine Referral .....	28
Formal Removal.....	28
Returning a Student to the Classroom.....	29
<b>Out-of-School Suspension .....</b>	<b>30</b>
Misconduct.....	30
Process .....	30
Coursework During Suspension.....	31
<b>Disciplinary Alternative Education Program (DAEP) Placement .....</b>	<b>32</b>
Discretionary Placement: Misconduct That May Result in DAEP Placement.....	33
Mandatory Placement: Misconduct That Requires DAEP Placement.....	35
Sexual Assault and Campus Assignments .....	38
Process .....	39
Length of Placement.....	41
Appeals .....	43
Restrictions During Placement.....	44
Placement Review .....	45
Additional Misconduct.....	46
Notice of Criminal Proceedings .....	46
Withdrawal During Process.....	47
Newly Enrolled Students .....	47

Emergency Placement Procedure .....	48
Transition Services.....	48
<b>Placement and/or Expulsion for Certain Offenses .....</b>	<b>50</b>
Registered Sex Offenders.....	50
Certain Felonies.....	51
<b>Expulsion.....</b>	<b>54</b>
Discretionary Expulsion: Misconduct That May Result in Expulsion .....	54
Mandatory Expulsion: Misconduct That Requires Expulsion .....	59
Under Age Ten .....	61
Process.....	62
Length of Expulsion .....	64
Withdrawal During Process .....	65
Additional Misconduct.....	65
Restrictions During Expulsion .....	65
Newly Enrolled Students.....	66
Emergency Expulsion Procedures.....	67
DAEP Placement of Expelled Students .....	67
Transition Services.....	67
<b>Glossary.....</b>	<b>69</b>

Text	Editorial Notes
<b>Student Code of Conduct</b>	
<b>Accessibility</b>	
<p>If you have difficulty accessing the information in this document because of disability, please contact <i>[insert district employee name, position title, and email or phone number]</i>.</p>	<p>To provide assistance for people with disabilities, we recommend that you include relevant contact information here.</p>
<b>Purpose</b>	
<p>The Student Code of Conduct (“Code of Conduct”), as required by Chapter 37 of the Texas Education Code, provides methods and options for managing student behavior, preventing and intervening in student discipline problems, and imposing discipline.</p> <p>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), placement in a juvenile justice alternative education program (JJAEP), or expulsion from school.</p> <p>This <del>Student</del> Code of Conduct has been adopted by the <i>[insert district name]</i> board of trustees and developed with the advice of the district-level planning and decision-making committee. It provides information to parents and students regarding standards of conduct, consequences of misconduct, and procedures for administering discipline. This Code of Conduct remains in effect during summer school and at all school-related events and activities outside the school year until the board adopts an updated version for the next school year.</p>	<p>We recommend that the board adopt the district’s Student Code of Conduct annually, prior to the start of each school year. While changes to the <i>TASB Model Student Code of Conduct</i> are generally made after a legislative session, district administrators should do a careful review of the district’s Code of Conduct each year to be sure it accurately reflects current practice.</p>

Text	Editorial Notes
<p>In accordance with state law, the Code of <b>Conduct</b> shall be posted at each school campus or shall be available for review at the campus principal's office. Additionally, the Code of <b>Conduct</b> shall be available at the campus behavior coordinator's office <b>and posted on the district's website</b>. Parents shall be notified of any conduct violation that may result in a student being suspended, placed in a DAEP or JJAEP, expelled, or taken into custody by a law enforcement officer under Chapter 37 of the Education Code.</p>	<p>Adjust text to reflect whether the district makes the Code of Conduct available on the district's website.</p>
<p>Because the <del>Student</del> Code of Conduct is adopted by the district's board of trustees, it has the force of policy. In the event of a conflict between the Code of <b>Conduct</b> and the Student Handbook, the Code of <b>Conduct</b> shall prevail.</p>	<p>To avoid conflict, we recommend that the board not adopt the Student Handbook. See BP(LOCAL) and FN(LOCAL) to confirm that the board does not adopt the Handbook.</p>
<p><b>Please note:</b> 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.</p>	<p>Contact the district's local school attorney regarding the Code of Conduct and disciplining students with disabilities.</p>

Text	Editorial Notes
<b>School District Authority and Jurisdiction</b>	
School rules and the district’s authority 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.	
<p>The district has disciplinary authority over a student:</p> <ol style="list-style-type: none"> <li>1. During the regular school day;</li> <li>2. While the student is traveling on district transportation;</li> <li>3. During lunch periods in which a student is allowed to leave campus;</li> <li>4. At any school-related activity, regardless of time or location;</li> <li>5. For any school-related misconduct, regardless of time or location;</li> <li>6. When retaliation against a school employee, board member, or volunteer occurs or is threatened, regardless of time or location;</li> <li>7. When a student engages in cyberbullying, as defined by Education Code 37.0832;</li> <li>8. When criminal mischief is committed on or off school property or at a school-related event;</li> <li>9. For certain offenses committed within 300 feet of school property as measured from any point on the school’s real property boundary line;</li> <li>10. For certain offenses committed while on school property or while attending a school-sponsored or school-related activity of another district in Texas;</li> <li>11. When the student commits a felony, as provided by Education Code 37.006 or 37.0081; and</li> <li>12. When the student is required to register as a sex offender.</li> </ol>	10
<b>Campus Behavior Coordinator</b>	
As required by law, a person at each campus must be designated to serve as the campus behavior coordinator ( <b>CBC</b> ). The designated person may be the principal or any other campus administrator	Chapter 37 establishes the position of campus behavior coordinator (CBC) to serve at each

Text	Editorial Notes
<p>selected by the principal. The <del>CBC</del>campus behavior coordinator is primarily responsible for maintaining student discipline. The district shall post on its website and in the Student Handbook, for each campus, the email address and telephone number of the person serving as <del>CBC</del>campus behavior coordinator. Contact information may be found at <a href="#">[link to district's website]</a> and at <a href="#">[link to online location of digital copy of Student Handbook]</a>.</p>	<p>campus within a school district and be responsible for maintaining student discipline and completing designated duties as assigned by law. If you choose to list the persons serving as a CBC in the Code of Conduct, adjust the text to the left.</p> <p>Education Code 26.015 requires districts to post on their website, for each campus, the email address and dedicated phone number of the CBC</p> <p>Throughout the <i>Model</i>, we have noted when a particular action or decision associated with student discipline is the statutory responsibility of the CBC. Additionally, the <i>Model</i> uses turquoise shading to reflect when the district must choose whether the CBC or another administrator will perform duties regarding disciplinary issues. Unless the district designates otherwise, statute provides that a duty imposed on a principal or other campus administrator in Chapter 37 must be performed by the CBC.</p>
<p><b>Threat Assessment and Safe and Supportive School Team</b></p>	
<p>The <del>CBC</del>campus behavior coordinator or other appropriate administrator will work closely with the campus threat assessment and 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 <b>Conduct</b>.</p>	<p>See FFB(LOCAL) for the district's policy addressing the threat assessment and safe and supportive team.</p>

Text	Editorial Notes
<b>Searches</b>	
<p>District officials may conduct searches of students, their belongings, and their vehicles in accordance with state and federal law and district policy. Searches of students shall be conducted in a reasonable and nondiscriminatory manner. Refer to the district’s policies at FNF(LEGAL) and FNF(LOCAL) for more information regarding investigations and searches.</p> <p>The district has the right to search a vehicle driven to school by a student and parked on school property whenever there is reasonable suspicion to believe it contains articles or materials prohibited by the district.</p> <p>Desks, lockers, district-provided technology, and similar items are the property of the district and are provided for student use as a matter of convenience. District property is subject to search or inspection at any time without notice.</p>	
<b>Reporting Crimes</b>	
<p>The principal or CBC <del>campus behavior coordinator</del> and other school administrators as appropriate shall report crimes as required by law and shall call local law enforcement when an administrator suspects that a crime has been committed on campus.</p>	<p>Education Code 37.015 requires the district to report certain offenses that occur on school property or at school events. School administrators may call law enforcement for assistance in determining whether a crime has been committed.</p> <p>The <i>Model</i> uses turquoise shading to indicate when the district must choose whether the CBC or another administrator will perform duties regarding disciplinary issues. See <b>Editorial Note</b> on page 3.</p>

12

|

Text	Editorial Notes
<p><b>Security Personnel</b></p>	
<p><del>To ensure the security and protection of students, staff, and property, the board utilizes</del> <b>employs [police officers, school resource officers (SROs), school marshals, and/or security personnel] to ensure the security and protection of students, staff, and property.</b> In accordance with law, the board has coordinated with the <del>CBC campus behavior coordinator</del> and other district employees to ensure appropriate law enforcement duties are assigned to <del>these persons</del> <b>security staff. Provisions addressing the various types of security personnel can be found in the CKE policy series.</b> <del>The law enforcement duties of district peace officers are listed in policy CKE(LOCAL).</del></p> <p><b>The law enforcement duties of district police officers are: [insert the law enforcement duties performed by district police officers working for the district.]</b></p> <p><b>[AND/OR]</b></p> <p><b>The law enforcement duties of school resource officers are: [insert the law enforcement duties performed by SROs working with the district.]</b></p> <p><b>[AND OR]</b></p> <p><b>The law enforcement duties of district security personnel are: [insert the law enforcement duties performed by security personnel working with or for the district.]</b></p>	<p>Education Code 37.081 requires the district to include the duties of peace officers, school resource officers (SROs), and security personnel in its district improvement plan, Code of Conduct, and any other documents that outline the duties of such personnel. The law also states that such personnel should not be assigned duties outside of their purview of security. The board is required to coordinate with the CBC and other employees to ensure that peace officers, SROs, and security personnel are not tasked with behavioral or administrative duties better addressed by other district employees.</p> <p>Adjust the text to reflect the district’s security arrangements and the duties of any police officers, SROs, or security personnel. This section is not required if the district has not formed a police department, entered into an agreement with local law enforcement for SROs, or employed any security personnel.</p>
<p><b>“Parent” Defined</b></p>	
<p>Throughout the Code of Conduct and related discipline policies, the term “parent” includes a parent, legal guardian, or other person having lawful control of the child.</p>	<p>The definition of parent is included for clarification and matches the definition in FO(LOCAL).</p>

13

Text	Editorial Notes
<p><b>Participating in Graduation Activities</b></p>	
<p>The district has the right to limit a student’s participation in graduation activities for violating the district’s Code of <b>Conduct</b>.</p> <p>Participation might include a speaking role, as established by district policy and procedures.</p> <p>Students eligible to give the opening and closing remarks at graduation shall be notified by the campus principal. Notwithstanding any other eligibility requirements, in order to be considered eligible, a student shall not have engaged in any misconduct that resulted in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation.</p> <p>The valedictorian and salutatorian may also have speaking roles at graduation. No student shall be eligible to have such a speaking role if he or she engaged in any misconduct that resulted in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation.</p>	<p>Restrictions the district imposes on students who would otherwise be eligible for speaking roles at graduation but who have engaged in certain types of misconduct should be addressed in your Code of Conduct. Coordinate this provision with FNA(LOCAL) if your district has adopted this policy, and EIC(LOCAL) if this topic is addressed in that policy.</p> <p>Restrictions for students who give opening and closing remarks can differ from those with other speaking roles.</p> <p>Adjust the highlighted paragraphs to reflect the district’s restrictions and if students other than your valedictorian and salutatorian are eligible for the other speaking roles.</p>
<p><b>Unauthorized Persons</b></p>	
<p>In accordance with Education Code 37.105, a school administrator, <del>school resource officer (SRO)</del>, or district police officer shall have the authority to refuse entry to or eject a person from district property if the person refuses to leave peaceably on request and:</p> <ol style="list-style-type: none"> <li>1. The person poses a substantial risk of harm to any person; or</li> <li>2. The person behaves in a manner that is inappropriate for a school setting and persists in the behavior after being given a verbal warning that the behavior is inappropriate and may result in refusal of entry or ejection.</li> </ol> <p>Appeals regarding refusal of entry or ejection from district property may be filed in accordance with policies FNG(LOCAL) or GF(LOCAL), as appropriate. However, the timelines for the district’s</p>	<p>Chapter 37 requires the Code of Conduct to include a statement on the authority of a school administrator, SRO, or district police officer to refuse entry to or eject a person from district property for posing a risk of harm or inappropriate behavior, and the district’s appeal process. See GKA(LEGAL) for other procedural requirements.</p>

Text	Editorial Notes
grievance procedures shall be adjusted as necessary to permit the person to address the board in person within 90 calendar days, unless the complaint is resolved before a board hearing.	
See <b>DAEP—Restrictions During Placement</b> on page 44 for information regarding a student assigned to DAEP at the time of graduation.	

