



# UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

**TOPIC:** Approval of Interlocal Agreement between Webb County Juvenile Board and United Independent School District for the 2009-2010 School Year.

**SUBMITTED BY:** Sandra Cavazos **OF:** Student Services Department

**APPROVED FOR TRANSMITTAL TO SCHOOL BOARD:** \_\_\_\_\_

**DATE ASSIGNED FOR BOARD CONSIDERATION:** August 19, 2009

**RECOMMENDATION:** It is recommended that the Board of Trustees approve the Interlocal Agreement between Webb County Juvenile Board and United Independent School district for the 2009-2010 School year.

**RATIONALE:**

Interlocal Agreement and Memorandum of Understanding between Webb County Juvenile Board and the United Independent School District for the 2009-2010 School Year.

**BUDGETARY INFORMATION:**

2009-2010 Budget

**BOARD POLICY REFERENCE AND COMPLIANCE:**

Texas Education Code, Chapter 37

**INTERLOCAL AGREEMENT AND MEMORANDUM OF  
UNDERSTANDING BETWEEN THE  
WEBB COUNTY JUVENILE BOARD  
AND UNITED INDEPENDENT SCHOOL DISTRICT  
2009-2010 School Year**

**I.**

State law requires juvenile boards and independent school districts in counties with populations of 125,000 or more to jointly provide alternative education options for public school students. Texas Education Code §37.008 requires United Independent School District ("UISD") to establish a district-level Disciplinary Alternative Education Program ("DAEP"). The Webb County Juvenile Board ("Juvenile Board") must create a Juvenile Justice Alternative Education Program ("JJAEP") in accordance with §37.011 of the Texas Education Code. Unless otherwise stated, all references to section and chapter numbers in this Agreement are to the Texas Education Code. The JJAEP is not allowed by law to require a student or the parent or guardian of a student to pay any fee, including an entrance fee or supply fee, for participation in the program.

**II.**

**Purpose**

This Memorandum of Understanding is between UISD and the Juvenile Board and is intended to do the following:

1. Outline the responsibilities of the Juvenile Board concerning the establishment and operation of the JJAEP;
2. Define the amount and conditions of payments from UISD to the Juvenile Board for students of UISD served in the JJAEP whose placement was not made on the basis of an expulsion under §37.007(a), (d), or (e);
3. Identify those categories of conduct that UISD has defined in its Student Code of Conduct as constituting serious or persistent misbehavior for which a student may be placed in the JJAEP;
4. Identify and require a timely placement and specify a term of placement for expelled students for whom UISD has received a notice under §52.041(d) of the Texas Family Code;
5. Establish services for the transition of expelled students to UISD prior to the completion of the student's placement in the JJAEP;
6. Identify a plan that provides transportation services for students placed in the JJAEP;
7. Establish the circumstances and conditions under which a juvenile may be allowed to remain in the JJAEP once the juvenile is no longer under Juvenile Court jurisdiction;
8. Establish a plan to address Special Education services required by law.
9. Address the reimbursement of the JJAEP by UISD for students who are placed in accordance with §37.0081.

### **III. Student Eligibility**

#### **A. MANDATORY PLACEMENT OFFENSES**

Students who are admitted into the public schools of a school district under Section 25.001(b) of the Texas Education Code and who have been expelled from school for an offense enumerated under §37.007(a), (d), or (e) of the Texas Education Code (*See Exhibit "A"*) must, according to State Law, be placed in the Webb County JJAEP pursuant to §37.011(b). The Webb County Juvenile Board should be aware that pursuant to §37.001(a) of the Education Code, commission of a §37.007(a), (d), or (e) offense may not lead to a student's expulsion if mitigating factors exist, as outlined under §37.001(a), which may preclude UISD from expelling the student. Should a juvenile court proceed to court order the placement of a juvenile, who has committed a §37.007(a), (d), or (e) offense but has not been expelled by UISD, at the JJAEP then UISD will not be financially responsible for the court ordered placement ("expulsion") of the student.

According to State Law, students who are expelled for offenses under this section of this Memorandum of Understanding ("Section III. A Offenses") must be referred to the Juvenile Probation Department for those offenses. If the police report or complaint does not describe conduct which would rise to the level of a Section III. A Offense, the Webb County Juvenile Board may require UISD to provide additional information to support the assignment to Section III. A.

