

JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM
MEMORANDUM OF UNDERSTANDING

NUECES COUNTY JUVENILE BOARD
AND
INDEPENDENT SCHOOL DISTRICTS
2009-2010 School Year

I. PURPOSE

In 1995, the Texas legislature required that in counties of 125,000 population or more, juvenile boards and independent school districts must work separately and jointly to provide alternative education options for all youth. The link between schools and the juvenile justice system was expanded by the legislature in Chapter 37 of the Education Code. In 1997 the Texas Legislature amended the Provisions of Chapter 37. The educational spectrum for youth includes the creation of alternative education programs at local independent school systems, support services from the Nueces County Juvenile Department and the creation of a Nueces County Juvenile Justice Alternative Education Program, hereafter known as the NCJJAEP. This partnership between the Nueces County Juvenile Board hereafter known as the NCJB and the Independent School Districts in Nueces County hereafter known as ISD's necessitates a memorandum of understanding.

A Student Code of Conduct must be adopted by the Board of Trustees of each ISD. The Student Code of Conduct must specify the circumstances under which a student may be removed from a classroom campus, or alternative education program. It must specify conditions that authorize or require a student to be transferred to an alternative education program, and it must outline conditions under which a student may be suspended or expelled.

The ISD's and the Nueces County Juvenile Board agree that there are three goals in this effort: (1) to establish consistency, predictability, and appropriateness of curriculum options and student placement following expulsions from regular schools or an AEP, (2) to return the student to a regular school setting when appropriate, and (3) to impress upon youth that there are progressive sanctions for misconduct in the public school setting. To accomplish these goals the following sections of this memorandum establish progressive sanctions and actions that move the student through the NCJJAEP, but also recapture the student to transition that student back to a regular school setting when possible.

II. ENROLLMENT AND COST

Due to the loss of Chapter 41 funds to offset the cost of discretionary expulsion of students to the JJAEP and the desire of several ISD's to continue sending discretionary expulsion students under Section 37.007 (b), (c), and (f), it is necessary to fund the education of students by allocating chairs by ISD. The cost per chair is \$18,855.00 for the 180 day school year payable in 10 equal installments (for those ISD's purchasing at least one chair) from August, 2009 through May, 2010,

The number of chairs to be purchased:

Aransas Pass ISD	1
Agua Dulce ISD	0
Banquete ISD	0
Bishop ISD	1
Calallen ISD	3
Corpus Christi ISD	20
Driscoll ISD	0
Flour Bluff ISD	11
London ISD	0
Robstown ISD	1
Tuloso-Midway ISD	1
West Oso ISD	3
Port Aransas ISD	0
Nueces County	1

ISD's that have not purchased any chairs may send only mandatory students at a cost of \$130.00 per day for a minimum of 90 successful days billed from the first day of the month the student enters and through the end of the month the student exits.

A. MANDATORY STUDENTS

Mandatory students expelled under the expulsion criteria for offenses under 37.007(a) (d) (e) will be provided services by the NCJJAEP. Firearm violations 37.007 (e) will require placement in NCJJAEP for a period of one year. All other MANDATORY students will require placement in NCJJAEP for a period no less than 60 to 90 "successful" days according to the NCJJAEP school calendar or the number of "successful" days approved by the ISD Board of Trustees or Superintendent on appeal. If the offense occurs during the last six weeks of the semester the placement will extend into the next semester. All mandatory student attendance days will be reimbursed at the rate of \$79.00 per attendance day based on TJPC's reimbursement schedule. Mandatory expulsion students assigned by ISD's that have not purchased chairs will be billed to the ISD at the rate of \$130.00 per day for a minimum of 90 successful days with the State reimbursement of \$79.00 per attendance day repaid to the ISD based on TJPC's reimbursement schedule. During a period where all 42 chairs are occupied and paid by the districts, those ISD's that purchased at least one chair will not be billed for the additional mandatory student if that student's expulsion complies with the 60 to 90 successful day expulsion criteria. The reimbursement and reimbursement rate are dependent on the appropriation of funds by the Texas Legislature. An administrative review will be conducted at the request of the sending ISD to facilitate early return to the home campus for students doing well.