Text	Editorial Notes
<p><b>Standards for Student Conduct</b></p>	
<p>Each student is expected to:</p> <ul style="list-style-type: none"> <li>• Demonstrate courtesy, even when others do not.</li> <li>• Behave in a responsible manner.</li> <li>• Exercise self-discipline.</li> <li>• Attend all classes regularly and on time.</li> <li>• Bring appropriate materials and assignments to class.</li> <li>• Meet district and campus standards of grooming and dress.</li> <li>• Obey all campus and classroom rules.</li> <li>• Respect the rights and privileges of students, teachers, and other district staff and volunteers.</li> <li>• Respect the property of others, including district property and facilities.</li> <li>• Cooperate with and assist the school staff in maintaining safety, order, and discipline.</li> <li>• Adhere to the requirements of the Student Code of Conduct.</li> </ul>	<p>Chapter 37 requires the Code of Conduct to include standards that schools expect from students. Modify the list to emphasize conduct the district would like to encourage.</p>

16

Text	Editorial Notes
<p><b>General Conduct Violations</b></p>	
<p>The categories of conduct below are prohibited at school, in vehicles owned or operated by the district, and at all school-related activities, but the list does not include the most severe offenses. In the subsequent sections on <b>Out-of-School Suspension</b> on page 30, <b>DAEP Placement</b> on page 32, <b>Placement and/or Expulsion for Certain Offenses</b> on page 50, and <b>Expulsion</b> on page 54, those offenses that require or permit specific consequences are listed. Any offense, however, may be severe enough to result in <b>Removal from the Regular Educational Setting</b> as detailed on page 28.</p>	<p>The district should modify the list to reflect the district’s decisions on what is unacceptable student behavior. The district may want to move some of the general violations to the list of offenses for which a student may be placed in a DAEP, beginning on page 33.</p>
<p><b>Disregard for Authority</b></p>	
<p>Students shall not:</p> <ul style="list-style-type: none"> <li>• Fail to comply with directives given by school personnel.</li> <li>• Leave school grounds or school-sponsored events without permission.</li> <li>• Disobey rules for conduct in district vehicles.</li> <li>• Refuse to accept discipline or consequence assigned by a teacher or principal.</li> </ul>	
<p><b>Mistreatment of Others</b></p>	
<p>Students shall not:</p> <ul style="list-style-type: none"> <li>• Use profanity or vulgar language or make obscene gestures.</li> </ul>	
<ul style="list-style-type: none"> <li>• Fight or scuffle. (For assault, see <b>DAEP—Placement and/or Expulsion for Certain Offenses</b> on page 50.)</li> </ul>	<p>Keep in mind that not all fighting constitutes assault and may not require placement in a DAEP.</p>

17

## General Conduct Violations

Text	Editorial Notes
<ul style="list-style-type: none"> <li>Threaten a district student, employee, or volunteer, including off school property if the conduct causes a substantial disruption to the educational environment.</li> </ul>	
<ul style="list-style-type: none"> <li>Engage in bullying, cyberbullying, harassment, or making hit lists. (See <b>glossary</b> for all four terms.)</li> <li>Release or threaten to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.</li> </ul>	<p>See FFI(LOCAL) for the district's policy on bullying.</p> <p>Chapter 37 provides for DAEP placement or expulsion for a student who engages in bullying that encourages a student to commit or attempt to commit suicide, incites violence against a student through group bullying, or releases or threatens to release intimate visual material of a minor or of an adult student without the student's consent.</p>
<ul style="list-style-type: none"> <li>Engage in sexual or gender-based harassment or sexual abuse, whether by word, gesture, or any other conduct directed toward another person, including a district student, employee, board member, or volunteer.</li> </ul>	<p>See DIA and FFH(LOCAL) for the district's provisions regarding harassment, including sexual or gender-based harassment.</p>
<ul style="list-style-type: none"> <li>Engage in conduct that constitutes dating violence. (See <b>glossary</b>.)</li> </ul>	<p>Education Code 37.0831 requires the district to develop a policy on dating violence and include it in the district's improvement plan.</p> <p>FFH(LOCAL) includes prohibitions and reporting provisions on dating violence.</p>
<ul style="list-style-type: none"> <li>Engage in inappropriate or indecent exposure of private body parts.</li> <li>Participate in hazing. (See <b>glossary</b>.)</li> <li>Coerce an individual to act through the use or threat of force.</li> <li>Commit extortion or blackmail.</li> <li>Engage in inappropriate verbal, physical, or sexual conduct directed toward another person, including a district student, employee, or volunteer.</li> </ul>	

18

Text	Editorial Notes
<ul style="list-style-type: none"> <li>Record the voice or image of another without the prior consent of the individual being recorded or in any way that disrupts the educational environment or invades the privacy of others.</li> </ul>	
<p><b>Property Offenses</b></p>	
<p>Students shall not:</p> <ul style="list-style-type: none"> <li>Damage or vandalize property owned by others. (For felony criminal mischief, see <b>DAEP— Placement and/or Expulsion for Certain Offenses</b> on page 50.)</li> <li>Deface or damage school property, including textbooks, technology and electronic resources, lockers, furniture, and other equipment, with graffiti or by other means.</li> <li>Steal from students, staff, or the school.</li> <li>Commit or assist in a robbery or theft, even if it does not constitute a felony according to the Penal Code. (For felony robbery, aggravated robbery, and theft, see <b>DAEP— Placement and/or Expulsion for Certain Offenses</b> on page 50.)</li> </ul>	<p>Damage to property equal to or in excess of \$2,500 is felony criminal mischief and requires placement in a DAEP or expulsion.</p>
<ul style="list-style-type: none"> <li>Enter, without authorization, district facilities that are not open for operations.</li> </ul>	<p>To reflect common district practice, a provision has been added stating that students shall not enter district facilities that are not open for operations without authorization.</p>

19

Text	Editorial Notes
<b>Possession of Prohibited Items</b>	
<p>Students shall not possess or use:</p> <ul style="list-style-type: none"> <li>• Fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;</li> <li>• A razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;</li> <li>• A “look-alike” weapon that is intended to be used as a weapon or could reasonably be perceived as a weapon;</li> <li>• An air gun or BB gun;</li> <li>• Ammunition;</li> <li>• A hand instrument designed to cut or stab another by being thrown;</li> </ul>	<p>A student's possession of certain knives, firearms, or clubs may not be subject to mandatory expulsion, but this conduct may be punishable by placement in a DAEP. Certain knives, firearms, or clubs are included in the list of prohibited items in the general conduct violations section to support the district's authority to discipline students in these circumstances.</p>
<ul style="list-style-type: none"> <li>• <b>A firearm silencer or suppressor;</b></li> </ul>	<p>The Government Code regulates firearm suppressors, which are defined as any device designed to muffle the report of a firearm. Federal law continues to require expulsion for one year of a student who brings to school a “firearm,” including a firearm muffler or silencer. A school district may choose whether to add these devices to the list of locally prohibited items. Note that the Texas Government Code restricts a district's authority to enforce a ban on firearm suppressors with regard to the general public. School officials may want to seek legal advice regarding the change in law.</p>
<ul style="list-style-type: none"> <li>• *A location-restricted knife;</li> <li>• *A club;</li> <li>• *A firearm;</li> </ul>	

20

## General Conduct Violations

Text	Editorial Notes
<ul style="list-style-type: none"> <li>• A stun gun;</li> <li>• Knuckles;</li> </ul>	<p>Since stun guns and knuckles are not included in Texas law as prohibited weapons, the district may want to include them on this list.</p>
<ul style="list-style-type: none"> <li>• A pocketknife or any other small knife;</li> </ul>	<p>If the district imposes disciplinary consequences for smaller knives (blades less than five and one-half inches), including pocketknives, this text should be included here.</p> <p>In Education Code 37.007(a), the district does not have the discretion to make possession of any knife, including pocketknives and knives with blades less than five and one-half inches long, a mandatory expellable offense. See the section on <b>Mandatory Expulsion</b> on page 59.</p>
<ul style="list-style-type: none"> <li>• Mace or pepper spray;</li> <li>• Pornographic material;</li> </ul>	
<ul style="list-style-type: none"> <li>• Tobacco products, cigarettes, e-cigarettes, and any component, part, or accessory for an e-cigarette device;</li> </ul>	<p>The Health and Safety Code requires the school board to prohibit students from possessing or using e-cigarettes and their related components under the Education Code.</p> <p><b>HB 114</b> requires mandatory placement in a DAEP for offenses related to e-cigarettes.</p>
<ul style="list-style-type: none"> <li>• Matches or a lighter;</li> </ul>	
<ul style="list-style-type: none"> <li>• A laser pointer, unless it is for an approved use; or</li> </ul>	<p>Laser pointers are not addressed in Chapter 37. Because laser pointers can cause injury to eyes, however, districts should decide whether to</p>

21

Text	Editorial Notes
	prohibit or allow these items in school and/or at school-related activities.
<ul style="list-style-type: none"> <li>Any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists.</li> </ul> <p>*For weapons and firearms, see <b>DAEP—Placement and/or Expulsion for Certain Offenses</b> on page 50. In many circumstances, possession of these items is punishable by mandatory expulsion under federal or state law.</p>	
<p><b>Possession of Telecommunications or Other Electronic Devices</b></p>	
<p>Students shall not:</p> <ul style="list-style-type: none"> <li>Display, turn on, or use a telecommunications device, including a cell phone, or other electronic device on school property during the school day.</li> </ul> <p><b>[OR]</b></p> <ul style="list-style-type: none"> <li>Use a telecommunications device, including a cell phone, or other electronic device in violation of district and campus rules.</li> </ul>	<p>Choose one of the options or adjust the suggested language to reflect district practice. State law does not prohibit possession or use of telecommunications or other electronic devices at school, except during state-mandated assessments. Any District rules regarding possession, use, or prohibition of these items should be included in the district’s acceptable use agreements, which should be signed each year. [See CQ(EXHIBIT) in the <i>Regulations Resource Manual</i> for samples.]</p> <p>If the district confiscates and disposes of unauthorized telecommunications devices, a provision must be included at FNCE(LOCAL).</p>
<p><b>Illegal, Prescription, and Over-the-Counter Drugs</b></p>	
<p>Students shall not:</p>	

22

Text	Editorial Notes
<ul style="list-style-type: none"> <li>• Possess, use, give, or sell alcohol or an illegal drug. (Also see <b>DAEP Placement</b> on page 32 and <b>Expulsion</b> on page 54 for mandatory and permissive consequences under state law.)</li> <li>• Possess or sell seeds or pieces of marijuana in less than a usable amount.</li> <li>• Possess, use, give, or sell paraphernalia related to any prohibited substance. (See <b>glossary</b> for “paraphernalia.”)</li> </ul>	
<ul style="list-style-type: none"> <li>• Possess, use, abuse, or sell look-alike drugs or attempt to pass items off as drugs or contraband.</li> </ul>	<p>Although some school officials want to include specific examples of commonly used look-alike drugs like K2 and bath salts in the Code of Conduct, we recommend using the more general text as written so that all forms of look-alike drugs are covered.</p>
<ul style="list-style-type: none"> <li>• 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 <b>glossary</b> for “abuse.”)</li> <li>• Abuse over-the-counter drugs. (See <b>glossary</b> for “abuse.”)</li> <li>• Be under the influence of prescription or over-the-counter drugs that cause impairment to body or mind. (See <b>glossary</b> for “under the influence.”)</li> </ul>	<p>23</p>
<ul style="list-style-type: none"> <li>• Have or take prescription drugs or over-the-counter drugs at school other than as provided by district policy.</li> </ul>	<p>Coordinate with the district’s FFAC and FFAF policies and regulations on administering medication. A district is prohibited from enacting, adopting, or enforcing a rule or regulation that prohibits the possession of low-THC cannabis as authorized by the Texas Compassionate Use Act, Chapter 487 of the Health and Safety Code, which permits prescriptions for low-THC (non-intoxicating) cannabis in limited circumstances. If a student has a valid prescription for low-THC cannabis, follow the</p>

Text	Editorial Notes
	district's policies and procedures for prescription medications.
<b>Misuse of Technology Resources and the Internet</b>	
<p>Students shall not:</p> <ul style="list-style-type: none"> <li>Violate policies, rules, or agreements signed by the student or the student's parent regarding the use of technology resources.</li> </ul>	<p>Coordinate with the district's CQ(LOCAL) policy, regulations, user agreements, and rules related to use of technology resources. A person commits an offense of the Penal Code if he or she poses as someone else via social networking or any internet site, including posting or sending messages.</p>
<ul style="list-style-type: none"> <li>Attempt to access or circumvent passwords or other security-related information of the district, students, or employees or upload or create computer viruses, including off school property if the conduct causes a substantial disruption to the educational environment.</li> </ul>	<p>Conduct that constitutes breach of computer security is an expellable offense under the Penal Code. See <b>Expulsion</b> on page 54.</p>
<ul style="list-style-type: none"> <li>Attempt to alter, destroy, or disable district technology resources including, but not limited to, computers and related equipment, district data, the data of others, or other networks connected to the district's system, including off school property if the conduct causes a substantial disruption to the educational environment.</li> <li>Use the internet or other electronic communications to threaten or harass district students, employees, board members, or volunteers, including off school property if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.</li> <li>Send, post, deliver, or possess electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, including cyberbullying and "sexting," either on or off school property, if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.</li> <li>Use the internet or other electronic communication to engage in or encourage illegal behavior or threaten school safety, including off school property if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.</li> </ul>	

24

Text	Editorial Notes
<p><b>Safety Transgressions</b></p>	
<p>Students shall not:</p> <ul style="list-style-type: none"> <li>• Possess published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety.</li> <li>• Engage in verbal (oral or written) exchanges that threaten the safety of another student, a school employee, or school property.</li> <li>• Make false accusations or perpetrate hoaxes regarding school safety.</li> <li>• Engage in any conduct that school officials might reasonably believe will substantially disrupt the school program or incite violence.</li> <li>• Throw objects that can cause bodily injury or property damage.</li> <li>• Discharge a fire extinguisher without valid cause.</li> </ul>	
<p><b>Miscellaneous Offenses</b></p>	
<p>Students shall not:</p> <ul style="list-style-type: none"> <li>• Violate dress and grooming standards as communicated in the Student Handbook.</li> </ul>	<p><b>HB 567</b> prohibits a school district dress code or grooming policy, including a student dress code or grooming policy for any extracurricular activity, from discriminating against a hair texture or protective hairstyles commonly or historically associated with race. The bill does not define “protective hairstyle”, but specifies these hairstyles include braids, locks, and twists.</p> <p>Information relating to student dress code is located in the Model Student Handbook. Review the district’s dress code and revise as needed.</p>

25

Text	Editorial Notes
<ul style="list-style-type: none"> <li>Engage in academic dishonesty, which includes cheating or copying the work of another student, plagiarism, and unauthorized communication between students during an examination.</li> </ul>	<p>The provision addressing cheating has been broadened to reference academic dishonesty and provide examples to align with policy EIA(LOCAL).</p>
<ul style="list-style-type: none"> <li>Gamble.</li> <li>Falsify records, passes, or other school-related documents.</li> <li>Engage in actions or demonstrations that substantially disrupt or materially interfere with school activities.</li> <li>Repeatedly violate other communicated campus or classroom standards of conduct.</li> </ul> <p>The district may impose campus or classroom rules in addition to those found in the Code of <b>Conduct</b>. These rules may be posted in classrooms or given to the student and may or may not constitute violations of the Code of <b>Conduct</b>.</p>	

Text	Editorial Notes
<p><b>Discipline Management Techniques</b></p>	
<p>Discipline shall be designed to improve conduct and encourage students to be responsible members of the school community. Disciplinary action shall draw on the professional judgment of teachers and administrators and on a range of discipline management techniques, including restorative practices. Discipline shall be based on the seriousness of the offense, the student’s age and grade level, the frequency of misbehavior, the student’s attitude, the effect of the misconduct on the school environment, and statutory requirements.</p>	<p>Adjust the discipline management techniques as appropriate for your district. A variety of techniques may be used for violations of campus rules, classroom rules, or the Code of Conduct, subject to the prohibition on certain aversive techniques listed below.</p> <p>State law prohibits districts from placing students who are homeless or in a grade level below grade 3 in out-of-school suspension, except for certain violent or weapons offenses or alcohol or drug-related misconduct.</p> <p>If the district is going to implement a positive behavior program as a disciplinary alternative for these students, the details of the program can be added to this section of the Code of Conduct.</p>
<p><b>Students with Disabilities</b></p>	
<p>The discipline of students with disabilities is subject to applicable state and federal law in addition to the <del>Student</del> Code of Conduct. In the event of any conflict, the district shall comply with federal law. For more information regarding discipline of students with disabilities, see policy FOF(LEGAL).</p> <p>In accordance with the Education Code, a student who receives special education services may not be disciplined for conduct meeting the definition of bullying, cyberbullying, harassment, or making hit lists (see <b>glossary</b>) until an <b>Admission, Review, and Dismissal (ARD)</b> committee meeting has been held to review the conduct.</p>	<p>The <i>Model</i> does not include federal and state requirements for the discipline of students receiving special education services. Please note, however, that Education Code 37.001 addresses the discipline of a student receiving special education services for bullying, harassment, or making hit lists and requires the district to consider a disability that substantially impairs a student’s capacity to appreciate the wrongfulness of the student’s conduct. In</p>