#### **B. DISCRETIONARY PLACEMENT OFFENSES**

Students who are expelled from UISD while placed in a District-level DAEP are eligible for enrollment in the JJAEP if they continue to engage in serious or persistent misbehavior that violates UISD's Student Code of Conduct or other offenses under §37.007(b), (c), (d), (f), or (i)(see Exhibit "B.") Also, under §37.0081, a UISD student may be expelled and placed into the JJAEP for (a) receiving deferred prosecution under Family Code §53.03, for conduct defined as a Title 5 felony offense; (b) being found by a court or jury to have engaged in delinquent conduct under Family Code §54.03 for conduct defined as a Title 5 felony offense; (c) being charged with engaging in conduct defined as a Title 5 felony offense; (d) being referred to a juvenile court for allegedly engaging in delinquent conduct under Family Code §54.03 for conduct defined as Title 5 felony offense; (e) receiving probation or deferred adjudication for a Title 5 felony offense; or for being convicted of a felony offense; or (g) being arrested or charged with a Title 5 Felony offense.

#### **C. PRE-ADJUDICATION PLACEMENT**

Every expelled student who is not detained or who is not receiving treatment under Court Order must attend the JJAEP pending adjudication and disposition of the offense for which he/she was expelled. Upon proper notification by UISD pursuant to §52.041 of the Texas Family Code, the Juvenile Board's designee shall facilitate the placement of the expelled student in the JJAEP.

#### **D. PLACEMENT OF DETAINEES FOLLOWING RELEASE**

Students who are expelled and who have been detained at the Juvenile Detention Center shall attend the JJAEP immediately following their release from the Detention Center. The expelled student's Probation Officer shall notify the Juvenile Board's designee of the expelled student's release from the Detention Center in order to facilitate placement in the JJAEP.

#### E. PLACEMENT OF STUDENTS ON EMERGENCY EXPULSION

Any student who is placed on emergency expulsion pursuant to §37.019 shall be afforded due process rights under §37.009 and shall be placed in the JJAEP.

#### F. PERSISTENT MISBEHAVIOR/ AEP PLACEMENTS

Subject to Section III.B, above, students who have been removed from the classroom pursuant to §37.006 of the Texas Education Code, who have been placed in the UISD's DAEP, and who have been placed on deferred prosecution, may attend the JJAEP, at the sole discretion of the UISD.

#### G. STUDENTS WHO ARE REGISTERED SEX OFFENDERS

This MOU does not provide for the placement of a UISD student who must register as a sex offender. Only those UISD students who are required to register as a sex offender who are ordered by a court to attend the JJAEP will be placed into the JJAEP.

#### H. ALL OTHER PLACEMENTS

The parties to this Agreement acknowledge that there may be certain students or populations of students not previously identified in this Agreement who might benefit from placement in the JJAEP. During the term of this Agreement, when such placement is allowed by law and when the parties to this Agreement mutually agree in writing, other students or populations of students who do not otherwise meet the aforementioned eligibility requirements may be placed in the JJAEP.

Students between the ages of 10 and 18 years old who are charged for a felony crime or a Title 5, Penal Code offense committed off-campus or at a non-school related activity may be referred by the School District Committee to the JJAEP pending court disposition.

Students who have not committed an expellable offense but whose personal behavior consistently disrupts the teaching process and can best be served at the JJAEP, may be placed at the discretion of UISD.

Students considered as adults under the Texas Penal Code, and Texas Code of Criminal Procedures and/or charged for a crime as an adult, and presently pending adjudication and disposition before any Court in Webb County for a prior offense committed while a juvenile, may be placed in the JJAEP if the District Hearing Officer and the Juvenile Court Judge concur.

Where it is advisable or contemplated that a student may withdraw from a School District, the student may be allowed to attend the Webb County JJAEP. A School District Committee comprised of the Hearing Officer, and the Campus Administrator, will, within a five-day school period, ascertain the most appropriate placement for the student.

#### I. Pregnancy Related Placements.

Students placed at JJAEP who require Pregnancy Related Services (Compensatory Home Instruction) will be given credit for the number of days instructed at home. Upon medical clearance from a doctor, student will be withdrawn from home campus and enrolled at JJAEP to complete their assigned days.