B. DISCRETIONARY STUDENTS

Discretionary students expelled under Section 37.007 (b), (c) and (f) may be placed in a separate alternative school program administered by the ISD, in a separate alternative school program under contract with the ISD, or be placed in the NCJJAEP. The school district is responsible for providing an immediate educational program to students expelled under 37.007 (b), (c), and (f) until required paperwork supporting the expulsion is received by the Director of the Nueces County Juvenile Justice Alternative Education Program. Each ISD will continue to receive their ADA on these students during the period of expulsion. All students shall be assigned for a period no less than 60 to 90 "successful" school days according to the NCJJAEP school calendar or the number of "successful" days approved by the ISD Board of Trustees or Superintendent on appeal. An administrative review will be conducted at the request of the sending ISD to facilitate early return to the home campus for students doing well.

Upon discretionary expulsion to the NCJJAEP, parents electing to place their child in a private or home school will be required to meet with the JJAEP Director and the home school to provide private school information or home school curriculum information.

C. ENGLISH AS A SECOND LANGUAGE STUDENTS

Students who qualify for English As A Second Language (ESL) services will be provided those services by the sending ISD.

D. MISCELLANEOUS

ISD's whose student demonstrates exemplary performance at the NCJJAEP may request early release after 60 successful days or as directed by ISD Board policy subject to an agreement of the NCJJAEP Director, the Nueces County Department's JJAEP Coordinator, and the ISD representative. According to TJPC Standards TAC Chapter 348.7(g) (3), the JJAEP Director shall initiate withdrawal of a student after 30 consecutive school days in inactive status. The district may initiate withdrawal of a student for nonattendance in accordance with ISD's policy. Students withdrawn for nonattendance shall be permitted to re-enroll and complete their expulsion order, if the sending ISD approves.

E. STATE ASSESSMENT TESTING

Each ISD's will assist with administration of state assessment tests, if requested by the JJAEP Director.

F. STUDENT CHANGE IN ATTENDANCE ZONE WHILE AT JJAEP

When an expelled student who has been placed in the NCJJAEP moves out of the attendance boundaries of the participating school district which expelled the student, and becomes a resident within the attendance boundaries of another participating school district under this Agreement, the receiving school district shall have the option of continuing the expulsion under the terms of the NCJJAEP, or placing the student in its own, if applicable, or of allowing the student to attend regular classes without completing the period of expulsion. The receiving school district will undertake the

responsibility for paying the NCJJAEP operation cost associated with the remaining term of expulsion, if the student remains at the NCJJAEP. The Fiscal agent will adjust each affected school district's accounting, upon notice from the NCJJAEP Coordinator if the student changes residence to another ISD's attendance zone. The NCJJAEP Director will be responsible for confirming the movement to another ISD's attendance zone and date of occurrence for accounting purposes, and will notify each school district affected.

G. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS)

All PEIMS reporting requirements for the students placed in the JJAEP shall remain the responsibility of the sending district, and all ADA funding entitlements generated from such data shall also remain with the sending district. The NCJJAEP shall submit to the sending districts pertinent information to assure that the PEIMS is maintained throughout the duration of the student's expulsion. Student attendance and absence reports shall be provided to the participating school district on a timely basis.

III. DEFINITION OF SERIOUS/PERSISTENT MISBEHAVIOR

The definition of serious and/or persistent misbehavior occurring at an AEP is that a student has established a pattern of defiance of authority, including chronic truancy and disruptive behaviors while at the AEP. This must be demonstrated through attendance records and behavior reports.