27

Text	Editorial Notes
<p>In deciding whether to order suspension, DAEP placement, or expulsion, regardless of whether the action is mandatory or discretionary, the district shall take into consideration a disability that substantially impairs the student’s capacity to appreciate the wrongfulness of the student’s conduct.</p>	<p>addition, Education Code 37.004 addresses disciplinary placement procedures for students with disabilities. If a district takes disciplinary action that constitutes a change of placement for a student with a disability, Section 37.004 requires the district to, no later than ten school days after the change in placement: (1) seek consent from the parent to conduct a functional behavioral assessment (FBA) if the student has never had an FBA or the existing FBA is more than one year old, (2) review any previous FBAs and/or behavior intervention or improvement plans (BIPs), and (3) develop a BIP or revise the existing one, as necessary.</p>
<p><b>Techniques</b></p>	<p style="text-align: right;">28</p>
<p>The following discipline management techniques may be used alone, in combination, or as part of progressive interventions for behavior prohibited by the <del>Student</del> Code of Conduct or by campus or classroom rules:</p> <ul style="list-style-type: none"> <li>• Verbal correction, oral or written.</li> <li>• Cooling-off time or a brief “time-out” period, in accordance with law.</li> <li>• Seating changes within the classroom or vehicles owned or operated by the district.</li> <li>• Temporary confiscation of items that disrupt the educational process.</li> <li>• Rewards or demerits.</li> <li>• Behavioral contracts.</li> <li>• Counseling by teachers, school counselors, or administrative personnel.</li> <li>• Parent-teacher conferences.</li> </ul>	<p>Many of the listed discipline techniques can be used as part of a progressive intervention program, including alternative or restorative practices. Modify the list as appropriate to reflect district practice.</p> <p>Time-out that prevents a student from being involved in and progressing appropriately in the required curriculum or an applicable individualized education program (IEP), including isolating the student by the use of physical barriers, is considered a prohibited aversive technique as defined by Education Code 37.0023.</p>

## Discipline Management Techniques

Text	Editorial Notes
<ul style="list-style-type: none"> <li>• Behavior coaching.</li> <li>• Anger management classes.</li> <li>• Mediation (victim-offender).</li> <li>• Classroom circles.</li> <li>• Family group conferencing.</li> </ul>	
<ul style="list-style-type: none"> <li>• Grade reductions for cheating, plagiarism, and as otherwise permitted by policy.</li> </ul>	Grade reductions must be consistent with district grading guidelines.
<ul style="list-style-type: none"> <li>• Detention, including outside regular school hours.</li> </ul>	Be sure to confirm transportation arrangements prior to a student completing detention outside of regular school hours. See FO(LOCAL).
<ul style="list-style-type: none"> <li>• Sending the student to the office, another assigned area, or to in-school suspension (ISS).</li> </ul>	State law limiting placement in out-of-school suspension to three days does not apply to placement in ISS. Arguably, a student assigned to ISS is not removed entirely from the educational environment; therefore, the concerns are not the same as for out-of-school suspension. However, administrators should take care to apply ISS equitably. For more information, see FOB(LEGAL).
<ul style="list-style-type: none"> <li>• Assignment of school duties, such as cleaning or picking up litter.</li> <li>• Withdrawal of privileges, such as participation in extracurricular activities, eligibility for seeking and holding honorary offices, or membership in school-sponsored clubs and organizations.</li> </ul>	
<ul style="list-style-type: none"> <li>• Penalties identified in student organizations' extracurricular standards of behavior.</li> </ul>	Principals, the superintendent, or the board may approve extracurricular standards of behavior developed by sponsors and coaches of extracurricular activities. The activities may

29

## Discipline Management Techniques

Text	Editorial Notes
	have higher standards than the Code of Conduct. Students may be denied participation in an activity for violating the extracurricular standards of behavior. Refer to FO(LOCAL) for the district's extracurricular standards of behavior and FM(LOCAL) for local policy on absences and extracurricular activities. In light of numerous legal challenges to various aspects of stricter standards as a condition of participation, we recommend that extracurricular codes be in writing and signed by the students and their parents.
<ul style="list-style-type: none"> <li>• Restriction or revocation of district transportation privileges.</li> </ul>	A student's transportation privileges may generally be restricted or revoked due to misconduct. However, the district may be required to provide transportation for a student with disabilities during a disciplinary placement in accordance with state and federal law.
<ul style="list-style-type: none"> <li>• School-assessed and school-administered probation.</li> </ul>	
<ul style="list-style-type: none"> <li>• Corporal punishment, unless the student's parent or guardian has provided a signed statement prohibiting its use.</li> </ul>	Coordinate with FO(LOCAL). Districts that permit the use of corporal punishment must honor a signed statement from a parent prohibiting the use of corporal punishment with his or her child. The parent must annually provide such a statement. Delete this item from the list if the district does not permit the use of corporal punishment.

30

Text	Editorial Notes
<ul style="list-style-type: none"> <li>• Out-of-school suspension, as specified in <b>Out-of-School Suspension</b> on page 30.</li> <li>• Placement in a DAEP, as specified in <b>DAEP</b> on page 32.</li> <li>• Expulsion and/or placement in an alternative educational setting, as specified in <b>Placement and/or Expulsion for Certain Offenses</b> on page 50.</li> <li>• Expulsion, as specified in <b>Expulsion</b> on page 54.</li> <li>• Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the district.</li> <li>• Other strategies and consequences as determined by school officials.</li> </ul>	
<p><b>Prohibited Aversive Techniques</b></p>	
<p>Aversive techniques are prohibited for use with students and are defined as techniques or interventions intended to reduce the reoccurrence of a behavior by intentionally inflicting significant physical or emotional discomfort or pain. Aversive techniques include:</p> <ul style="list-style-type: none"> <li>• Using techniques designed or likely to cause physical pain, other than corporal punishment as permitted by district policy. [See policy FO(LOCAL).]</li> <li>• Using techniques designed or likely to cause physical pain by electric shock or any procedure involving pressure points or joint locks.</li> <li>• Directed release of noxious, toxic, or unpleasant spray, mist, or substance near a student’s face.</li> <li>• Denying adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility.</li> <li>• Ridiculing or demeaning a student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse.</li> <li>• Employing a device, material, or object that immobilizes all four of a student’s extremities, including prone or supine floor restraint.</li> <li>• Impairing the student’s breathing, including applying pressure to the student’s torso or neck or placing something in, on, or over the student’s mouth or nose or covering the student’s face.</li> </ul>	<p>Education Code 37.0023 prohibits a district employee, volunteer, or independent contractor from using aversive techniques or causing aversive techniques to be used on a student. However, this provision does not prohibit a teacher from removing a student from class under Education Code 37.002.</p> <p>Delete the reference to corporal punishment in the first bullet if your district’s FO(LOCAL) does not permit the use of corporal punishment.</p>

Text	Editorial Notes
<ul style="list-style-type: none"> <li>• Restricting the student’s circulation.</li> <li>• Securing the student to a stationary object while the student is standing or sitting.</li> <li>• Inhibiting, reducing, or hindering the student’s ability to communicate.</li> <li>• Using chemical restraints.</li> <li>• Using time-out in a manner that prevents the student from being able to be involved in and progress appropriately in the required curriculum or any applicable individualized education program (IEP) goals, including isolating the student using physical barriers.</li> <li>• Depriving the student of one or more of the student’s senses, unless the technique does not cause the student discomfort or complies with the student’s IEP or behavior intervention plan (BIP).</li> </ul>	
<p><b>Notification</b></p>	
<p>The <del>CBC campus behavior coordinator</del> shall promptly notify a student's parent by phone or in person of any violation that may result in in-school or out-of-school suspension, placement in a DAEP, placement in a JJAEP, or expulsion. The <del>CBC campus behavior coordinator</del> shall also notify a student's parent if the student is taken into custody by a law enforcement officer under the disciplinary provisions of the Education Code.</p> <p>A good-faith effort shall be made to provide written notice of the disciplinary action to the student, on the day the action was taken, for delivery to the student's parent. If the parent has not been reached by telephone or in person by 5:00 p.m. of the first business day after the day the disciplinary action was taken, the <del>CBC campus behavior coordinator</del> shall send written notification by U.S. Mail. If the <del>CBC campus behavior coordinator</del> is not able to provide notice to the parent, the principal or designee shall provide the notice.</p> <p>Before the principal or appropriate administrator assigns a student under age 18 to detention outside regular school hours, notice shall be given to the student's parent to inform him or her of the reason for the detention and permit arrangements for necessary transportation.</p>	<p>Education Code 37.0012 requires the CBC to promptly notify a student's parent regarding student discipline for ISS, out-of-school suspension, placement in a DAEP or JJAEP, expulsion, or when a student is taken into custody.</p>

32

Text	Editorial Notes
<p><b>Appeals</b></p>	
<p>Questions from parents regarding disciplinary measures should be addressed to the teacher, campus administration, or <del>CBC campus behavior coordinator</del>, as appropriate. Appeals or complaints regarding the use of specific discipline management techniques should be addressed in accordance with policy FNG(LOCAL). A copy of the policy may be obtained from the principal's office, the <del>CBC campus behavior coordinator</del>'s office, or the central administration office or through Policy Online® at the following address: <i>[add the district's URL or web address]</i>.</p>	
<p>The district shall not delay a disciplinary consequence while a student or parent pursues a grievance. In the instance of a student who is accused of conduct that meets the definition of sexual harassment as defined by Title IX, the district will comply with applicable federal law, including the Title IX formal complaint process. See policies FFH(LEGAL) and (LOCAL).</p>	

Text	Editorial Notes
<p><b>Removal from the School Bus</b></p>	
<p>A bus driver may refer a student to <b>the principal's office or the CBCampus behavior coordinator's office</b> to maintain effective discipline on the bus. The <b>principal or CBCampus behavior coordinator</b> must employ additional discipline management techniques, as appropriate, which can include restricting or revoking a student's bus riding privileges.</p> <p>To transport students safely, the vehicle operator must focus on driving and not be distracted by student misbehavior. Therefore, when appropriate disciplinary management techniques fail to improve student behavior or when specific misconduct warrants immediate removal, <b>the principal or the CBCampus behavior coordinator</b> may restrict or revoke a student's transportation privileges, in accordance with law.</p>	<p>Education Code 37.0022 authorizes a bus driver to refer a student to the appropriate administrator to maintain effective discipline on the bus. The administrator is required to utilize appropriate discipline management techniques as detailed in the district's Code of Conduct.</p> <p>The <i>Model</i> uses turquoise shading to indicate when the district must choose whether the CBC or another administrator will handle disciplinary issues.</p>

## Removal from the Regular Educational Setting

Text	Editorial Notes
<b>Removal from the Regular Educational Setting</b>	
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.	The <i>Model</i> clarifies the specific statutory duties or responsibilities of the CBC and those of other district administrators, which may or may not include the CBC.
<b>Routine Referral</b>	
A routine referral occurs when a teacher sends a student to the <del>CBC campus behavior coordinator</del> 's office as a discipline management technique. The <del>CBC campus behavior coordinator</del> shall employ alternative discipline management techniques, including progressive interventions. A teacher or administrator may remove a student from class for behavior that violates this Code of <b>Conduct</b> to maintain effective discipline in the classroom.	For a routine referral, the CBC may employ one of the discipline management techniques listed. If a teacher repeatedly refers a student to the office for misconduct, the CBC must alert the student's parent to the recurring misconduct and the possibility of placement in a DAEP if documented misconduct continues. 35
<b>Formal Removal</b>	
<p>A teacher may initiate a formal removal from class if:</p> <ol style="list-style-type: none"> <li>1. A student's behavior has been documented by the teacher as repeatedly interfering with the teacher's ability to teach the class or with other students' ability to learn; or</li> <li>2. The behavior is so unruly, disruptive, or abusive that the teacher cannot teach, and the students in the classroom cannot learn.</li> </ol> <p>Within three school days of the formal removal, the <del>CBC campus behavior coordinator</del> or appropriate administrator shall schedule a conference with the student's parent, the student, the teacher who removed the student from class, and any other appropriate administrator.</p>	<p>Education Code 37.0012 requires the CBC's involvement in a DAEP placement or expulsion. Before ordering a suspension, DAEP placement, or expulsion, the CBC must consider whether the student acted in self-defense and the other mitigating factors listed in statute.</p> <p>Education Code 37.002 authorizes a teacher to document any conduct by a student that does not conform to the district's Code of Conduct and states that a teacher may not be disciplined on</p>

Text	Editorial Notes
<p>At the conference, the <del>CBC campus behavior coordinator</del> or appropriate administrator shall inform the student of the alleged misconduct and the proposed consequences. The student shall have an opportunity to respond to the allegations.</p> <p>When a student is removed from the regular classroom by a teacher and a conference is pending, the <del>CBC campus behavior coordinator</del> or other administrator may place the student in:</p> <ul style="list-style-type: none"> <li>• Another appropriate classroom.</li> <li>• <del>ISS in-school suspension.</del></li> <li>• Out-of-school suspension.</li> <li>• DAEP.</li> </ul> <p>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 shall be followed.</p>	<p>the basis of such disciplinary documentation that is sent to the principal.</p>
<p><b>Returning a Student to the Classroom</b></p>	
<p>A student who has been formally removed from class by a teacher for conduct against the teacher containing the elements of assault, aggravated assault, sexual assault, or aggravated sexual assault may not be returned to the teacher’s class without the teacher’s consent.</p> <p>A student who has been formally removed by a teacher for any other conduct 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.</p>	

