

JUVENILE COURT SERVICES



KEN METCALF, Interim Director

August 26, 2011

Dr. James Monaco
Superintendent
Aubrey ISD
415 Tisdell Ln
Aubrey, Texas 76227-9619

Dear Superintendent Monaco,

Enclosed you will find the 2011-2012 Memorandum of Understanding.

Please find two originals of this document. I am requesting this document be presented to your school board, approved, and signed by your Board President. If you would like a digital copy of this document for presentation to your board please email your request to matt.marick@dentoncounty.com.

Please return two signed original documents to me and I will secure Judge McCary's signature and return one original back to you.

Please feel free to contact me if further information is needed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Matthew C. Marick".

Matthew C. Marick
Deputy Director Field Services
Denton County Juvenile Probation

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MEMORANDUM OF UNDERSTANDING ("MOU")

This Memorandum of Understanding ("MOU") is entered into pursuant to Chapter 37 of the Texas Education Code ("TEC") by and between the Independent School Districts ("ISDs") (i.e., Denton Independent School District, Aubrey Independent School District, Pilot Point Independent School District, Lewisville Independent School District, Krum Independent School District, Ponder Independent School District, Sanger Independent School District, Argyle Independent School District, Northwest Independent School District, Lake Dallas Independent School District, Little Elm Independent School District, Carrollton-Farmers Branch Independent School District, Valley View Independent School District, Gainesville Independent School District) and the Denton County Juvenile Justice Alternative Education Program ("DCJJAEP") as the agent for the Juvenile Board of Denton County, Texas ("DCJB"), of Denton County, Texas ("County").

WHEREAS Denton County, Texas has a population greater than 125,000 and the DCJB has been mandated by TEC Section 37.011 to develop a Juvenile Justice Alternative Education Program subject to the approval of the Texas Juvenile Probation Commission ("TJPC") or Successor Agency; and,

WHEREAS the ISDs are located in whole or in part within Denton County; and

WHEREAS the ISDs have been mandated by the TEC Section 37.007 (a), (d), and (e) to expel students for enumerated serious offenses; and,

WHEREAS the ISDs have the discretion to expel students under TEC Sec. 37.007 (b), (c), and (f); TEC Sec 37.0081; TEC Sec 37.309; and,

WHEREAS the State of Texas has determined that public school students who engage in conduct that endangers the school population should be removed from the regular school setting and educated in a separate setting in order for school districts to fulfill their primary mission of educating Texas youth; and,

WHEREAS the State of Texas has directed that Juvenile Courts punish and rehabilitate juvenile offenders; and,

WHEREAS the parties hereto agree that the DCJJAEP is a cooperative effort between the educational community and the juvenile justice system with primary goals of the program being the education of students with *behavioral* problems and rehabilitation of juvenile offenders, but not the treatment of *emotional* problems;

NOW THEREFORE THE PARTIES AGREE THAT:

I. ADMINISTRATION OF DENTON COUNTY JJAEP

1.1. The daily administration for the DCJJAEP will be conducted by the Denton County Juvenile Probation Department ("DCJPD") under the direction of the Chief Juvenile Probation Officer. The DCJPD shall conform the DCJJAEP to the standards and guidelines of TJPC or Successor Agency. Furthermore, the DCJPD shall be responsible for and maintain all reports, data, assessments, etc. necessary to permit and allow compliance with the TEC, including, but not limited to, Chapters 39 and 42 of the TEC.

II. STUDENT PLACEMENT, DUE PROCESS, AND TERM OF PLACEMENT

2.1. The parties to this MOU acknowledge that the TEC §37.010(a) requires that every expelled student who is not detained or receiving treatment under an order of the Juvenile Court must be enrolled in an educational program. It is therefore the intent of the parties that the DCJJAEP provide an educational program to all expelled students.

2.2. Students who are expelled from Denton County ISDs will be afforded the appropriate due process within the respective ISD as provided by school district policy and federal and state law.

2.3. As the ISDs have "elected" to contract with the DCJJAEP, as the agent for/of DCJB, pursuant to TEC §37.011(p), for the placement of students expelled under TEC §37.007(b), (c), and (f), §37.0081; §37.309; any student, under the age of 18 years of age, who has been expelled from an ISD may be placed in, or ordered or required to attend, the DCJJAEP.

2.4. Every student who has been expelled from an ISD as a mandatory expulsion (i.e., pursuant to TEC § 37.007 (a), (d), or (e)), and for whom information has been provided by the ISD from which the student has been expelled to the Juvenile Court in accordance with Texas law and this MOU, may be placed in, or ordered, or required to attend the DCJJAEP regardless of the final disposition of the case. After the expelling ISD has received notice under Tex. Fam. Code § 52.041(d), placement in the DCJJAEP shall continue as set out in the expelling ISD's expulsion order; however the expelling ISD shall review, and may reconsider, its expulsion decision.