**IV.  
Readmission to UISD**

A student is required to enroll at the JJAEP and satisfactorily complete the terms of expulsion before he/she can return to a UISD school unless one of the following conditions occurs:

1. The student is acquitted of the offense by a court of law; or
2. The student is determined by the Juvenile Court system to have committed a lesser offense which does not constitute a "Section III.A" or "Section III.B" Offense; or
3. The Webb County Attorney's Office has determined that a petition will not be filed with the Juvenile Court alleging that the student is delinquent or in need of supervision, or has determined that no criminal prosecution will take place based on the facts that formed the basis for the expulsion; or
4. The petition alleging delinquency has been withdrawn (juvenile has been placed on deferred adjudication) then UISD shall consider readmitting the student. If the student is not readmitted, the student shall either remain in the JJAEP until the end of the expulsion period, or he/she may be removed to the UISD's DAEP, as UISD deems appropriate.
5. Only after consultation and mutual agreement between the parties, the JJAEP staff may assign back to the School District any discretionary-expelled student that has been determined not to function properly in a JJAEP environment.
6. Pursuant to a finding by the Hearing Officer at a Level I or Level II appeal hearing, the length of stay shall not be less than ninety (90) days for a mandatory student, forty-five ( 45) days for a discretionary High School student, and thirty (30) days for a discretionary middle school student. These minimum lengths of stay do not apply to a finding pursuant to a school board Level III hearing.

**V.  
Length of Placement**

**A. MINIMUM LENGTH OF STAY FOR LEVEL I and LEVEL II PLACEMENTS**

**MANDATORY STUDENTS** - The Board and UISD agree that mandatory expelled students who are placed in the JJAEP should remain in the setting for minimum of ninety (90) school days in order to derive the maximum benefit from the programs and disciplinary techniques offered at the JJAEP.

**DISCRETIONARY STUDENTS** - The Board and UISD agree that discretionary expelled high school students who are placed in the JJAEP should remain in the setting for a minimum of forty-five (45) days in order to derive the maximum benefit from the program and disciplinary techniques offered at the JJAEP. The Board and UISD further agree that discretionary expelled middle school students who are placed in the JJAEP should remain in the setting for a minimum of thirty (30) days in order to derive the maximum benefit from the program and disciplinary techniques offered at the JJAEP.

UISD and the JJAEP administrator will consider the impact that the issue of timeliness will have on returning a student to his or her campus. Grades, completion of courses, and awarding of credits will be a major focus.

In the event of overcrowding or at the sole discretion of the JJAEP Principal, the JJAEP reserves the right to return Discretionary Placement Offenders (as set forth in "Section III.B") to his or her home District prior to the term of expulsion or placement.

#### **B. MAXIMUM LENGTH OF STAY**

Both parties agree that the maximum period of time that a student should be placed in the JJAEP is one (1) calendar year unless the student is placed under Texas Education Code § 37.0081.

### **VI. Special Education**

#### **A. MANIFESTATION DETERMINATION REQUIREMENT**

A student who commits an offense under §37.006 or §37.007 and who is classified as a student with a disability under IDEA or Section 504 may be expelled from UISD only after a duly constituted Admission, Review, and Dismissal (ARD) or Section 504 committee determines that the alleged offense is not a manifestation of the student's disability, in accordance with §37.004 of the Texas Education Code, the Individuals with Disabilities Education Act (IDEA), §504 of the Rehabilitation Act, and other applicable State and Federal laws. If the committee determines that a student's conduct is not a manifestation of his or her disability, the student may be expelled and placed in the JJAEP for any length of time otherwise consisted with this MOU.

#### **B. MANIFESTATION-INTERIM ALTERNATIVE EDUCATIONAL SETTING**

In accordance with Section 615(d)(1)(G)(i)(iii) of the Individuals With Disabilities Education Act 2004, school personnel may remove a student to an interim alternative educational setting without regard to whether the behavior is a manifestation of the child's disability, in cases where a child while under the jurisdiction of the State or local educational agency (1) carries or possesses a weapon to or at school, on school premises, or to or at a school function; (2) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or (3) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function. The length of stay in an interim alternative educational setting will be determined by the ARD Committee. The JJAEP can be designated by the ARD Committee to be the interim alternative educational setting.

#### **C. OTHER ASPECTS OF PLACEMENT**

For students with disabilities who are adjudicated and placed in the JJAEP by a Juvenile Court, UISD's ARD or Section 504 Committee (as appropriate) may review the student's Individual Education Plan (IEP) or Individual Accommodation Plan (IAP) and determine the appropriate educational services to be provided for the student while in the JJAEP. If a student with a disability is being considered for placement at the JJAEP as a result of an ARD or Section 504 meeting, the JJAEP administrator or designee shall be given reasonable notice of the ARD or Section 504 meeting by UISD so that a JJAEP representative may participate in the deliberations of the committee.