36

Text	Editorial Notes
<p><b>Out-of-School Suspension</b></p>	
<p><b>Misconduct</b></p>	
<p>Students may be suspended for behavior listed in the Code of Conduct as a general conduct violation, DAEP offense, or expellable offense.</p> <p>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.</p> <p>A student below grade 3 or a student who is homeless shall not be placed in out-of-school suspension unless, while on school property or while attending a school-sponsored or school-related activity on or off school property, the student engages in:</p> <ul style="list-style-type: none"> <li>• Conduct that contains the elements of a weapons offense, as provided in Penal Code sections 46.02 or 46.05;</li> <li>• Conduct that contains the elements of assault, sexual assault, aggravated assault, or aggravated sexual assault, as provided by the Penal Code; or</li> <li>• 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.</li> </ul> <p>The district shall use a positive behavior program as a disciplinary alternative for students below grade 3 who commit general conduct violations instead of suspension or placement in a DAEP. The program shall meet the requirements of law.</p>	<p>Districts may add to the list of offenses for which students may be suspended or removed to a DAEP, but all such offenses must be listed and defined in the Code of Conduct.</p> <p>Education Code 37.005 prohibits a district from placing in out-of-school suspension a student who is homeless unless the student engages in certain conduct. Chapter 37 allows for the CBC to work with the homeless liaison to find an appropriate alternative for the student.</p> <p>Additionally, Education Code 37.020 requires districts to report to the commissioner information regarding out-of-school suspensions, including student demographics, reason for the suspension, number of days the student was suspended, and the number of suspensions inconsistent with the guidelines detailed in the district's Code of Conduct.</p>
<p><b>Process</b></p>	
<p>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.</p>	<p>Chapter 37 does not limit the number of times a student can be suspended in a semester or year. A district may be challenged, however, if it suspends a student so frequently that the</p>

37

Text	Editorial Notes
<p>Before being suspended a student shall have an informal conference with the <del>CBC campus behavior coordinator</del> or appropriate administrator, who shall inform the student of the alleged misconduct and give the student an opportunity to respond to the allegation before the administrator makes a decision.</p> <p>The <del>CBC campus behavior coordinator</del> shall determine the number of days of a student's suspension, not to exceed three school days.</p>	<p>suspension has the effect of depriving a student of the right to an education.</p>
<p>In deciding whether to order out-of-school suspension, the <del>CBC campus behavior coordinator</del> shall take into consideration:</p> <ol style="list-style-type: none"> <li>1. Self-defense (see <b>glossary</b>),</li> <li>2. Intent or lack of intent at the time the student engaged in the conduct,</li> <li>3. The student's disciplinary history,</li> <li>4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,</li> <li>5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or</li> <li>6. A student's status as homeless.</li> </ol> <p>The appropriate administrator shall determine any restrictions on participation in school-sponsored or school-related extracurricular and cocurricular activities.</p>	<p>Chapter 37 requires the CBC to consider these mitigating factors when making decisions about suspension.</p>
<p><b>Coursework During Suspension</b></p>	
<p>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.</p> <p>A student removed from the regular classroom to <del>ISS in-school suspension</del> or another setting, other than a DAEP, will have an opportunity before the beginning of the next school year to complete each course the student was enrolled in at the time of removal. 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.</p>	

38

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<p><b>Disciplinary Alternative Education Program (DAEP) Placement</b></p>	
<p>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.</p>	
<p>For purposes of DAEP, elementary classification shall be kindergarten–grade 5 and secondary classification shall be grades 6–12.</p> <p><b>[OR]</b></p> <p>For purposes of DAEP, elementary classification shall be kindergarten–grade 6 and secondary classification shall be grades 7–12.</p>	<p>As required by 19 Administrative Code 103.1201(h)(1), the district must separate elementary students from secondary students in the DAEP setting and must designate through policy the district’s grade configuration for elementary and secondary. Choose one of the two options or adjust the grade levels as necessary.</p>
<p>Summer programs provided by the district shall serve students assigned to a DAEP in conjunction with other students.</p> <p><b>[OR]</b></p> <p>Summer programs provided by the district shall serve students assigned to a DAEP separately from those students who are not assigned to the program.</p>	<p>The Administrative Code also requires districts to designate through policy whether the district’s summer programs will serve DAEP students with other students. Choose one option, depending on whether DAEP students attend summer programs with other students.</p>
<p>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.</p>	
<p>In deciding whether to place a student in a DAEP, regardless of whether the action is mandatory or discretionary, the <del>CBC campus behavior coordinator</del> shall take into consideration:</p> <ol style="list-style-type: none"> <li>1. Self-defense (see <b>glossary</b>),</li> <li>2. Intent or lack of intent at the time the student engaged in the conduct,</li> <li>3. The student’s disciplinary history,</li> </ol>	<p>Throughout the <i>Model</i>, we have noted when a particular action or decision is the statutory responsibility of the CBC.</p>

39

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<p>4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,</p> <p>5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or</p> <p>6. A student's status as homeless.</p>	
<b>Discretionary Placement: Misconduct That May Result in DAEP Placement</b>	
<p>A student may be placed in a DAEP for behaviors prohibited in the General Conduct Violations section of this Code of Conduct.</p> <p><b>[OR]</b></p> <p>A student may be placed in a DAEP for the following conduct violations:</p>	<p>Choose between referring to the list in the General Conduct Violations section as behaviors that may result in placement or create a list of behaviors that the district has decided warrant DAEP placement and delete the other option.</p>
<b>Misconduct Identified in State Law</b>	
<p>In accordance with state law, a student <b>may</b> be placed in a DAEP for any of the following offenses:</p> <ul style="list-style-type: none"> <li>• Engaging in bullying that encourages a student to commit or attempt to commit suicide.</li> <li>• Inciting violence against a student through group bullying.</li> <li>• Releasing or threatening to release intimate visual material of a minor or of a student who is 18 years of age or older without the student's consent.</li> <li>• Involvement in a public school fraternity, sorority, or secret society, or gang 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 <b>glossary</b>.)</li> </ul>	
<ul style="list-style-type: none"> <li>• Involvement in criminal street gang activity. (See <b>glossary</b>.)</li> </ul>	<p>Districts experiencing gang activity should consult their school attorneys to define gang-related activity for consistent discipline.</p>

40

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<ul style="list-style-type: none"> <li>• Criminal mischief, not punishable as a felony.</li> </ul> <p><b>[OR]</b></p> <ul style="list-style-type: none"> <li>• Any criminal mischief, including a felony.</li> </ul>	<p>Criminal mischief generally constitutes a felony under Penal Code 28.03 if the property damage meets or exceeds \$2,500. The district must decide whether to make this an offense for which a student will be placed in a DAEP or expelled. If the felony is retained here, delete the text on page 54.</p>
<ul style="list-style-type: none"> <li>• Assault (no bodily injury) with threat of imminent bodily injury.</li> <li>• Assault by offensive or provocative physical contact.</li> </ul>	<p>A student is subject to mandatory DAEP placement for engaging in assault with bodily injury under Penal Code 22.01(a)(1) on or within 300 feet of district property or while attending a school-related activity. If the district will place a student in a DAEP for assault that does not result in bodily injury, such as assault with threat of imminent bodily injury under Penal Code 22.01(a)(2) or assault of an offensive or provocative nature under Penal Code 22.01(a)(3), the misconduct should be listed here.</p>
<p>In accordance with state law, a student <b>may</b> be placed in a DAEP if the superintendent or the superintendent's designee has reasonable belief (see <b>glossary</b>) that the student engaged in conduct punishable as a felony, other than aggravated robbery or those listed as offenses in Title 5 (see <b>glossary</b>) 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.</p>	<p>Chapter 37 requires the felony offense of aggravated robbery under Penal Code 29.03 to be included as a mandatory DAEP placement along with offenses under Title 5. The Penal Code definition of <i>aggravated robbery</i> is included in the glossary.</p> <p>The Education Code requires a superintendent to consider information included in the notification from law enforcement of a student's arrest in determining whether there is a reasonable belief that the student engaged in conduct constituting a felony offense.</p>

41

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
	However, in accordance with Education Code 37.006(e), additional information requested by the superintendent or designee from law enforcement for the purpose of creating a threat assessment or safety plan for the student cannot be used to determine whether there is a reasonable belief that the student engaged in a felony offense for discipline purposes.
The <del>CBC campus behavior coordinator</del> <b>may</b> place a student in a DAEP for off-campus conduct for which DAEP placement is required by state law if the administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.	Throughout the <i>Model</i> , we have noted when a particular action or decision is the statutory responsibility of the CBC.
<b>Mandatory Placement: Misconduct That Requires DAEP Placement</b>	
A student <b>must</b> be placed in a DAEP if the student:	42
<ul style="list-style-type: none"> <li>Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school. (See <b>glossary</b>.)</li> </ul>	<p>If the district decides that it will always expel for conduct relating to false alarm, report, or terroristic threat, delete the text here in favor of the text in the section on <b>Expulsion</b> on page 54. This includes behaviors such as calling in a bomb threat or pulling a fire alarm without cause. A district may want to list bomb threats as an expellable offense and the pulling of a fire alarm as a DAEP placement. The district may also want to take age and grade level into consideration when determining consequences.</p> <p>If a district receives a bomb threat or terroristic threat involving a facility where students are present, Education Code 37.113 requires providing notice “as soon as possible” to parents</p>

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
	of students who are assigned to or who regularly use the facility.
<ul style="list-style-type: none"> <li>• Commits the following offenses on school property, 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:               <ul style="list-style-type: none"> <li>• Engages in conduct punishable as a felony.</li> <li>• Commits an assault (see <b>glossary</b>) under Penal Code 22.01(a)(1).</li> </ul> </li> </ul>	
<ul style="list-style-type: none"> <li>• Sells, gives, or delivers to another person or possesses, uses, or is under the influence of <del>marijuana</del>, a controlled substance, or <del>a</del> dangerous drug in an amount not constituting a felony offense. <b>(School-related felony drug offenses are addressed in Expulsion on page 56.) (See glossary for "under the influence", "controlled substance," and "dangerous drug.")</b></li> <li>• <b>Sells, gives, or delivers to another person or possesses, uses, or is under the influence of marijuana or THC.</b> A student with a valid prescription for low-THC cannabis as authorized by Chapter 487 of the Health and Safety Code does not violate this provision. <del>(School-related felony drug offenses are addressed in Expulsion on page 54.) (See glossary for "under the influence" "controlled substance," and "dangerous drug.")</del></li> <li>• 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, <del>if the conduct is not punishable as a felony offense. (School-related felony alcohol offenses are addressed in Expulsion on page 53.)</del></li> <li>• Behaves in a manner that contains the elements of an offense relating to abusable volatile chemicals.</li> <li>• <b>Sells, gives, or delivers to another person or possesses or uses an e-cigarette.</b></li> <li>• Behaves in a manner that contains the elements of the offense of public lewdness or indecent exposure. (See <b>glossary</b>.)</li> </ul>	<p><b>HB 114</b> requires mandatory placement in a DAEP for selling, giving, delivering, possessing, using, or being under the influence of marijuana, THC, or e-cigarettes 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.</p> <p>Chapter 37 allows districts to choose expulsion or mandatory placement in a DAEP for any amount of marijuana, THC, a controlled substance, a dangerous drug, alcohol, or abusable volatile chemical offenses. A district is prohibited from enacting, adopting, or enforcing a rule or regulation that prohibits the possession of low-THC cannabis as authorized by The Texas Compassionate Use Act, Chapter 487 of the Health and Safety Code, which permits prescriptions for low-THC cannabis in limited circumstances. If a student has a prescription, any possession or use of low-THC cannabis should not be considered a violation of the adjacent text. Follow the district's policies and</p>

43

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
	procedures for prescription medications. [See FFAC and FFAF.]
<ul style="list-style-type: none"> <li>Engages in conduct that contains the elements of an offense of harassment against an employee under Penal Code 42.07(a)(1), (2), (3), or (7).</li> </ul>	Education Code 37.006 requires the district to place a student in a DAEP if the student engages in certain forms of harassment against an employee while on or within 300 feet of school property or while attending a school-sponsored or school-related activity on or off school property. Although HB 1427 expanded the definition of harassment under Penal Code 42.07, the new law made no change to the types of harassment against a school employee that are subject to mandatory DAEP placement under Chapter 37.
<ul style="list-style-type: none"> <li>Engages in expellable conduct and is <del>between six to</del> and nine years of age.</li> </ul>	<p>The law regarding students under the age of ten is as follows:</p> <ul style="list-style-type: none"> <li>Students under age six cannot be placed in a DAEP unless they commit a federal firearms offense.</li> <li>Students between six and nine years of age who commit expellable offenses listed in Education Code 37.007 may not be expelled and must be placed in a DAEP.</li> <li>Elementary students cannot be placed in a DAEP with students not in elementary school.</li> </ul>
<ul style="list-style-type: none"> <li>Commits a federal firearms violation and is younger than six years of age.</li> </ul>	

44

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<ul style="list-style-type: none"> <li>Engages in conduct that contains the elements of the offense of retaliation against any school employee or volunteer on or off school property. (Committing retaliation in combination with another expellable offense is addressed in <b>Expulsion</b> on page 54.)</li> </ul>	
<ul style="list-style-type: none"> <li>Engages in conduct punishable as aggravated robbery or a felony listed under Title 5 (see <b>glossary</b>) of the Penal Code when the conduct occurs off school property and not at a school-sponsored or school-related event and:</li> </ul>	<p>Chapter 37 includes the felony offense of aggravated robbery under Penal Code 29.03 as a reason for mandatory DAEP placement along with offenses under Title 5 of the Penal Code. To determine whether a violation includes elements of an offense under the Penal Code, the district shall consider reports from law enforcement authorities in accordance with Article 15.27 of the Code of Criminal Procedure.</p> <p>However, in accordance with Education Code 37.006(e), additional information requested by the superintendent or designee from law enforcement for the purpose of creating a threat assessment or safety plan for the student cannot be used to determine whether there is a reasonable belief that the student engaged in a felony offense for discipline purposes.</p>
<ol style="list-style-type: none"> <li>The student receives deferred prosecution (see <b>glossary</b>),</li> <li>A court or jury finds that the student has engaged in delinquent conduct (see <b>glossary</b>), or</li> <li>The superintendent or designee has a reasonable belief (see <b>glossary</b>) that the student engaged in the conduct.</li> </ol>	
<p><b>Sexual Assault and Campus Assignments</b></p>	
<p>A student shall be transferred to another campus if:</p>	