2.5. Every student, under the age of 18 years of age, who has been expelled from an ISD as a discretionary expulsion (i.e., pursuant to TEC § 37.007 (b), (c), or (f); § 37.0081; § 37.309), and for whom information has been provided by the ISD from which the student has been expelled to the Juvenile Court in accordance with Texas law and this MOU, may be placed in, or ordered, or required to attend the DCJJAEP regardless of the final disposition of the case. After the expelling ISD has received notice under Tex. Fam. Code § 52.041(d), placement in the DCJJAEP shall continue as set out in the expelling ISD's expulsion order; however the expelling ISD shall review, and may reconsider, the terms and conditions of its expulsion order.

2.6. The DCJJAEP shall, for each student taken into custody for conduct that occurred on school property or at a school-sponsored or school-related activity, use its best efforts to ascertain whether the conduct for which the student was taken into custody would subject the student to mandatory expulsion. If the DCJJAEP ascertains that the conduct for which the student was taken into custody is such that it would subject the student to mandatory expulsion, the Juvenile Court may immediately order the student to attend the DCJJAEP, pending resolution of any ISD disciplinary action, including any expulsion hearings.

2.7. It is the intent of the parties hereto that, for each expelled student who is placed in the DCJJAEP, the term of such placement will be coterminous with the term of the student's expulsion from school. Pursuant to TEC §37.010, Students must remain in the DCJJAEP for the full period ordered by the Juvenile Court unless the student's school district agrees to accept the student before the date ordered by the Juvenile Court. The Juvenile Court may consider the term of a student's expulsion in entering any order as to the student, including terms and conditions of release from custody, deferred prosecution, or probation. At the conclusion of the student's term of probation, or any other requirement imposed by the Juvenile Court, including conditions of a deferred prosecution ordered by the court, or such conditions required by the prosecutor or probation department, and if the student meets the requirements of admission into the public schools established by law, the ISD in which the student resides shall readmit the student, but may assign such student to the school district alternative education program or other program.

2.8. In order to avoid undue disruption in the educational process of students attending the DCJJAEP under this MOU, in assigning a term of expulsion, the ISD expelling the student shall assign and order a term of expulsion that is not less than thirty (30) school days nor more than 365 days — unless the expelling ISD conducts a review of the student's placement at least every 365 days. A term of placement, except for a term of placement based upon TEC §37.007(e), may be commuted or reduced, by agreement of the DCJJAEP and the ISD, if the student serving same has not violated, and is in compliance with, the rules and regulations of the DCJJAEP.

2.9. Notwithstanding anything set out herein, under no circumstance shall an ISD be obligated or required to pay for a Juvenile Court placement or order requiring a student expelled from an ISD as a discretionary expulsion to attend the DCJJAEP beyond the period of expulsion, unless the affected ISD has been notified by the Juvenile Court and said ISD consents, in writing, to such placement, assuming that the student has successfully completed his term of expulsion.

2.10. With leave of the Juvenile Court, administrators of the ISD and the DCJJAEP may agree on deviations from the minimum and maximum length of stay(s) on a case by case basis.

2.11. A student's grievances about the DCJJAEP shall first be addressed to the DCJJAEP Program Supervisor. In the event that the student is not satisfied with the DCJJAEP Program Supervisor's resolution of the grievance, then the student shall address, direct and state, in writing, his grievance to the DCJJAEP Program Director or designee. The decision of the DCJJAEP Program Director or designee is final.

2.12. It is the intent of the parties that there be no material interruption (i.e., more than three [3] days) in the provision of educational services to expelled students under this MOU. Therefore, the expelling ISD shall direct and order, in writing, the student and parent to appear and enroll at the DCJJAEP at 8:00 a.m. on the first DCJJAEP school day following the student's expulsion and FAX a copy of this notice to the DCJJAEP. Any parent or guardian and child who are at the expulsion hearing shall sign the notice before it is transmitted to the DCJJAEP.

2.13. The ISDs shall use best efforts to assist the Juvenile Court in placing all expellees under court orders requiring or mandating attendance in the DCJJAEP.