#### D. EDUCATIONAL SERVICES

Students with disabilities who are placed in the JJAEP shall be afforded those educational services determined by a duly constituted ARD Committee which are required to allow the students to receive a free and appropriate public education as defined by Federal and State law. Both parties understand that the Webb County area is currently experiencing a shortage of certified special education teachers to serve the public schools students. However, the Juvenile Board agrees to use its best efforts to hire a sufficient number of certified special education teachers to meet the needs of special education students assigned to the JJAEP. UISD agrees to provide assistance to the JJAEP in locating qualified individuals who are either fully certified in special education or who meet the requirements for an Alternative or Emergency certificate. The Board agrees to provide academic special education for JJAEP students from UISD. UISD further agrees to be financially and logistically responsible for all other educational support services, related and non-educational services for special education students assigned to the JJAEP as indicated in the ARD and agreed by the ARD committee.

#### E. REFERRAL FOR TESTING

Any student assigned to the JJAEP who, after a review of all relevant records by representatives of the JJAEP, is suspected to be in need of services under the IDEA or §504 shall be referred to UISD for the determination of eligibility in accordance with applicable Federal and State statutes and regulations. Any student who is assessed for eligibility and who is determined to qualify for services under the IDEA or §504 shall be afforded all required educational services and protections by the school district to the extent that the JJAEP is not able to provide the service and the district is notified of the need to provide the service.

### **VII. Transfer Students**

If a student who has been expelled from another school district transfers to and enrolls in UISD, UISD may opt to either continue the student's expulsion under the terms of the expulsion order, or may place the student in UISD's DAEP for the period specified by the expulsion order, or may allow the student to return to regular classes without completing the period of expulsion.

### **VIII. Responsibilities of the Board**

The Juvenile Board shall establish and operate the JJAEP as required by §37.011 of the Texas Education Code and in accordance with applicable State and Federal laws. Academically, the mission of the educational components of the Program shall be to enable students to perform at grade level. The educational program shall focus on English language arts, mathematics, science, social studies, and self-discipline. (Each school district is required by law to consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a district school.) The program shall administer assessment instruments under Texas Education Code Subchapter B, Chapter 39 and shall offer a High School Equivalency Program. UISD shall assist the JJAEP by providing non core course work for those UISD students enrolled at the JJAEP who are required to take, for graduation purposes, course work not offered by the JJAEP. UISD will make its best efforts to provide those affected students the course work at the JJAEP location. It is understood and agreed that UISD shall not be responsible for any aspect of the operation of the JJAEP unless it is expressly provided in this Agreement and Memorandum of Understanding or is otherwise provided for under State or Federal laws or regulations.

The Juvenile Board shall provide timely educational services to students in the JJAEP who reside in Webb County regardless of the student's age or whether the juvenile court has jurisdiction over the student. However, the Juvenile Board is not required to provide educational services to a student who is not entitled to admission into United ISD under Texas Education Code §25.001(b).

The Juvenile Board shall provide one Probation Officer to monitor the discipline and/or conditions of probation of all students at the JJAEP.

The Juvenile Board shall provide a hot lunch on each day for all students attending the JJAEP.

## **IX. Responsibilities of the UISD**

### **A. NOTICE TO THE COUNTY**

UISD shall adhere to the expulsion notice requirements outlined in §52.041(a)-(e) of the Texas Family Code.

### **B. ACCOUNTABILITY**

In accordance with Chapter 37 of the Texas Education Code, accountability for students placed in the JJAEP shall remain with UISD.

### **C. TRANSFER OF RECORDS**

Upon referral of a student in the JJAEP, UISD shall forward to the JJAEP the same records it is required to forward to any public school in which a student seeks to enroll. Records that should be forwarded to the JJAEP include but are not limited to the following student records:

- The student's current transcript including all achievement test records;
  - The student's current year report card;
  - Withdrawal form, which shall indicate the list of courses in which the student is currently enrolled and the current earned grade in each course for the current grading cycle
  - The student's Texas Assessment of Knowledge and Skills (TAKS) summary sheet;
  - The student's individual education plan (I.E.P.), and most recent admission review and dismissal (ARD) documents including minutes or in the case of Section 504 students, the student's Individual Accommodation Plan (IAP) and most recent Section 504 Committee documents;
  - The student's behavioral manifestation determination;
  - The student's immunization records; and
  - The student's current discipline records.
- D. On expelled students, a recommendation of retention or promotion shall be made by the home school personnel/ designee by the second week of June for students not attending summer school and/or September 4<sup>th</sup> for those students attending summer school.

UISD shall provide a nurse once a month to the JJAEP for the purpose of offering health screenings for students attending the JJAEP.

UISD shall provide one (1) academic guidance counselor to serve the JJAEP a minimum of one time per



month while the JJAEP is in session. UISD shall also provide one (1) licensed chemical dependency counselor to serve the JJAEP a minimum of one (1) time per month when the JJAEP is in session. The home campus counselor shall be available for Special Education ARD Meeting.