IV. LAW ENFORCEMENT REPORTS

Notice of expulsions submitted to the Nueces County JJAEP Coordinator will initiate intake process for the Juvenile Court, and facilitate placement in the JJAEP. A police report must be filed and presented to the Juvenile Probation Department for all students referred to the JJAEP when a law violation has led to the expulsion. When a law violation on or off campus has led to the expulsion, the ISD will be notified in accordance with Subsection (g) Article 15.27 Code of Criminal Procedure that a prosecution was refused for lack of prosecutorial merit, if the court or jury found the student not guilty or the case was dismissed with prejudice.

V. REQUIRED ENROLLMENT DOCUMENTATION

The school district shall provide to the Nueces County JJAEP Director (prior to acceptance into the JJAEP) the following documents: a completed JJAEP Enrollment Form, education transcripts, graduation plan, state assessments, discipline history, attendance records and law enforcement offense report. For students expelled for Serious/Persistent Misbehavior, a copy of the signature page of their Student Code of Conduct will be required along with attendance reports and behavior reports used to demonstrate the definition of Serious/Persistent Misbehavior.

VI. SPECIAL EDUCATION AND 504 STUDENTS

Students who are expelled under Chapter 37.007 and are classified as a student with disabilities may

be expelled from the school district only after a duly constituted Admission, Review, and Dismissal (ARD) Committee determines that the alleged offense is not related to the student's disability/ies, in accordance with Section 37.004 of the Texas Education Code, the Individuals with Disabilities Education Act (I.D.E.A.), Section 504 of the Rehabilitation Act, the other applicable state and federal laws. A juvenile court may order an adjudicated youth to attend the Nueces County JJAEP without regard to any determination by an ARD Committee that the student's misconduct is related or not related to the student's handicapping condition. For students with disabilities who are adjudicated and placed in the Nueces County JJAEP by a juvenile court, the ARD Committee will review the student's Individual Education Plan (IEP) and determine the appropriate educational services to be provided for the student while in the Nueces County JJAEP.

The school district shall provide reasonable notice to the JJAEP Director of a pending expulsion ARD. At the time of the ARD, the school district shall provide to the JJAEP Director complete documents covering manifestation ARD including Individual Education Plan (IEP), modifications, and Behavior Intervention Plan (BIP), most recent annual ARD documents including IEP, modifications, and BIP, most recent academic and psychological assessments, and reading and math competency assessments.

Students with disabilities who are placed in the Nueces County JJAEP will be afforded educational services determined by a duly constituted ARD Committee to be appropriate for the student to receive a free and appropriate public education as defined by Federal and State Laws. It is the understanding of the parties that the School District has the ultimate responsibility of providing and ensuring these services including all other support services, related services, and non-educational services.

Any student assigned to Nueces County JJAEP who, after a review of all relevant records by representatives of the Nueces County JJAEP, is believed to be in need of services under I.D.E.A. or Section 504, shall be referred to the school district for the assessment of eligibility. Any student subsequently determined to qualify for services and protection under I.D.E.A. or Section 504, shall be afforded all lawfully required services and protection by the school district, to the extent that the Nueces County JJAEP is not able to provide the service and the district is notified of the need to provide the service.

The Nueces County Juvenile Board agrees that the school district shall have no responsibility to serve students with disabilities who have not previously been admitted to the district or who are not presently eligible for admission and who are at the Nueces County JJAEP. In accordance with Chapter 37, TEC, accountability for students placed at the Nueces County JJAEP shall remain with the student's district of expulsion.

VII. JJAEP ADVISORY BOARD AND DISTRICT LIAISON

Each participating ISD will appoint a person to coordinate services and communications related to the educational programming, and the transition back to the ISD for students who have fulfilled all conditions of expulsion. This liaison will attend monthly NCJJAEP Advisory Board meetings and convey all information back to the ISD.

VIII. TRANSPORTATION

Transportation to and from the NCJJAEP Program will be in accordance with an established plan for student transportation that complies with statute and TEA policies. The Sending District may make alternative transportation arrangements in the case of discretionary expulsion students as necessary. When an IEP for a special education student has provided transportation immediately preceding the NCJJAEP placement, that transportation shall be continued during the period of expulsion to the NCJJAEP. In cases of hardship, the assigned juvenile probation officer may recommend that a student city bus pass be authorized and paid from the JJAEP operating expenses account for any mandatory student.