45

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<ul style="list-style-type: none"> <li>The student has been convicted of continuous sexual abuse of a young child or disabled individual or convicted of or placed on deferred adjudication for sexual assault or aggravated sexual assault against another student on the same campus; and</li> <li>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.</li> </ul> <p>If there is no other campus in the district serving the grade level of the offending student, the offending student shall be transferred to a DAEP.</p>	
<p><b>Process</b></p>	
<p>Removals to a DAEP shall be made by the <del>CBC campus behavior coordinator</del>.</p>	<p>As noted above, Chapter 37 of the Education Code clarifies that the CBC is the person with the authority to place a student in a DAEP.</p>
<p><b>Conference</b></p>	
<p>When a student is removed from class for a DAEP offense, the <del>CBC campus behavior coordinator</del> or appropriate administrator shall schedule a conference within three school days with the student's parent, the student, and, in the case of a teacher removal, the teacher.</p> <p>At the conference, the <del>CBC campus behavior coordinator</del> or appropriate administrator shall provide the student:</p> <ul style="list-style-type: none"> <li>Information, orally or in writing, of the reasons for the removal;</li> <li>An explanation of the basis for the removal; and</li> <li>An opportunity to respond to the reasons for the removal.</li> </ul> <p>Following valid attempts to require attendance, the district may hold the conference and make a placement decision regardless of whether the student or the student's parents attend the conference.</p>	<p><b>HB 114</b> makes clear that conference provisions in Education Code 37.009(a) apply to all removals for mandatory placement in a DAEP under Education Code 37.006(a).</p> <p>FOC(EXHIBIT), found in the <i>Regulations Resource Manual</i>, provides a sample notice of a removal conference.</p>

46

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<b>Consideration of Mitigating Factors</b>	
<p>In deciding whether to place a student in a DAEP, regardless of whether the action is mandatory or discretionary, the <del>CBC campus behavior coordinator</del> shall take into consideration:</p> <ol style="list-style-type: none"> <li>1. Self-defense (see <b>glossary</b>),</li> <li>2. Intent or lack of intent at the time the student engaged in the conduct,</li> <li>3. The student's disciplinary history,</li> <li>4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,</li> <li>5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or</li> <li>6. A student's status as homeless.</li> </ol>	<p>Throughout the <i>Model</i>, we have noted when a particular action or decision is the statutory responsibility of the CBC.</p>
<b>Placement Order</b>	
<p>After the conference, if the student is placed in a DAEP, the <del>CBC campus behavior coordinator</del> shall write a placement order. A copy of the DAEP placement order <b>and information for the parent or person standing in parental relation to the student regarding the process for requesting a full individual and initial evaluation of the student for purposes of special education services</b> shall be sent to the student and the student's parent.</p> <p>Not later than the second business day after the conference, the board's designee shall deliver to the juvenile court a copy of the placement order and all information required by Section 52.04 of the Family Code.</p> <p>If the student is placed in a DAEP and the length of placement is inconsistent with the guidelines included in this Code <b>of Conduct</b>, the placement order shall give notice of the inconsistency.</p>	<p><b>HB 3928</b> amends Chapter 37 to require the district to provide information to a student's parent about the process for requesting a full individual and initial evaluation of the student for purposes of special education services when a student is placed for a mandatory DAEP offense.</p> <p>FOC(EXHIBIT), found in the <i>Regulations Resource Manual</i>, provides sample placement orders.</p>

47

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<b>DAEP at Capacity</b>	
<p>If a DAEP is at capacity at the time the CBC is deciding placement for conduct related to marijuana, THC, an e-cigarette, alcohol, or an abusable volatile chemical, the student shall be placed in ISS then transferred to a DAEP for the remainder of the period if space becomes available before the expiration of the period of the placement.</p> <p>If a DAEP is at capacity at the time the CBC is deciding placement for a student who engaged in violent conduct, a student placed in a DAEP for conduct related to marijuana, THC, an e-cigarette, alcohol, or an abusable volatile chemical may be placed in ISS to make a position in the DAEP available for the student who engaged in violent conduct. If a position becomes available in a DAEP before the expiration of the period of the placement for the student removed, the student shall be returned to a DAEP for the remainder of the period.</p>	<p><b>HB 114</b> states when a DAEP is at capacity, a student who engaged in conduct related to marijuana, THC, an e-cigarette, alcohol, or an abusable volatile chemical must be placed in ISS until the student can be transferred to a DAEP if space becomes available before the expiration of the period of the placement.</p> <p>In addition, when a DAEP is at capacity, a student in a DAEP for conduct related to marijuana, THC, e-cigarette, alcohol, or an abusable volatile chemical <b>may</b> be moved to ISS to create space for a student who engaged in violent conduct. If space becomes available, the removed student must be returned to a DAEP to complete the period of the placement.</p>
<b>Coursework Notice</b>	
<p>The parent or guardian of a student placed in DAEP shall be given written notice of the student's opportunity to complete, at no cost to the student, a foundation curriculum course in which the student was enrolled at the time of removal and which is required for graduation. The notice shall include information regarding all methods available for completing the coursework.</p>	<p>Education Code 37.008 requires districts to ensure parents are properly informed about their child's options for completing coursework while in DAEP.</p>
<b>Length of Placement</b>	
<p>The <del>CBC campus behavior coordinator</del> shall determine the duration of a student's placement in a DAEP.</p>	<p>Throughout the <i>Model</i>, we have noted when a particular action or decision is the statutory responsibility of the CBC.</p>

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
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.	
The maximum period of DAEP placement shall be one calendar year, except as provided below.	Districts are required to have guidelines for setting the term of a DAEP placement. The length of placement may be for as few as three days or as long as one year. Districts may list categories of offenses or individual offenses or may list one year as the maximum for any offense. The district may also choose to specify the length of a placement for a student who repeats an offense.
Unless otherwise specified in the placement order, days absent from a DAEP shall not count toward fulfilling the total number of days required in a student's DAEP placement order.	FOC(EXHIBIT), found in the <i>Regulations Resource Manual</i> , prompts districts to clarify whether placements are for calendar days or school days and whether absences count towards the total days assigned in the placement order. Align this statement with the district's practice.
The district shall administer the required pre- and post-assessments for students assigned to DAEP for a period of 90 days or longer in accordance with established district administrative procedures for administering other diagnostic or benchmark assessments.	The Administrative Code requires districts to have procedures for administering academic assessments to students assigned to a DAEP for a period of 90 days or longer upon initial placement and subsequently on the date of release, or as near that date as possible.
<b>Exceeds One Year</b>	
Placement in a DAEP may exceed one year when a review by the district determines that the student is a threat to the safety of other students or to district employees.	

49

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<p>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.</p>	
<p><b>Exceeds School Year</b></p>	
<p>Students who are in a DAEP placement 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.</p> <p>For placement in a DAEP to extend beyond the end of the school year, the <del>CBC campus behavior coordinator</del> or the board’s designee must determine that:</p> <ol style="list-style-type: none"> <li>1. The student’s presence in the regular classroom or campus presents a danger of physical harm to the student or others, or</li> <li>2. The student has engaged in serious or persistent misbehavior (see <b>glossary</b>) that violates the district’s Code of <b>Conduct</b>.</li> </ol>	50
<p><b>Exceeds 60 Days</b></p>	
<p>For placement in a DAEP to extend beyond 60 days or the end of the next grading period, whichever is sooner, a student’s parent shall be given notice and the opportunity to participate in a proceeding before the board or the board’s designee.</p>	
<p><b>Appeals</b></p>	
<p>Questions from parents regarding disciplinary measures should be addressed to the campus administration.</p> <p>Student or parent appeals regarding a student’s placement in a DAEP should be addressed in accordance with policy FNG(LOCAL). A copy of this policy may be obtained from the principal’s office, the <del>CBC campus behavior coordinator</del>’s office, the central administration office, or through <b>Policy Online™</b> On-Line at the following address: <span style="background-color: #00FF00;">[add the district’s URL or web address]</span></p>	

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<p>Appeals shall begin at [fill in the blank with the appropriate level of the complaint process; i.e., Level One or Level Two] with the [fill in the blank with the appropriate title or position of the board's designee; i.e., CBC campus behavior coordinator, principal, or superintendent].</p> <p><b>[OR]</b></p> <p>Appeals shall begin at Level [fill in the blank with the level listed at FNG that applies to the board] with the board.</p>	<p>Education Code 37.009(a) allows for students to appeal a decision by a CBC or other administrator to place a student in a DAEP. The district must designate whether the appeal is to be made to the board or the board's designee by choosing the option that reflects district practice. Although this provision in the Education Code states that this appeal is final whether it is made to the board or the board's designee, TASB recommends that districts allowing an initial appeal to be made to the board's designee also allow a subsequent appeal to be made to the board as a final step, if necessary, in an effort to reduce parent and student frustration and to comply with the Texas Constitution, which extends citizens the right to be heard by a governmental body (including a school board) for redress of grievances.</p>
<p>The district shall not delay disciplinary consequences pending the outcome of an appeal. The decision to place a student in a DAEP cannot be appealed beyond the board.</p>	<p>Districts are not required to delay a consequence while a parent submits an appeal.</p>
<p><b>Restrictions During Placement</b></p>	
<p>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.</p> <p><b>[OR]</b></p> <p>The district does not permit a student who is placed in a DAEP to participate in any school-sponsored or school-related extracurricular or cocurricular activity, including seeking or holding honorary positions and/or membership in school-sponsored clubs and organizations.</p>	<p>State law prohibits students placed in a DAEP for reasons listed in Education Code 37.006 from attending or participating in school-sponsored or school-related extracurricular or cocurricular activities during the period of placement (option 1). The district can expand that prohibition to include placement in a DAEP for locally defined reasons (option 2). Choose the appropriate option.</p>

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<p>A student placed in a DAEP shall not be provided transportation unless he or she is a student with a disability who is entitled to transportation in accordance with the student's <del>individualized education program (IEP)</del> or Section 504 plan.</p> <p><b>[OR]</b></p> <p>The district shall provide transportation to students in a DAEP.</p>	<p>A student's transportation privileges may be taken away or restricted. However, the removal of transportation privileges from students with disabilities must be consistent with state and federal law.</p>
<p>For seniors who are eligible to graduate and are assigned to a DAEP at the time of graduation, the last day of placement in the program shall be the last instructional day, and the student shall be allowed to participate in the graduation ceremony and related graduation activities unless otherwise specified in the DAEP placement order.</p> <p><b>[OR]</b></p> <p>For seniors who are eligible to graduate and are assigned to a DAEP at the time of graduation, the placement in the program shall continue through graduation, and the student shall not be allowed to participate in the graduation ceremony and related graduation activities.</p>	<p>The Education Code prohibits students placed in a DAEP for certain reasons from participating in school-sponsored or school-related activities. Districts should decide and communicate clearly to parents and students whether a DAEP placement in the second semester ends on the last day of instruction, allowing a student to participate in the graduation ceremony and related activities, or whether the student will not be allowed to participate in the graduation ceremony and related activities.</p>
<p><b>Placement Review</b></p>	
<p>A student placed in a DAEP shall be provided a review of his or her status, including academic status, by the <del>CBC campus behavior coordinator</del> or the board's designee at intervals not to exceed 120 days. In the case of a high school student, the student's progress toward graduation and the student's graduation plan shall also be reviewed. At the review, the student or the student's parent shall 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.</p>	

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<p><b>Additional Misconduct</b></p>	
<p>If during the term of placement in a DAEP the student engages in additional misconduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted, and the <del>CBC campus behavior coordinator</del> may enter an additional disciplinary order as a result of those proceedings.</p>	<p>Throughout the <i>Model</i>, we have noted when a particular action or decision is the statutory responsibility of the CBC.</p>
<p><b>Notice of Criminal Proceedings</b></p>	
<p>When a student is placed in a DAEP for certain offenses, the office of the prosecuting attorney shall notify the district if:</p> <ol style="list-style-type: none"> <li>1. Prosecution of a student’s case was refused for lack of prosecutorial merit or insufficient evidence, and no formal proceedings, deferred adjudication (see <b>glossary</b>), or deferred prosecution will be initiated, or</li> <li>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.</li> </ol> <p>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.</p> <p>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.</p> <p>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.</p>	<p style="text-align: right;">53</p>

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
<p>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.</p>	
<p><b>Withdrawal During Process</b></p>	
<p>When a student violates the district's 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 placement order is completed, the <del>CBC campus behavior coordinator</del> may complete the proceedings and issue a placement order. If the student then re-enrolls 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 <del>CBC campus behavior coordinator</del> 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.</p>	<p>Throughout the <i>Model</i>, we have noted when a particular action or decision is the statutory responsibility of the CBC.</p>
<p><b>Newly Enrolled Students</b></p>	54
<p>The district shall continue the DAEP placement of a student who enrolls in the district and was assigned to a DAEP in an open-enrollment charter school or another district including a district in another state.</p> <p><b>[OR]</b></p> <p>The district shall 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 including a district in another state. The district may place the student in the district's DAEP or a regular classroom setting.</p> <p><b>[OR]</b></p> <p>The district shall place a student who enrolls in the district and was previously assigned to a DAEP in an open-enrollment charter school or another district including a district in another state, directly into a regular classroom setting.</p>	<p>Choose one of the three options. The district may place a student enrolling from an open-enrollment charter school or another district in DAEP if the student was in the school's DAEP, and a copy of the placement order is provided to the district. The district may place an enrolling student who was in a DAEP in another state in the district's DAEP if the student's placement would also have been a DAEP placement in the receiving district, and the sending district provides a copy of the placement order.</p>

## *Disciplinary Alternative Education Program (DAEP) Placement*

<b>Text</b>	<b>Editorial Notes</b>
When a student enrolls in the district with a DAEP placement from a district in another state, the district has the right to place the student in DAEP to the same extent as any other newly enrolled student if the behavior committed is a reason for DAEP placement in the receiving district.	
State law requires the district to reduce a placement imposed by a district in another state that exceeds one year 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.	<p>If a student was placed in a DAEP in another state for more than one year and the enrolling district continues the placement under Education Code 37.008(j), the enrolling district shall reduce the period of placement so that the aggregate period does not exceed one year unless the enrolling district determines that:</p> <ol style="list-style-type: none"> <li>1. The student is a threat to the safety of other students or to district employees; or</li> <li>2. Extended placement is in the best interest of the student.</li> </ol>
<b>Emergency Placement Procedure</b>	
When an emergency placement is necessary because the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with classroom or school operations, the student shall be given oral notice of the reason for the action. Not later than the tenth day after the date of the placement, the student shall be given the appropriate conference required for assignment to a DAEP.	A principal or principal's designee can order an immediate DAEP placement of a student in accordance with Education Code 37.019.
<b>Transition Services</b>	
In accordance with law and district procedures, campus staff shall provide transition services to a student returning to the regular classroom from an alternative education program, including a DAEP. See policy FOCA(LEGAL) for more information.	Education Code 37.023 requires the DAEP administrator to provide the administrator of the campus where the student is returning with information about the student's progress while in the alternative setting, including an assessment of academic growth and results of any