UISD shall make available staff development services to the JJAEP staff by allowing them to participate in these sessions.

UISD may lend the JJAEP equipment (desks, chairs, etc.) that have been identified as obsolete pursuant to CI (Local). JJAEP shall return the obsolete equipment to the District after the JJAEP wishes to dispose of such equipment so that UISD follows CI (Local) for final disposition.

## **X.**

### **Monitoring Students' Progress**

#### **A. COMMUNICATION CONCERNING STUDENT PROGRESS**

Representatives from UISD and the JJAEP shall communicate monthly with the assigned Academic Counselor on the progress of students placed in the JJAEP to ensure that each student is mastering the essential elements of the JJAEP curriculum. JJAEP will discuss its recommendation for promotion, retention and course credit to the Academic Counselor.

#### **B. PROGRESS TOWARD GRADUATION**

For high school students, the Juvenile Board or the Juvenile Board's designee shall regularly review with the parent or guardian of each student the student's academic progress toward meeting high school graduation requirements and shall establish a specific graduation plan for each student, in accordance with §37.011(d) of the Texas Education Code.

#### **C. CURRICULUM**

The JJAEP shall provide a curriculum which meets the minimum standards provided for the JJAEP by the Texas Education Agency, the Texas Juvenile Probation Commission, and all other laws under the Texas Family Code. A copy of the school curriculum shall be provided to UISD upon request.

#### **D. TRANSITION SERVICES**

A committee selected by the JJAEP and including representatives from UISD shall confer with the JJAEP and provide transition services for expelled students, during the month prior to the completion of the students' respective terms, on issues such as re-enrollment procedures, assignment to a particular campus within UISD, assignment of particular classroom teachers, and course selection.

UISD home campus principal or designee (Academic Counselor) will be notified by email and/or fax of transition conference date upon anticipated term of completion at JJAEP. At this conference, a submission of progress reports, grades, credits, and certification of promotion or retention status will be made.

#### **E. REVIEW OF ACADEMIC WORK**

A teacher employed by the JJAEP who holds a certificate granted under §21.003 (a) of the Texas Education Code shall review all academic work of the student prior to the student's release from the

JJAEP. The teacher shall certify completion of course work based upon a determination that the student has mastered the essential knowledge and skills for a course as assigned by UISD, at the seventieth percentile (70 percent), according to §28.002 of the Texas Education Code.

[Note: Students who qualify for Special Education services shall have their course certification completed in accordance with their IEP and shall not necessarily be held to the seventieth percentile standard set forth in the preceding paragraph].

#### F. SCHOOL CALENDAR

The Webb County Juvenile Justice Alternative Education Program shall operate on a 180 school day calendar for all students as prescribed by the Texas Juvenile Probation Commission. The JJAEP will follow the same scholastic calendar as established by the United Independent School District for 2009-2010.

#### G. CESSATION OF TRANSPORTATION SERVICES

After Consultation with JJAEP, UISD will terminate/suspend transportation services for any JJAEP student who engages in behavior that constitutes a danger to himself/herself or others while loading, riding, or unloading from the bus or who violates the District's Student Code of Conduct's Bus Ridership Handbook..

### **XI.**

#### **Administration of the State Assessment Test**

In accordance with §37.011(d) of the Texas Education Code, the following responsibilities are assigned for administering the State Assessment Test to students enrolled in the JJAEP:

1. UISD shall complement any JJAEP TAKS instruction for State Assessment by providing training opportunities for JJAEP staff.
2. The JJAEP shall attend all UISD state assessment trainings.
3. In order to assure a smooth transition of students and to assist with the organization/administration of the TAKS Assessments, no mobility of students into or out of Alternative Education Programs shall occur the week prior to or the week of assessments. Students who are scheduled to be released from JJAEP during this two week period, due to completion of days, will be withdrawn/transferred the Friday before the two week window begins. The students shall report to their home campus the first scheduled class day following their withdrawal/release.
4. The JJAEP shall be responsible for providing all students enrolled at JJAEP all materials needed for the state assessment administered. (Dictionaries, calculators, highlighters, etc.). UISD shall assist with materials as needed or required.
5. The JJAEP shall be responsible for administering all state assessments to those students enrolled in the JJAEP.
6. The JJAEP Principal and or Testing Coordinator shall receive all answer documents and other secured and non-secured test materials belonging to students of UISD who are placed in the JJAEP from campus administrator two (2) days prior to the administration of the state assessment.
7. After the state assessment has been concluded, each individual campus administration will be responsible for picking up all testing materials from the JJAEP Principal or Testing Coordinator.