IX. TIMELY NOTIFICATIONS REQUIRED

The provisions of the Texas Family Code Section 52.041 (d) and (e) are included as cited:

(d) The office or official designated by the juvenile board shall within two working days notify the school district that expelled the child if:

- (1) a determination was made under Section 53.01 that the person referred to juvenile court was not a child within the meaning of this title;
- (2) a determination was made that no probable cause existed to believe the child engaged in delinquent conduct or conduct indicating a need for supervision;
- (3) no deferred prosecution or formal court proceedings have been or will be initiated involving the child;
- (4) the court or jury finds that the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case has been dismissed with prejudice; or
- (5) the child was adjudicated but no disposition was or will be ordered by the court.

(e) In any county where a juvenile justice alternative education program is operated, no student shall be expelled without written notification by the board of the school district or its designated agent to the juvenile board's designated representative. The notification shall be made not later than two business days following the board's determination that the student is to be expelled. Failure to timely notify the designated representative of the juvenile board shall result in the child's duty to continue attending the school district's educational program, which shall be provided to that child until such time as the notification to the juvenile board's designated representative is properly made.

X. END OF PLACEMENT

Student placement at the NCJJAEP shall end upon expiration of the expulsion, upon agreement after review by the ISD, JJAEP Director, and JJAEP Coordinator that it is in the student's best interest to return to the home school, or when Juvenile Court jurisdiction ends whichever is earlier.

XI. PLACEMENT OF TITLE 5 FELONIES AND REGISTERED SEX OFFENDERS

A. PLACEMENT OF TITLE 5 FELONIES (EC 37.0081, Section 1)

The Nueces County Juvenile Justice Alternative Education Program (NCJJAEP) will accept for discretionary expulsion any Title 5 felony committed on or after September 1, 2007 as long as the Independent School District (ISD) has an open chair. The student must be placed on deferred prosecution; adjudicated delinquent; referred to the Juvenile Court; placed on probation or deferred adjudication; arrested for or charged with; or convicted of a Title 5 felony; AND the student's presence in the regular classroom threatens the safety of other students; will be detrimental to the education process; or is not in the best interest of the district's students. The referral to the NCJJAEP must be accompanied by a law enforcement report.

B. PLACEMENT OF REGISTERED SEX OFFENDERS (EC 37.0081, Subchapter I)

The NCJJAEP will accept for discretionary expulsion any registered sex offender required to register on or after September 1, 2007 as long as the ISD has an open chair. The ISD must provide a copy of the notice under Article 15.27, Code of Criminal Procedure (CCP), or Chapter 62, CCP that a student is required to register as a sex offender under that chapter. This enrollment does not apply to a student who is no longer required to register as a sex offender under Chapter 62, CCP, including a student who receives an exemption from registration under Subchapter H, Chapter 62, CCP, or a student who receives an early termination of the obligation to register under Subchapter I, Chapter 62, CCP.

The student, who is under any form of court supervision, including probation, community supervision, or parole, must be placed at the NCJJAEP for a minimum of 90 successful days according to the NCJJAEP school calendar. If this student transfers to another ISD while attending the NCJJAEP, the new ISD may require the student to complete an additional 90 successful days according to the NCJJAEP school calendar without conducting a review of the student's placement for that semester under Section 37.306.

For a student who is not under any type of court supervision, the ISD must determine that the student's presence in the regular classroom threatens the safety of other students or teachers; will be detrimental to the learning process; or is not in the best interests of the district's students.

C. REVIEW COMMITTEE FOR SEX OFFENDER PLACEMENT (EC 37.306)

This student's placement must be reviewed by a Review Committee at the end of the first 90 successful days according to the NCJJAEP school calendar. The Review Committee shall be comprised of a classroom teacher from regular campus; the student's probation or parole officer (if no PO, the NCJJAEP Coordinator); an instructor from the NCJJAEP; a school board designee; and an ISD counselor.