55

## Disciplinary Alternative Education Program (DAEP) Placement

Text	Editorial Notes
	<p>assessments given to the student. No later than five instructional days after the student is released back to the campus, the campus administrator must develop a personalized transition plan for the student by working with campus personnel.</p> <p><b>HB 3928</b> requires the district to provide to a student’s parent or person standing in parental relation to the student the process for requesting a full individual and initial evaluation of the student for purposes of special education services as part of the student’s personalized transition plan.</p> <p>FOCA(EXHIBIT), found in the <i>Regulations Resource Manual</i>, provides a sample plan for a student’s transition back to the regular educational setting from a DAEP.</p>

56

*Placement and/or Expulsion for Certain Offenses*

Text	Editorial Notes
<b>Placement and/or Expulsion for Certain Offenses</b>	
This section includes two categories of offenses for which the Education Code provides unique procedures and specific consequences.	
<b>Registered Sex Offenders</b>	
Upon receiving notification in accordance with state law that a student is currently required to register as a sex offender, the district must remove the student from the regular classroom and determine appropriate placement unless the court orders JJAEP placement.	Subchapter I of Chapter 37 addresses the placement of registered sex offenders. The district is required to remove a student from the regular classroom and determine the appropriate placement when the district receives notice under Article 15.27 or Chapter 62, Code of Criminal Procedure, that the student is currently 57 required to register as a sex offender. The law also requires a particular composition of the review committee and for the board or its designee to make certain determinations in order to reverse the committee's recommendation.
<p>If the student is under any form of court supervision, including probation, community supervision, or parole, the student shall be placed in either DAEP or JJAEP for at least one semester.</p> <p>If the student is not under any form of court supervision, the student may be placed in DAEP or JJAEP for one semester or placed in a regular classroom. The student may not be placed in the regular classroom if the board or its designee determines that the student's presence:</p> <ol style="list-style-type: none"> <li>1. Threatens the safety of other students or teachers,</li> <li>2. Will be detrimental to the educational process, or</li> <li>3. Is not in the best interests of the district's students.</li> </ol>	

## Placement and/or Expulsion for Certain Offenses

Text	Editorial Notes
<b>Review Committee</b>	
<p>At the end of the first semester of a student’s placement in an alternative educational setting and before the beginning of each school year for which the student remains in an alternative placement, the district shall convene a committee, in accordance with state law, to review the student’s placement. The committee shall recommend whether the student should return to the regular classroom or remain in the placement. Absent a special finding, the board or its designee must follow the committee’s recommendation.</p> <p>The placement review of a student with a disability who receives special education services must be made by the ARD committee.</p>	
<b>Newly Enrolled Students</b>	
<p>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.</p>	58
<b>Appeal</b>	
<p>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.</p>	
<b>Certain Felonies</b>	
<p>Regardless of whether <b>DAEP</b> 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 <b>CBCcampus behavior</b></p>	<p>Education Code 37.0081 addresses JJAEP placement in addition to DAEP and includes additional circumstances in relation to aggravated robbery or a Title 5 felony offense. Because this provision requires a hearing before</p>

*Placement and/or Expulsion for Certain Offenses*

Text	Editorial Notes
<p><del>coordinator</del> makes certain findings and the following circumstances exist in relation to aggravated robbery or a felony offense under Title 5 (see <b>glossary</b>) of the Penal Code. The student must <b>have</b>:</p> <ul style="list-style-type: none"> <li>• <del>Have r</del>Received deferred prosecution for conduct defined as aggravated robbery or a Title 5 felony offense;</li> <li>• <del>Have b</del>Been found by a court or jury to have engaged in delinquent conduct for conduct defined as aggravated robbery or a Title 5 felony offense;</li> <li>• <del>Have b</del>Been charged with engaging in conduct defined as aggravated robbery or a Title 5 felony offense;</li> <li>• <del>Have b</del>Been referred to a juvenile court for allegedly engaging in delinquent conduct for conduct defined as aggravated robbery or a Title 5 felony offense; or</li> <li>• <del>Have r</del>Received probation or deferred adjudication or have been arrested for, charged with, or convicted of aggravated robbery or a Title 5 felony offense.</li> </ul> <p>The district may expel the student and order placement under these circumstances regardless of:</p> <ol style="list-style-type: none"> <li>1. The date on which the student’s conduct occurred,</li> <li>2. The location at which the conduct occurred,</li> <li>3. Whether the conduct occurred while the student was enrolled in the district, or</li> <li>4. Whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.</li> </ol>	<p>placement, the district may only want to use it for offenses that are not covered elsewhere in the Code of Conduct. As mentioned earlier in the Editorial Notes the offense of felony aggravated robbery is included in the list of offenses under Penal Code 29.03, requiring mandatory DAEP placement. Throughout the <i>Model</i>, we have noted when a particular action or decision associated with student discipline is the statutory responsibility of the CBC.</p>
<p><b>Hearing and Required Findings</b></p>	
<p>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:</p> <ol style="list-style-type: none"> <li>1. Threatens the safety of other students or teachers,</li> <li>2. Will be detrimental to the educational process, or</li> <li>3. Is not in the best interest of the district’s students.</li> </ol>	

59

*Placement and/or Expulsion for Certain Offenses*

Text	Editorial Notes
Any decision of the board or the board's designee under this section is final and may not be appealed.	
<b>Length of Placement</b>	
The student is subject to the placement until: <ol style="list-style-type: none"> <li>1. The student graduates from high school,</li> <li>2. The charges are dismissed or reduced to a misdemeanor offense, or</li> <li>3. The student completes the term of the placement or is assigned to another program.</li> </ol>	
<b>Placement Review</b>	
A student placed in a DAEP or JJAEP under this section is entitled to a review of his or her status, including academic status, by the <del>CBC campus behavior coordinator</del> or board's designee at intervals not to exceed 120 days. In the case of a high school student, the student's progress toward graduation and the student's graduation plan shall also be reviewed. At the review, the student or the student's parent shall have the opportunity to present arguments for the student's return to the regular classroom or campus.	60
<b>Newly Enrolled Students</b>	
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.	

Text	Editorial Notes
<p><b>Expulsion</b></p>	
<p>In deciding whether to order expulsion, regardless of whether the action is mandatory or discretionary, the <del>CBC campus behavior coordinator</del> shall take into consideration:</p> <ol style="list-style-type: none"> <li>1. Self-defense (see <b>glossary</b>),</li> <li>2. Intent or lack of intent at the time the student engaged in the conduct,</li> <li>3. The student's disciplinary history,</li> <li>4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,</li> <li>5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or</li> <li>6. A student's status as homeless.</li> </ol>	<p>Chapter 37 requires a CBC to consider these mitigating factors when making decisions about expulsion.</p>
<p><b>Discretionary Expulsion: Misconduct That May Result in Expulsion</b></p>	
<p>Some of the following types of misconduct may result in mandatory placement in a DAEP, whether or not a student is expelled. (See <b>DAEP Placement</b> on page 32.)</p>	
<p><b>Any Location</b></p>	
<p>A student <b>may</b> be expelled for:</p> <ul style="list-style-type: none"> <li>• Engaging in bullying that encourages a student to commit or attempt to commit suicide.</li> <li>• Inciting violence against a student through group bullying.</li> <li>• Releasing or threatening to release intimate visual material of a minor or of a student who is 18 years of age or older without the student's consent.</li> </ul>	

61

Text	Editorial Notes
<ul style="list-style-type: none"> <li>• Conduct that contains the elements of assault under Penal Code 22.01(a)(1) in retaliation against a school employee or volunteer.</li> </ul>	
<ul style="list-style-type: none"> <li>• Criminal mischief, if punishable as a felony.</li> </ul>	<p>According to Penal Code 28.03, criminal mischief that results in damage to property of \$2,500 or more is generally punishable as a felony. The district must decide whether to make this an offense for which a student will be placed in a DAEP or expelled. If the text regarding criminal mischief that includes a felony was retained on page 33 as a DAEP placement, it should be deleted here.</p>
<ul style="list-style-type: none"> <li>• Engaging in conduct that contains the elements of one of the following offenses against another student:               <ul style="list-style-type: none"> <li>• Aggravated assault.</li> <li>• Sexual assault.</li> <li>• Aggravated sexual assault.</li> <li>• Murder.</li> <li>• Capital murder.</li> <li>• Criminal attempt to commit murder or capital murder.</li> <li>• Aggravated robbery.</li> </ul> </li> <li>• Breach of computer security. (See <b>glossary</b>.)</li> </ul>	
<ul style="list-style-type: none"> <li>• Engaging in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school.</li> </ul>	<p>If the district decides the offenses of making a false alarm or report or a terroristic threat should result only in a DAEP placement, delete the text here in favor of the text on page 35. The minimum punishment for a student who makes a false alarm or report or a terroristic threat</p>

62

Text	Editorial Notes
	<p>involving a public school is placement in a DAEP. This includes calling in a bomb threat or pulling a fire alarm without cause.</p> <p>Districts may also expel for these offenses. A district may choose to list bomb threats as an expellable offense and the pulling of a fire alarm as a DAEP placement. If so, list the offenses under the appropriate category.</p>
<p><b>At School, Within 300 Feet, or at a School Event</b></p>	
<p>A student <b>may</b> 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:</p>	
<ul style="list-style-type: none"> <li>• Selling, giving, or delivering to another person, or possessing, using, or being under the influence of <b>any amount of</b> marijuana, a controlled substance, or a dangerous drug, <del>if the conduct is not punishable as a felony.</del> A student with a valid prescription for low-THC cannabis as authorized by Chapter 487 of the Health and Safety Code does not violate this provision. (See <b>glossary</b> for “under the influence.”)</li> <li>• Selling, giving, or delivering 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, <del>if the conduct is not punishable as a felony.</del></li> <li>• Engaging in conduct that contains the elements of an offense relating to abusable volatile chemicals.</li> </ul>	<p>Districts should decide if offenses involving any amount of marijuana, THC, alcohol, or abusable volatile chemicals are going to be expellable offenses or mandatory DAEP placements in the district. If the board decides not to expel for these offenses, the three highlighted bulleted items will need to be adjusted to remove offenses for which the district does not wish to expel. Non-felony amounts of controlled substances and dangerous drugs remain discretionary expulsions. If the district wishes to expel for non-felony amounts of controlled substances or dangerous drugs, the two items in the first bullet need to be retained.</p> <p>A district is prohibited from enacting, adopting, or enforcing a rule or regulation that prohibits the possession of low-THC cannabis as authorized by The Texas Compassionate Use Act, Chapter</p>

63

Text	Editorial Notes
	<p>487 of the Health and Safety Code, which permits prescriptions for low-THC cannabis in limited circumstances. If a student has a prescription, any possession or use of low-THC cannabis should not be considered a violation of the adjacent text. Follow the district's policies and procedures for prescription medications. [See FFAC and FFAF.]</p> <p>The Penal Code includes the possession, manufacture, or delivery of LSD, salts, isomers, and salts of isomers in the list of offenses with enhanced penalties if committed within 1,000 feet of district premises.</p>
<ul style="list-style-type: none"> <li>Engaging in conduct that contains the elements of assault under Penal Code 22.01(a)(1) against an employee or a volunteer.</li> </ul>	<p>Chapter 37 allows districts to expel a student who assaults an employee or volunteer on campus. Districts may also expel a student if an employee or volunteer is assaulted in retaliation for his or her work with the district, no matter where the assault occurs.</p>
<ul style="list-style-type: none"> <li>Engaging in deadly conduct. (See <b>glossary</b>.)</li> </ul>	
<p><b>Within 300 Feet of School</b></p>	
<p>A student <b>may</b> be expelled for engaging in the following conduct while within 300 feet of school property, as measured from any point on the school's real property boundary line:</p> <ul style="list-style-type: none"> <li>Aggravated assault, sexual assault, or aggravated sexual assault.</li> <li>Arson. (See <b>glossary</b>.)</li> <li>Murder, capital murder, or criminal attempt to commit murder or capital murder.</li> </ul>	

64

Text	Editorial Notes
<ul style="list-style-type: none"> <li>• Indecency with a child.</li> <li>• Aggravated kidnapping.</li> <li>• Manslaughter.</li> <li>• Criminally negligent homicide.</li> <li>• Aggravated robbery.</li> </ul>	
<ul style="list-style-type: none"> <li>• Continuous sexual abuse of a young child or disabled individual.</li> </ul>	
<ul style="list-style-type: none"> <li>• Felony <del>drug or alcohol-related offense</del> <b>controlled substance or dangerous drug offenses, not including THC.</b></li> <li>• Unlawfully carrying on or about the student’s person a handgun or a location-restricted knife, as these terms are defined by state law. (See <b>glossary</b>.)</li> <li>• Possessing, manufacturing, transporting, repairing, or selling a prohibited weapon, as defined by state law. (See <b>glossary</b>.)</li> <li>• Possession of a firearm, as defined by federal law. (See <b>glossary</b>.)</li> </ul>	
<p><b>Property of Another District</b></p>	
<p>A student <b>may</b> be expelled for committing any offense that is a state-mandated expellable offense if the offense is committed on the property of another district in Texas or while the student is attending a school-sponsored or school-related activity of a school in another district in Texas.</p>	
<p><b>While in a DAEP</b></p>	
<p>A student may be expelled for engaging in documented serious misbehavior that violates the district’s Code of <b>Conduct</b>, despite documented behavioral interventions while placed in a DAEP. For purposes of discretionary expulsion from a DAEP, serious misbehavior means:</p> <ol style="list-style-type: none"> <li>1. Deliberate violent behavior that poses a direct threat to the health or safety of others;</li> </ol>	<p>A district cannot expel a student from a DAEP for “serious or persistent misbehavior.” Prior to expelling a student assigned to a DAEP, district personnel must document instances of a student’s “serious misbehavior,” as defined by</p>

65

Text	Editorial Notes
<p>2. Extortion, meaning the gaining of money or other property by force or threat;</p> <p>3. Conduct that constitutes coercion, as defined by Penal Code 1.07; or</p> <p>4. Conduct that constitutes the offense of:</p> <ul style="list-style-type: none"> <li>a. Public lewdness under Penal Code 21.07;</li> <li>b. Indecent exposure under Penal Code 21.08;</li> <li>c. Criminal mischief under Penal Code 28.03;</li> <li>d. Hazing under Education Code 37.152; or</li> <li>e. Harassment under Penal Code 42.07(a)(1) of a student or district employee.</li> </ul>	<p>law, as well as attempted intervention actions. Additionally, districts located in counties that operate JJAEPs may place a student in the JJAEP if the student engages in documented serious misbehavior.</p> <p><b>SB 37</b> eliminates the requirement that a report of hazing be made in writing.</p>
<p><b>Mandatory Expulsion: Misconduct That Requires Expulsion</b></p>	
<p>A student <b>must</b> be expelled under federal or state law for any of the following offenses that occur on school property or while attending a school-sponsored or school-related activity on or off school property:</p>	
<p><b>Under Federal Law</b></p>	
<ul style="list-style-type: none"> <li>• Bringing to school or possessing at school, including any setting that is under the district’s control or supervision for the purpose of a school activity, a firearm, as defined by federal law. (See <b>glossary</b>.)</li> </ul>	<p>These provisions referencing federal law add detail from the federal Gun Free Schools Act, including how the term “school” is defined and the exceptions for lawfully stored firearms in a locked vehicle or firearms used in district activities.</p> <p>The district must expel a student for a period of one calendar year if the student brings to school a firearm, as defined by federal law. [See FNCG(LEGAL).] The superintendent may decide on a case-by-case basis to modify the length of expulsion. The district may provide educational services to expelled students age ten or older in</p>