8. The JJAEP Principal and/or Testing Coordinator shall have access to test results from UISD within a reasonable period of time so that JJAEP may evaluate its instructional program.
9. UISD shall mail individual test results and study guides if applicable to UISD students who were enrolled at JJAEP during the testing period.

## **XII. Funding**

### **A. DAILY RATES**

#### **1. Mandatory Placements**

The parties understand that the Texas Juvenile Probation Commission shall pay SEVENTY-NINE DOLLARS (\$79.00) per day per student for all UISD students who are placed in the JJAEP for offenses listed in "Section III.A" of this Agreement (i.e., the Mandatory Placements). This includes students who have committed mandatory offenses and who are still awaiting prosecution, as well as students who have received deferred prosecution or are placed on Court-ordered probation for a mandatory offense.

#### **2. Transportation for Mandatory Placements**

UISD agrees to transport all UISD students (i.e., Mandatory Placements) assigned to the JJAEP from designated pickup points to the JJAEP each school day morning. UISD shall provide transportation each school day afternoon from the JJAEP to designated pickup points within UISD.

#### **3. Discretionary Placements**

For all discretionary placements (i.e., students who are placed for engaging in offenses under §37.007(b), (c), (d), or (i), and who UISD believes are in need of services provided by the JJAEP) UISD shall pay to the Juvenile Board, through the Webb County Auditor's Office, an amount equal to the number of days each student attends the JJAEP, at a daily rate SEVENTY-NINE DOLLARS (\$79.00) for each student. Additionally, in accordance with §37.0081(g), UISD shall pay the Juvenile Board a daily rate of NINETY DOLLARS (\$90.00) for each student who is expelled to the JJAEP under §37.0081.

#### **4. Transportation for Discretionary Placements**

UISD agrees to transport all UISD students (i.e., Discretionary Placements) assigned to the JJAEP from designated pickup points to the JJAEP each school day morning. UISD shall provide transportation each school day afternoon from the JJAEP to designated pickup points within UISD.

#### **5. Court Placements**

Except in accordance with §§37.309-37.310, UISD is not required to provide funding for a student who is assigned by a court to the JJAEP, but who has not been expelled.

### **B. BILLING**

The Board shall send monthly reports to UISD reflecting the cost incurred by UISD based on the rate outlined under XII of the MOU. Cost incurred by UISD will be reconciled to the payments made by UISD. Any balance owed at the end of the school year to or from UISD will be rolled over into the next school year.

#### C. PAYMENT

UISD will pay the JJAEP two lump sums (October 2009 and February 2010) for discretionary placements of UISD students based on an annual average of discretionary students placed at the JJAEP by UISD. UISD will determine the amount using last years' discretionary placement enrollment of UISD students at JJAEP. Periodic billing submitted under Section XIIB above will be credited against these payments. A year-end reconciliation comparing the periodic billings and these lump sum payments will be prepared and any balance owed by the District to the JJAEP will be rolled over into the next school year. Any amount owed by the JJAEP to the District will be rolled over into the next school year.

### **XIII. Compliance Committee**

The Juvenile Board shall appoint a Compliance Committee to monitor the performance of this Agreement. The Compliance Committee shall be comprised of eleven (11) members:

1. One representative from Webb Consolidated Independent School District;
2. One representative from Laredo Independent School District;
3. One representative from United Independent School District;
4. The Webb County Judge,
5. The Webb County Court at Law No. 1 Judge;
6. The Webb County Court at Law No. 2 Judge;
7. The Webb County Chief Juvenile Probation Officer;
8. A JJAEP Teacher
9. An impartial and disinterested member of the community selected collectively by the Compliance Committee members listed above in Numbers 1-6.
10. A legal representative from UISD and Webb County.

The Compliance Committee shall serve in an advisory capacity to the Board, and shall be subject to the Texas Open Meetings Act and Texas Public Information Act where appropriate.

### **XIV. Arbitration**

The Juvenile Board and UISD agree that, only upon the request of both parties, issues in dispute pertaining to this Memorandum of Understanding shall be referred to binding arbitration in accordance with §37.011 of the Texas Education Code.

### **XV. Miscellaneous**

#### A. PARTIAL INVALIDITY

If any provision, section, subsection, paragraph, sentence, clause, or phrase of this Agreement, or the application of same to any person or set of circumstances, shall, for any reason, be held by a Court of

competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions hereof shall continue in full force and effect.

#### B. TERM OF AGREEMENT

This Agreement is for a period of twelve (12) months beginning August 1, 2009 and ending July 31, 2010.