The Review Committee by a majority vote will make a recommendation regarding this student's

placement. If the Review Committee's recommendation is to return this student to the regular classroom, the ISD school board shall return the student to the regular classroom unless the board determines that the student's presence in the regular classroom is a threat to the safety of other students or teachers; will be detrimental to the learning process of the students; or it is not in the best interest of the ISD's students.

If the Review Committee recommends that the student remain at the NCJJAEP, the ISD school board shall continue the student's placement in the NCJJAEP unless the board determines that the student's presence in the regular classroom does not threaten the safety of other students or teachers; will not be detrimental to the educational process; or it is not contrary to the best interest of the district's students.

If, after receiving a recommendation from the Review Committee, the board determines that the student shall remain at the NCJJAEP, the board shall convene the Review Committee to review the student's placement before the beginning of each school year.

D. STUDENTS WITH DISABILITIES (EC 37.307)

All expulsions will comply with the Individuals with Disabilities Education Act (IDEA). Placement review may only be done by a duly constituted admission, review, and dismissal committee (ARD).

E. AGE REQUIREMENT

Students expelled under the Title 5 felony Offenses or Registered Sex Offender category must be between the ages of twelve and seventeen. Any students being considered for expulsion eighteen years of age or older will be reviewed for admission on an individual basis, and will be admitted or denied at the sole discretion of the Nueces County Chief Juvenile Probation Officer or his designee.

F. TERM OF PLACEMENT

Placement for discretionary Title 5 felony offenses and Registered Sex Offenders must be for a minimum of 90 successful days. The maximum placement period shall be 180 successful days. Through mutual agreement with the Nueces County Juvenile Probation Department JJAEP Coordinator and the local ISD, a student may be expelled longer than a calendar year. This student will be reviewed by the NCJJAEP and the ISD at least every 120 days. If the Title 5 felony charge is reduced or dismissed, the student will be exited within 10 school days upon proof of reduction or dismissal.

G. COST OF PLACEMENT (EC 37.0081(g))

The ISD's shall reimburse the Nueces County Juvenile Probation Department for the actual cost incurred each day for the student while the student is enrolled in the NCJJAEP. The actual cost incurred each day of the program is determined by the Nueces County Juvenile Board, and is based on the Board's annual audit. The cost for placement of a discretionary student with a Title 5 felony offense or Registered Sex Offender category shall be \$114.96 per attendance day.

XI. TERM OF AGREEMENT

This agreement supersedes all prior MOU agreements between these parties and shall be in effect from August 1, 2009 through, and including, July 31, 2010. This agreement shall renew automatically for one year on August 1, 2010, unless notice of a party's intent not to renew is sent to the other party prior to July 1st of that year. The parties agree to meet annually to discuss the progress of the Program and discuss this agreement to address additional needs.

Accepted and Agreed by _____ Independent School District:

President, Board of Trustees

Date: _____

Superintendent

Date: _____

In-House Counsel (if applicable)

Date: _____

JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM
MEMORANDUM OF UNDERSTANDING
Addendum

NUECES COUNTY JUVENILE BOARD
AND
INDEPENDENT SCHOOL DISTRICTS
2009-2010 School Year

Two school districts have chosen to change the number of chairs they wish to purchase for the 2010-2011 school year. The overall numbers of chairs sold remains the same at 42. The following are the changes:

Bishop ISD	0 chairs
Tuloso-Midway ISD	2 chairs

TERM OF AGREEMENT

The Nueces County Juvenile Board and the Independent School District agree that this Addendum shall be effective August 1, 2010 through July 31, 2011.

Accepted and Agreed by _____ Independent School District:

President, Board of Trustees

Date: _____


Superintendent of Schools

Date: _____

In-House Counsel (if applicable)

Date: _____

Approved by the Nueces County Juvenile Board:



Judge Terry Shamsie
Juvenile Board Chairman

Date: 4-7-2010