66

Text	Editorial Notes
	the DAEP; the district must provide services to students age nine and younger in the DAEP. [See FOD(LEGAL).]
<p><b>Note:</b> Mandatory expulsion under the federal Gun Free Schools Act does not apply to a firearm that is lawfully stored inside a locked vehicle or to firearms used in activities approved and authorized by the district when the district has adopted appropriate safeguards to ensure student safety.</p>	
<p><b>Under the Penal Code</b></p>	
<ul style="list-style-type: none"> <li>Unlawfully carrying on or about the student’s person the following, in the manner prohibited by Penal Code 46.02:</li> </ul>	
<ul style="list-style-type: none"> <li>A handgun, defined by state law as any firearm designed, made, or adapted to be used with one hand. (See <b>glossary</b>.) <i>Note:</i> A student may not be expelled solely on the basis of the student’s use, exhibition, or possession of a firearm that occurs at an approved target range facility that is not located on a school campus; 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. [See policy FNCG(LEGAL).]</li> </ul>	Education Code 37.007(k) creates an exception to expulsion for using or possessing firearms under the listed circumstance.
<ul style="list-style-type: none"> <li>A location-restricted knife, as defined by state law. (See <b>glossary</b>.)</li> </ul>	Education Code 37.007(a) references Sections 46.02 and 46.05 of the Penal Code for the offenses of unlawfully carrying weapons and prohibited weapons thereby removing the option for a district to expand the definition of “location-restricted knife” to include any knife, including a pocketknife, for purposes of mandatory expulsion.
<ul style="list-style-type: none"> <li>Possessing, manufacturing, transporting, repairing, or selling a prohibited weapon, as defined in state law. (See <b>glossary</b>.)</li> </ul>	

67

Text	Editorial Notes
<ul style="list-style-type: none"> <li>• Behaving in a manner that contains elements of the following offenses under the Penal Code:                             <ul style="list-style-type: none"> <li>• Aggravated assault, sexual assault, or aggravated sexual assault.</li> <li>• Arson. (See <b>glossary</b>.)</li> <li>• Murder, capital murder, or criminal attempt to commit murder or capital murder.</li> <li>• Indecency with a child.</li> <li>• Aggravated kidnapping.</li> <li>• Aggravated robbery.</li> <li>• Manslaughter.</li> <li>• Criminally negligent homicide.</li> </ul> </li> </ul>	
<ul style="list-style-type: none"> <li>• Continuous sexual abuse of a young child or disabled individual.</li> </ul>	
<ul style="list-style-type: none"> <li>• Behavior punishable as a felony that involves selling, giving, or delivering to another person or possessing, using, or being under the influence of <del>marijuana, a controlled substance, or a dangerous drug, or alcohol, or committing a serious act or offense while under the influence of alcohol.</del></li> <li>• Engaging in retaliation against a school employee or volunteer combined with one of the above-listed mandatory expulsion offenses.</li> </ul>	<p><b>HB 114</b> removes the mandatory expulsion requirement for marijuana, THC, and alcohol-related offenses that are punishable as a felony.</p>
<p><b>Under Age Ten</b></p>	
<p>When a student under the age of ten engages in behavior that is expellable behavior, the student shall not be expelled, but shall be placed in a DAEP. A student under age six shall not be placed in a DAEP unless the student commits a federal firearm offense.</p>	<p>In accordance with the Education Code, any student under ten years of age who commits an expellable offense shall be placed in a DAEP. He or she cannot be expelled from the district.</p>

68

Text	Editorial Notes
<p><b>Process</b></p>	
<p>If a student is believed to have committed an expellable offense, the <del>CBC</del>campus behavior coordinator or other appropriate administrator shall schedule a hearing within a reasonable time. The student's parent shall be invited in writing to attend the hearing.</p> <p>Until a hearing can be held, the <del>CBC</del>campus behavior coordinator or other administrator may place the student in:</p> <ul style="list-style-type: none"> <li>• Another appropriate classroom.</li> <li>• <del>ISS</del>in-school suspension.</li> <li>• Out-of-school suspension.</li> <li>• DAEP.</li> </ul>	<p>Throughout the <i>Model</i>, we have noted when a particular action or decision associated with student discipline is the statutory responsibility of the CBC.</p> <p>FOD(EXHIBIT), found in the <i>Regulations Resource Manual</i>, has sample notices and forms on expulsion.</p>
<p><b>Hearing</b></p>	
<p>A student facing expulsion shall be given a hearing with appropriate due process. The student is entitled to:</p> <ol style="list-style-type: none"> <li>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,</li> <li>2. An opportunity to testify and to present evidence and witnesses in the student's defense, and</li> <li>3. An opportunity to question the witnesses called by the district at the hearing.</li> </ol> <p>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.</p>	
<p><del>The hearing shall be conducted by the board of trustees and the decision to expel shall be made by the board.</del></p> <p><del>[OR]</del></p>	<p>If the board conducts all expulsion hearings, the heading and text on Board Review of Expulsion should be deleted.</p>

69

Text	Editorial Notes
<p>The board of trustees delegates to the <i>fill in the blank with the appropriate title or position for the district</i> authority to conduct hearings and expel students.</p>	
<p><b>Board Review of Expulsion</b></p>	
<p>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.</p> <p>The board shall review the record of the expulsion hearing in a closed meeting unless the parent requests in writing that the matter be held in an open meeting. The board may also hear a statement from the student or parent and from the board's designee.</p> <p>The board shall consider and base its decision on evidence reflected in the record and any statements made by the parties at the review. The board shall make and communicate its decision orally at the conclusion of the presentation. Consequences shall not be deferred pending the outcome of the hearing.</p>	<p>If the board delegates the authority to expel a student to an administrator, the student may appeal the decision to the board. If this is the district's practice, the Board Review of Expulsion heading and text needs to be included.</p> <p>If the board delegates the authority to expel a student to an administrator, include the Board Review of Expulsion heading and text so that a student may appeal the decision to the board.</p>
<p><b>Expulsion Order</b></p>	
<p>Before ordering the expulsion, the board or <del>CBC</del>campus behavior coordinator shall take into consideration:</p> <ol style="list-style-type: none"> <li>1. Self-defense (see <b>glossary</b>),</li> <li>2. Intent or lack of intent at the time the student engaged in the conduct,</li> <li>3. The student's disciplinary history,</li> <li>4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,</li> <li>5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or</li> <li>6. A student's status as homeless.</li> </ol>	<p>Education Code 37.009(f) includes a requirement for the board or CBC to consider these mitigating factors before issuing an expulsion order.</p>

70

|

Text	Editorial Notes
<p>If the student is expelled, the board or its designee shall deliver to the student and the student's parent a copy of the order expelling the student.</p> <p>Not later than the second business day after the hearing, the <b>[fill in the blank with the appropriate title or position for the district]</b> shall deliver to the juvenile court a copy of the expulsion order and the information required by Section 52.04 of the Family Code.</p> <p>If the length of the expulsion is inconsistent with the guidelines included in the <del>Student</del> Code of Conduct, the expulsion order shall give notice of the inconsistency.</p>	
<p><b>Length of Expulsion</b></p>	
<p>The length of an expulsion shall be based on the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, the student's attitude, and statutory requirements.</p>	
<p>The duration of a student's expulsion shall be determined on a case-by-case basis. The maximum period of expulsion is one calendar year, except as provided below.</p>	<p>Districts are required to have guidelines for setting the term of an expulsion. Districts may list categories of offenses or individual offenses or may list one year as the maximum for any offense.</p>
<p>An expulsion may not exceed one year unless, after review, the district determines that:</p> <ol style="list-style-type: none"> <li>1. The student is a threat to the safety of other students or to district employees, or</li> <li>2. Extended expulsion is in the best interest of the student.</li> </ol>	
<p>State and federal law require a student to be expelled from the regular classroom for a period of at least one calendar year for bringing a firearm, as defined by federal law, to school. However, the superintendent may modify the length of the expulsion on a case-by-case basis.</p> <p>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.</p>	<p>In accordance with the Gun Free Schools Act and Education Code 37.007(e), the superintendent is the only administrator who can modify the length of an expulsion.</p>

71

Text	Editorial Notes
<p><b>Withdrawal During Process</b></p>	
<p>When a student’s conduct 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.</p> <p>If the student then re-enrolls in the district during the same or subsequent school year, the district may enforce the expulsion order at that time, less any expulsion period that has been served by the student during enrollment in another district.</p>	
<p>If the <del>CBC campus behavior coordinator</del> 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.</p>	<p>Throughout the <i>Model</i>, we have noted when a particular action or decision associated with student discipline is the statutory responsibility of the CBC.</p>
<p><b>Additional Misconduct</b></p>	
<p>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 <del>CBC campus behavior coordinator</del> or the board may issue an additional disciplinary order as a result of those proceedings.</p>	
<p><b>Restrictions During Expulsion</b></p>	
<p>Expelled students are prohibited from being on school grounds or attending school-sponsored or school-related activities during the period of expulsion.</p>	
<p>No district academic credit shall be earned for work missed during the period of expulsion unless the student is enrolled in a JJAEP or another district-approved program.</p>	<p>Common practice for most districts has been not to give academic credit during the time a student is expelled from school. However, districts in counties that have JJAEPs must provide educational services to those students in the</p>

72

Text	Editorial Notes
	JJAEP, in a setting provided by the district, or through a private provider. Each district should ensure that its Code of Conduct accurately reflects local decisions in this area.
<b>Newly Enrolled Students</b>	
<p>The district shall continue the expulsion of any newly enrolled student expelled from another district or an open-enrollment charter school until the period of the expulsion is completed.</p> <p><b>[OR]</b></p> <p>The district shall place a newly enrolled student expelled from another district or an open-enrollment charter school directly into a DAEP until the period of the expulsion is completed.</p> <p><b>[OR]</b></p> <p>The district shall decide on a case-by-case basis the placement of a student who is subject to an expulsion order from another district or an open-enrollment charter school upon enrollment in the district.</p> <p><b>[OR]</b></p> <p>The district shall place a newly enrolled student expelled from another district or another open-enrollment charter school directly into a regular classroom setting.</p>	Chapter 37 allows the district to enroll a student expelled from another district and make one of three placements. If decisions are to be made on a case-by-case basis, the criteria for the decisions must not unlawfully discriminate against a student on the basis of race, color, religion, sex, gender, national origin, age, disability, or any other basis prohibited by law.
<p>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:</p> <ol style="list-style-type: none"> <li>1. The out-of-state district provides the district with a copy of the expulsion order, and</li> <li>2. The offense resulting in the expulsion is also an expellable offense in the district in which the student is enrolling.</li> </ol> <p>If a student is expelled by a district in another state for a period that exceeds one year and the district continues the expulsion or places the student in a DAEP, the district shall reduce the period</p>	

73

Text	Editorial Notes
<p>of the expulsion or DAEP placement so that the entire period does not exceed one year, unless after a review it is determined that:</p> <ol style="list-style-type: none"> <li>1. The student is a threat to the safety of other students or district employees, or</li> <li>2. Extended placement is in the best interest of the student.</li> </ol>	
<p><b>Emergency Expulsion Procedures</b></p>	
<p>When an emergency expulsion is necessary to protect persons or property from imminent harm, the student shall be given verbal notice of the reason for the action. Within ten days after the date of the emergency expulsion, the student shall be given appropriate due process required for a student facing expulsion.</p>	<p>A principal or principal’s designee can order an immediate expulsion of a student in accordance with Education Code 37.019.</p>
<p><b>DAEP Placement of Expelled Students</b></p>	
<p>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.</p>	
<p><b>Transition Services</b></p>	
<p>In accordance with law and district procedures, campus staff shall provide transition services for a student returning to the regular classroom from placement in an alternative education program, including a DAEP or JJAEP. See policies FOCA(LLEGAL) and FODA(LLEGAL) for more information.</p>	<p>Education Code 37.023 requires the DAEP administrator to provide the administrator of the campus where the student is returning with information about the student’s progress while in the alternative setting, including an assessment of academic growth and results of any assessments given to the student. No later than five instructional days after the student is released back to the campus, the campus administrator must develop a personalized</p>

74

Text	Editorial Notes
	<p>transition plan for the student by working with campus personnel.</p> <p><b>HB 3928</b> requires the district to provide to a student’s parent or person standing in parental relation to the student the process for requesting a full individual and initial evaluation of the student for purposes of special education services as part of the student’s personalized transition plan.</p> <p>FOCA(EXHIBIT) and FODA(EXHIBIT), found in the <i>Regulations Resource Manual</i>, provide sample plans for a student’s transition back to the regular educational setting from a DAEP or JJAEP.</p>

Glossary	Editorial Notes
<p><b>Abuse</b> is improper or excessive use.</p> <p><b>Aggravated robbery</b> is defined in part by Penal Code 29.03(a) as when a person commits robbery and:</p> <ol style="list-style-type: none"> <li>1. Causes serious bodily injury to another;</li> <li>2. Uses or exhibits a deadly weapon; or</li> <li>3. Causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the other person is:               <ol style="list-style-type: none"> <li>a. 65 years of age or older, or</li> <li>b. A disabled person.</li> </ol> </li> </ol> <p><b>Armor-piercing ammunition</b> is defined by Penal Code 46.01 as handgun ammunition used in pistols and revolvers and designed primarily for the purpose of penetrating metal or body armor.</p> <p><b>Arson</b> is defined in part by Penal Code 28.02 as a crime that involves:</p> <ol style="list-style-type: none"> <li>1. Starting a fire or causing an explosion with intent to destroy or damage:       <ol style="list-style-type: none"> <li>a. Any vegetation, fence, or structure on open-space land; or</li> <li>b. Any building, habitation, or vehicle:           <ol style="list-style-type: none"> <li>(1) Knowing that it is within the limits of an incorporated city or town,</li> <li>(2) Knowing that it is insured against damage or destruction,</li> <li>(3) Knowing that it is subject to a mortgage or other security interest,</li> <li>(4) Knowing that it is located on property belonging to another,</li> <li>(5) Knowing that it has located within it property belonging to another, or</li> <li>(6) When the person starting the fire is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.</li> </ol> </li> </ol> </li> </ol>	<p>The glossary provides legal definitions and locally established definitions. It is intended to help the user understand terms used in the Code of Conduct.</p>