#### C. INTEGRATION

This Agreement contains the entire agreement between the parties with respect to the subject matter contained herein. No other agreement, statement, or promise made by or to any employee, officer, official, or agent of any party that is not contained herein shall be of any force or effect. Any modifications to the terms of this Agreement must be in writing and signed by the parties.

#### D. MUTUAL COOPERATION

Consistent with the Texas Education Code and Texas Juvenile Justice Code, the parties hereto agree to use their best efforts to expedite the administrative and judicial processing of all cases related to this Memorandum of Understanding.

#### E. INDEMNIFICATION

To the extent permitted by Article XI, Section 7 of the Texas Constitution, and with the mutual understanding that WEBB COUNTY is a political subdivision of the State of Texas and that an indemnity obligation cannot be paid from the current revenues and that no order, resolution, tax nor interest and sinking funds has been set, adopted or established for payment of this indemnity obligation, and without expanding WEBB COUNTY's liability beyond the statutory limits of the Texas Tort Claims Act or under existing law, and furthermore, without waiving WEBB COUNTY's immunity beyond the scope of that allowed by the Texas Tort Claims Act or existing law, Webb County shall indemnify and hold harmless UISD and UISD's officers, agents, employees, and assigns from all suits, actions, or other claims of any character brought for or on account of injury to a person or property arising from WEBB COUNTY's own acts of negligence in carrying out its obligations under this Agreement.

#### F. IMMUNITY

In accordance with Texas Education Code §37.011(j) the Juvenile Board, Webb County, and Webb County Commissioners Court are immune from liability to the same extent as a School District, and the Board's or County's professional employees and volunteers are immune from liability to the same extent as a school district's professional employees and volunteers.

#### G. LAW OF TEXAS

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be enforced in the Webb County, Texas.

#### H. EXHIBITS

Both parties acknowledge that the Exhibits provided herein are provided for the express purpose of convenience and reference only. The most recent amendments to any law cited within the Exhibits section will apply.

## H. NOTICES

All notices, requests, demands and other communications hereunder shall be in writing (including telex or telecopier transmission) and shall be deemed to have been duly given when received if delivered by hand, sent by telex or telecopier transmission or by overnight courier providing delivery confirmation or mailed by first-class, registered or certified mail, return receipt requested, postage and fees pre-paid, and addressed as follows (or to such other address as any party shall designate in a written notice to the other parties hereto):

Webb County Juvenile Board:

Hon. Elma Salinas Ender, Judge  
Webb County Juvenile Board Chairperson  
341st District Court  
1110 Victoria St., Suite 301  
Laredo, Texas 78040

Hon. Ana Laura Cavazos Ramirez  
Webb County Attorney  
1110 Washington St., Suite 401  
Laredo, Texas 78040

UISD:

Mr. Roberto J. Santos  
Superintendent  
United Independent School District  
201 Lindenwood Rd.  
Laredo, Texas 78045

## I. AMENDMENT

No changes to this Agreement shall be made except upon written agreement of both parties.

## J. CONFIDENTIALITY

Any confidential information provided to or developed by either party in the performance of this Agreement shall be kept confidential, unless otherwise provided by law, and shall not be made available to any individual or organization without the prior approval of the Juvenile Board or UISD.

## K. HEADINGS

The headings used herein are for convenience of reference only and shall not constitute a part hereof or affect the construction or interpretation hereof.

## L. WAIVER

No delay on the part of any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any waiver on the part of any hereto of any such right, power or privilege, or any single or partial exercise of any such right, power or privilege, preclude any further exercise thereof or the exercise of any other right, power or privilege.

M. COUNTERPARTS

This Agreement may be executed in any number of and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same document.

N. TERMINOLOGY AND DEFINITIONS

All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural and the plural shall include the singular.

O. RULE OF CONSTRUCTION

The parties hereto acknowledge that each party and its legal counsel have reviewed and revised this Agreement, and the parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

P. NO WAIVER OF IMMUNITY

Neither Webb County, the Juvenile Board nor UISD waive or relinquish any immunity or defense on behalf of themselves, their trustees, commissioners, offices, employees and agents as a result of the execution of this Agreement and performance of the functions and obligations described herein.

Q. LEGAL COMPLIANCE

The parties hereto agree to comply fully with all applicable Federal, State and local statutes, ordinances, rules, and regulations in connection with the programs contemplated under this Agreement. This Agreement is subject to all applicable present and future valid laws governing the Juvenile Justice Programs applicable to School Districts and/or County Juvenile Probation Departments. In the event that any of the parties hereto are required by law or regulation to perform any act inconsistent with this Agreement, or to cease performing any act required by this Agreement, this Agreement shall be deemed to have been modified to conform with the requirements of such law, regulation or rule.

R. PROHIBITION AGAINST ASSIGNMENT

There shall be no assignment or transfer of this Agreement without the prior written consent of both parties hereto.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

WEBB COUNTY JUVENILE BOARD

UNITED INDEPENDENT SCHOOL DISTRICT

By: \_\_\_\_\_  
Hon. Elma Salinas Ender, Judge  
Juvenile Board Chair

By: \_\_\_\_\_  
Ms. Pat Campos, President  
Board of Trustees

ATTEST:

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Margie Ramirez Ibarra  
Webb County Clerk

**APPROVED AS TO FORM:**

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Ana Laura Cavazos Ramirez  
Webb County Attorney

**\*By law, the County Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).**

**APPROVED AS TO FORM:**

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Juan J. Cruz  
Attorney at Law  
Escamilla and Poneck



## Exhibit A

### Mandatory Expulsions

#### Texas Education Code § 37.007(a), (d), & (e)

§ 37.007 (a) A student shall be expelled from a school if the student, on school property or while attending a school sponsored or school related activity on or off school property:

(1) uses, exhibits, or possesses:

- (A) a firearm as defined by Section 46.01(3), Penal Code;
- (B) an illegal knife as defined by Section 46.01(6), Penal Code, or by local policy;
- (C) a club as defined by Section 46.01 (1), Penal Code; or
- (D) a weapon listed as a prohibited weapon under Section 46.05, Penal Code

(2) engages in conduct that contains the elements of the offense of:

- (A) aggravated assault under Section 22.02 Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;
- (B) arson under Section 28.02, Penal Code;
- (C) murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;
- (D) indecency with a child under Section 21.11, Penal Code;
- (E) aggravated kidnapping under Section 20.04, Penal Code;
- (F) aggravated robbery under Section 29.03, Penal Code;
- (G) manslaughter under Section 19.04, Penal. Code; or criminally negligent homicide under Section 19.05, Penal Code

(3) engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

§ 37.007(d) A student shall be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (a) against any employee in retaliation for or as a result of the employee's relationship with a school district.

§ 37.007(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

- (1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U.S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;
- (2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and
- (3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

## Exhibit B

### Permissive Expulsions

Texas Education Code § 37.007(b), (c), (f); & (i)

(b) A student may be expelled if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code;

(2) while 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 of school property:

(A) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health

(ii) and Safety Code, or by 21 U.S.C. Section 801 et seq.

a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(iii) an alcoholic beverage, as defined by Section 1.04 Alcoholic Beverage Code;

or

(B) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034 Health and Safety Code; or

(C) engages in conduct that contains the elements of an offense under Section 22.01 (a) (1), Penal Code, against a school district employee or a volunteer as defined by Section 22.053; or

(D) engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05, Penal Code, or

(3) subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:

(A) engages in conduct specified by subsection (a); or

(B) possesses a firearm, as defined by 18 U.S.C. Section 921

(4) engages in conduct that contains the elements of any offense listed in Subsection (a) (2) (A) or (C) or the offense of aggravated robbery under Section 29.03, Penal Code, against another student, without regard to whether the conduct occurs on or off of school-property or while attending a school-sponsored or school-related activity on or off of school property.

§37.007(c) A student may be expelled if the student, while placed in a disciplinary alternative education program, continues to engage in serious or persistent misbehavior that violates the district's student code of conduct.

§37.007 (f) A student who engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, penal Code, may be expelled at the district's discretion if the conduct is punishable as a felony under that section. The student shall be referred to the authorized officer of the juvenile court regardless of whether the student is expelled.

§37.007(i) A student who engages in conduct described by Subsection (a) may be expelled from school by the district in which the student attends school if the student engages in that conduct:

- (1) on school property of another district in this state; or
- (2) while attending a school-sponsored or school-related activity of a school in another district in this state.

§37.0081 (a) Subject to subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a

student and elect to place the student in an alternative setting as provided by Subsection (a-1) if: the student:

- (1) (A) has received deferred prosecution under Section 53.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code;
  - (B) has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code;
  - (C) is charged with engaging in conduct defined as a felony offense in Title 5, Penal Code;
  - (D) has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code;
  - (E) has received probation or deferred adjudication for a felony offense under Title 5, Family Code
  - (F) has been convicted of a felony offense under Title 5, Penal Code; or
  - (G) has been arrested for or charged with a felony offense under Title 5, Penal Code and
- (2) the board or the board's designee determines that the student's presence in the regular classroom:
- (A) threatens the safety of other students or teachers;
  - (B) will be detrimental to the educational process; or
  - (C) is not in the best interests of the district's students