76

Glossary	Editorial Notes
<p>2. Recklessly starting a fire or causing an explosion while manufacturing or attempting to manufacture a controlled substance if the fire or explosion damages any building, habitation, or vehicle; or</p> <p>3. Intentionally starting a fire or causing an explosion and in so doing:</p> <ul style="list-style-type: none"> <li>a. Recklessly damaging or destroying a building belonging to another, or</li> <li>b. Recklessly causing another person to suffer bodily injury or death.</li> </ul> <p><b>Assault</b> is defined in part by Penal Code 22.01 as intentionally, knowingly, or recklessly causing bodily injury to another; intentionally or knowingly threatening another with imminent bodily injury; or intentionally or knowingly causing physical contact with another that can reasonably be regarded as offensive or provocative.</p> <p><b>Breach of computer security</b> includes knowingly accessing a computer, computer network, or computer system without the effective consent of the owner as defined in Penal Code 33.02, if the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district and the student knowingly alters, damages, or deletes school district property or information or commits a breach of any other computer, computer network, or computer system.</p> <p><b>Bullying</b> is defined as a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that:</p> <ul style="list-style-type: none"> <li>1. Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or damage to the student's property;</li> <li>2. Is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;</li> <li>3. Materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or</li> <li>4. Infringes on the rights of the victim at school.</li> </ul> <p>Bullying includes cyberbullying. (See below.) This state law on bullying prevention applies to:</p>	<p>77</p>

<p><b>Glossary</b></p>	<p><b>Editorial Notes</b></p>
<p>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;</p> <p>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</p> <p>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.</p> <p><b>Chemical dispensing device</b> is defined by Penal Code 46.01 as a device designed, made, or adapted for the purpose of dispensing a substance capable 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.</p> <p><b>Club</b> is defined by Penal Code 46.01 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, and includes but is not limited to a blackjack, nightstick, mace, and tomahawk.</p>	<p>78</p>
<p><b>Controlled substance</b> means a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 1-B, 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.</p> <p><b>Criminal street gang</b> 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.</p> <p><b>Cyberbullying</b> is defined by Education Code 37.0832 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.</p>	

Glossary	Editorial Notes
<p><b>Dangerous drug</b> 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.</p> <p><b>Dating violence</b> occurs when a person in a current or past dating relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person in the relationship. Dating violence also occurs when a person commits these acts against a person in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense, as defined by Section 71.0021 of the Family Code.</p> <p><b>Deadly conduct</b> under Penal Code 22.05 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.</p> <p><b>Deferred adjudication</b> 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.</p> <p><b>Deferred prosecution</b> 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.</p> <p><b>Delinquent conduct</b> 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.</p> <p><b>Discretionary</b> means that something is left to or regulated by a local decision maker.</p>	<p>79</p>
<p><b>E-cigarette</b> means an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device or a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described by this provision. The term includes any device that is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description and a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.</p>	

Glossary	Editorial Notes
<p><b>Explosive weapon</b> is defined by Penal Code 46.01 as any explosive or incendiary bomb, grenade, rocket, or mine and its delivery mechanism that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror.</p> <p><b>False alarm or report</b> 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:</p> <ol style="list-style-type: none"> <li>1. Cause action by an official or volunteer agency organized to deal with emergencies;</li> <li>2. Place a person in fear of imminent serious bodily injury; or</li> <li>3. Prevent or interrupt the occupation of a building, room, or place of assembly.</li> </ol> <p><b>Firearm</b> is defined by federal law (18 U.S.C. 921(a)) as:</p> <ol style="list-style-type: none"> <li>1. Any weapon (including a starter gun) that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive;</li> <li>2. The frame or receiver of any such weapon;</li> <li>3. Any firearm muffler or firearm silencer, defined as any device for silencing, muffling, or diminishing the report of a portable <a href="#">firearm</a>; or</li> <li>4. Any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.</li> </ol> <p>Such term does not include an antique firearm.</p>	80
<p><del><b>Firearm silencer</b> is defined by Penal Code 46.01 as any device designed, made, or adapted to muffle the report of a firearm.</del></p>	
<p><b>Graffiti</b> includes 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.</p> <p><b>Handgun</b> is defined by Penal Code 46.01 as any firearm that is designed, made, or adapted to be fired with one hand.</p>	

<b>Glossary</b>	<b>Editorial Notes</b>
<p><b>Harassment</b> includes:</p> <ol style="list-style-type: none"><li>1. Conduct that meets the definition established in district policies DIA(LOCAL) and FFH(LOCAL);</li><li>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 Education Code 37.001(b)(2); or</li><li>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:<ol style="list-style-type: none"><li>a. Initiating communication and, in the course of the communication, making a comment, request, suggestion, or proposal that is obscene, as defined by law;</li><li>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;</li><li>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; <del>and</del></li><li>d. <b>Causing the telephone of another to ring repeatedly or making repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another;</b></li><li>e. <b>Making a telephone call and intentionally failing to hang up or disengage the connection;</b></li><li><del>e</del>.f. <b>Knowingly permitting a telephone under the person’s control to be used by another to commit an offense under this section;</b></li><li><del>d</del>.g. Sending repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another; <del>and</del></li></ol></li></ol>	

81

Glossary	Editorial Notes
<p><b>h.</b> Publishing on an internet website, including a social media platform, repeated electronic communications in a manner reasonably likely to cause emotional distress, abuse, or torment to another person, unless the communications are made in connection with a matter of public concern, as defined by law; <b>or</b></p> <p><b>e.i. Making obscene, intimidating, or threatening telephone calls or other electronic communications from a temporary or disposable telephone number provided by an internet application or other technological means.</b></p>	<p><b>HB 1427</b> expands the offense of harassment under Penal Code 42.07 to include making obscene, intimidating, or threatening telephone calls or other electronic communications from a temporary or disposable telephone number.</p> <p>The definition of harassment in the glossary has been updated to reflect the language in the Penal Code.</p>
<p><b>Hazing</b> is defined by Education Code 37.151 as an intentional, knowing, or reckless act, on or off campus, by one person alone or acting with others, directed against a student for the purpose of pledging, initiation into, affiliation with, holding office in, or maintaining membership in a student organization if the act meets the elements in Education Code 37.151, including:</p> <ol style="list-style-type: none"> <li>1. Any type of physical brutality;</li> <li>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;</li> <li>3. An activity that induces, causes, or requires the student to perform a duty or task that violates the Penal Code; or</li> <li>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. <b>Hit list</b> is defined in Education Code 37.001(b)(3) as a list of people targeted to be harmed, using a firearm, a knife, or any other object to be used with intent to cause bodily harm.</li> </ol> <p><b>Improvised explosive device</b> is defined by Penal Code 46.01 as a completed and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components.</p> <p><b>Indecent exposure</b> is defined by Penal Code 21.08 as an offense that occurs when a person exposes the person’s anus or any part of the person’s genitals with intent to arouse or gratify the</p>	<p style="text-align: right;">82</p>

Glossary	Editorial Notes
<p>sexual desire of any person, and is reckless about whether another is present who will be offended or alarmed by the act.</p> <p><b>Intimate visual material</b> is defined by Civil Practices and Remedies Code 98B.001 and Penal Code 21.16 as visual material that depicts a person with the person’s intimate parts exposed or engaged in sexual conduct. “Visual material” means any film, photograph, video tape, negative, or slide of any photographic reproduction or any other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen.</p> <p><b>Location-restricted knife</b> is defined by Penal Code 46.01 as a knife with a blade over five and one-half inches.</p> <p><b>Knuckles</b> means 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.</p> <p><b>Look-alike weapon</b> means an item that resembles a weapon but is not intended to be used to cause serious bodily injury.</p> <p><b>Machine gun</b> as defined by Penal Code 46.01 is any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.</p> <p><b>Mandatory</b> means that something is obligatory or required because of an authority.</p> <p><b>Paraphernalia</b> are devices that can be used for inhaling, ingesting, injecting, or otherwise introducing a controlled substance into a human body.</p> <p><b>Possession</b> means to have an item on one’s person or in one’s personal property, including, but not limited to:</p> <ol style="list-style-type: none"> <li>1. Clothing, purse, or backpack;</li> <li>2. 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;</li> <li>3. Telecommunications or electronic devices; or</li> <li>4. Any school property used by the student, including, but not limited to, a locker or desk.</li> </ol>	<p style="text-align: right;">83</p>

Glossary	Editorial Notes
<p><b>Prohibited weapon</b> under Penal Code 46.05(a) means:</p> <ol style="list-style-type: none"> <li>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: An explosive weapon;               <ol style="list-style-type: none"> <li>a. A machine gun;</li> <li>b. A short-barrel firearm;</li> </ol> </li> <li>2. Armor-piercing ammunition;</li> <li>3. A chemical dispensing device;</li> <li>4. A zip gun;</li> <li>5. A tire deflation device; or</li> <li>6. An improvised explosive device.</li> </ol>	
<p><b>Public Lewdness</b> is defined by Penal Code 21.07 as an offense that occurs when a person knowingly engages in an act of sexual intercourse, deviate sexual intercourse, or sexual contact in a public place or, if not in a public place, when the person is reckless about whether another is present who will be offended or alarmed by the act.</p> <p><b>Public school fraternity, sorority, secret society, or gang</b> 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 Education Code 37.121(d) are excepted from this definition.</p> <p><b>Reasonable belief</b> is that which an ordinary person of average intelligence and sound mind would believe. Chapter 37 requires certain disciplinary decisions when the superintendent or designee 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, <b>and must consider the information furnished in</b> <del>including</del> the notice of a student’s arrest under Code of Criminal Procedure Article 15.27.</p>	<p style="text-align: right;">84</p>

<p><b>Glossary</b></p>	<p><b>Editorial Notes</b></p>
<p><b>Self-defense</b> is the use of force against another to the degree a person reasonably believes is immediately necessary to protect himself or herself.</p> <p><b>Serious misbehavior</b> means:</p> <ol style="list-style-type: none"> <li>1. Deliberate violent behavior that poses a direct threat to the health or safety of others;</li> <li>2. Extortion, meaning the gaining of money or other property by force or threat;</li> <li>3. Conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or</li> <li>4. Conduct that constitutes the offense of:             <ol style="list-style-type: none"> <li>a. Public lewdness under Penal Code 21.07;</li> <li>b. Indecent exposure under Penal Code 21.08;</li> <li>c. Criminal mischief under Penal Code 28.03;</li> <li>d. Hazing under Education Code 37.152; or</li> <li>e. Harassment under Penal Code 42.07(a)(1) of a student or district employee.</li> </ol> </li> </ol> <p><b>Serious or persistent misbehavior</b> includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Behavior that is grounds for permissible expulsion or mandatory DAEP placement.</li> <li>• Behavior identified by the district as grounds for discretionary DAEP placement.</li> <li>• Actions or demonstrations that substantially disrupt or materially interfere with school activities.</li> <li>• Refusal to attempt or complete schoolwork as assigned.</li> <li>• Insubordination.</li> <li>• Profanity, vulgar language, or obscene gestures.</li> <li>• Leaving school grounds without permission.</li> <li>• Falsification of records, passes, or other school-related documents.</li> <li>• Refusal to accept discipline assigned by the teacher or principal.</li> </ul>	<p style="text-align: right;">85</p>

Glossary	Editorial Notes
<p><b>Short-barrel firearm</b> is defined by Penal Code 46.01 as a rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches.</p> <p><b>Terroristic threat</b> is defined by Penal Code 22.07 as a threat of violence to any person or property with intent to:</p> <ol style="list-style-type: none"> <li>1. Cause a reaction of any type by an official or volunteer agency organized to deal with emergencies;</li> <li>2. Place any person in fear of imminent serious bodily injury;</li> <li>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;</li> <li>4. Cause impairment or interruption of public communications; public transportation; public water, gas, or power supply; or other public service;</li> <li>5. Place the public or a substantial group of the public in fear of serious bodily injury; or</li> <li>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).</li> </ol> <p><b>Tire deflation device</b> is defined in part by Penal Code 46.01 as a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle’s tires.</p> <p><b>Title 5 felonies</b> are those crimes listed in Title 5 of the Penal Code that typically involve injury to a person and may include:</p> <ul style="list-style-type: none"> <li>• Murder, manslaughter, or homicide under Sections 19.02–.05;</li> <li>• Kidnapping under Section 20.03;</li> <li>• Trafficking of persons under Section 20A.02;</li> <li>• Smuggling or continuous smuggling of persons under Sections 20.05–.06;</li> <li>• Assault under Section 22.01;</li> </ul>	<p style="text-align: right;">86</p>

Glossary	Editorial Notes
<ul style="list-style-type: none"> <li>• Aggravated assault under Section 22.02;</li> <li>• Sexual assault under Section 22.011;</li> <li>• Aggravated sexual assault under Section 22.021;</li> <li>• Unlawful restraint under Section 20.02;</li> </ul>	
<ul style="list-style-type: none"> <li>• Continuous sexual abuse of a young child or disabled individual under Section 21.02;</li> </ul>	
<ul style="list-style-type: none"> <li>• Bestiality under Section 21.09;</li> <li>• Improper relationship between educator and student under Section 21.12;</li> <li>• Voyeurism under Section 21.17;</li> <li>• Indecency with a child under Section 21.11;</li> <li>• Invasive visual recording under Section 21.15;</li> <li>• Disclosure or promotion of intimate visual material under Section 21.16;</li> <li>• Sexual coercion under Section 21.18;</li> <li>• Injury to a child, an elderly person, or a disabled person of any age under Section 22.04;</li> <li>• Abandoning or endangering a child under Section 22.041;</li> <li>• Deadly conduct under Section 22.05;</li> <li>• Terroristic threat under Section 22.07;</li> <li>• Aiding a person to commit suicide under Section 22.08; and</li> <li>• Tampering with a consumer product under Section 22.09.</li> </ul> <p><b>Under the influence</b> 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,</p>	<p style="text-align: right;">87</p>

<b>Glossary</b>	<b>Editorial Notes</b>
<p>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.</p> <p><b>Use</b> means voluntarily introducing into one’s body, by any means, a prohibited substance.</p> <p><b>Zip gun</b> is defined by Penal Code 46.01 as a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.</p>	



**Marathon ISD  
Budget Amendments**