III. PAYMENT

DAILY RATE -- The daily rate of eighty-nine and no/100's (\$89.00) dollars per student per day in attendance will be charged for each discretionary expulsion (i.e., TEC §37.007(b), (c), or (f); §37.0081; §37.309) student enrolled in the DCJJAEP. The DCJJAEP shall charge and invoice the ISDs no later than the fifth (5th) day of each and every month that the MOU is in effect. Upon the first day of the month following receipt of an invoice for educational and rehabilitative services provided to ISD students, the ISD will pay the invoiced amount to Denton County. Payments shall be delivered to the Denton County Juvenile Probation Department, 210 S. Woodrow Lane, Denton, Texas 76205. Because TJPC or Successor Agency will pay for mandatory expulsions (i.e., TEC § 37.007 (a), (d), or (e)), only if a full and complete offense report has been made by law enforcement personnel showing the elements of the mandatory offense, to the extent State and Federal law allow, the expelling ISD shall use its best efforts to make, seek, or participate in the creation of a law enforcement offense report for mandatory expulsions which involve elements of a criminal offense. Notwithstanding anything set out herein, the ISDs shall not be charged, billed, or invoiced for students attending the DCJJAEP as a result of a mandatory expulsion if a complete offense report has been made by law enforcement personnel showing the elements of the mandatory offense.

IV. SPECIAL SERVICES

4.1. The DCJB and the ISDs shall cooperate in the provision of special services to students placed in the DCJJAEP. In the event a student is placed in the DCJJAEP who has not been identified by the ISD from which the student was expelled as being eligible for special education services, and the DCJJAEP staff believe such student may be eligible to receive such services the DCJJAEP staff shall refer the student to the ISD from which the student was expelled for evaluation and determination of special education eligibility. In the event the student is eligible for special services the DCJJAEP shall implement and be responsible for the academic elements of any program, and the expelling ISD shall implement and deliver any required related services and speech therapy.

4.2. In an effort to foster cooperation between the Parties, the ISDs will invite a representative of the DCJJAEP to participate in any ISDs Admission, Review and Dismissal Committee ("ARD") meetings where expulsion would be considered or reviewing or modifying the program of a student in the DCJJAEP. The ISDs will be responsible for scheduling and sending notices of ARD meetings during the period of expulsion and for including DCJJAEP representatives at ARD meetings.

V. GENERAL CONDITIONS

5.1. TRANSPORTATION. When possible, transportation to and from the DCJJAEP shall be the responsibility of the students' parents; however, in the event a student's family does not own, or have access to, an operational motor vehicle, then the ISD in which the student resides shall provide transportation services for students attending the DCJJAEP.

5.2. The day to day operation of the DCJJAEP will conform to the calendar for Lewisville ISD for the fall and spring semesters. The calendar for any summer session will be set within TJPC or Successor Agency guidelines.

5.3. The fact that a student has been expelled will not prevent the ISD from developing a

policy allowing a student to obtain credit by examination, allowing a student to borrow educational course materials from the school, or allowing a student to arrange tutoring. Neither the ISD nor the DCJJAEP is under an obligation to replicate a student's pre-expulsion course of study.

5.4. While a student is attending the DCJJAEP, that student may not participate in any school district extracurricular activity or attend any school district extracurricular activity.

5.5. Parents of students attending the DCJJAEP will receive notice of a child's academic progress at a minimum of every 120 school days.

5.6. Notwithstanding TEC Chapter 26, the DCJJAEP may monitor student activities by technological means, including video and/or audio methods and metal detectors. The DCJJAEP will provide a notice and release for such monitoring to the student and the student's parents.

5.7. The Denton County DCJJAEP may receive a student from another county when payment, enrollment, and probationary terms have been arranged and approved by the DCJB, in which case all of the terms of this MOU will be in effect.

5.8. No later than the 30th day after the end of the school year, the DCJPD will present a program summary to the Denton County ISDs.

5.9. This MOU can be modified only in writing by the DCJB and the ISDs and at such a time as the parties may deem appropriate. Such modifications may be in response to a change in law, a change in circumstances, or for any other reason.

5.10. In accordance with TEC § 37.011(l), the ISDs shall provide educational services to a student after expulsion for criminal activity and until an order of a court requiring the student to attend DCJJAEP unless the student is in a placement or the student becomes 18 years old. If a student is expelled for non-criminal behavior, not otherwise addressed herein, the school district shall provide educational services for the student.

5.11. In conformance with TEC § 37.011(k)(5), the DCJB will direct the DCJJAEP to establish and provide services while the student attends the DCJJAEP for transitioning DCJJAEP students back to the school district. The transition plan shall include consultation between appropriate ISD personnel and DCJJAEP personnel. To assist in the transition process the DCJJAEP may offer in-service training to ISD staff.

5.12. In conformance with TEC § 37.011(k)(8), if a student eligible for or receiving special education services required by law is expelled, the services provided or required to be provided by the school district shall accompany the student to the DCJJAEP and be provided by the school district at the DCJJAEP.

VI. STUDENT CODES OF CONDUCT

6.1. The DCJJAEP will be created and operated pursuant to Chapter 37 of the TEC and this MOU. Each ISD shall develop a Student Code of Conduct, specifying the circumstances under which a student may be removed from a classroom, campus, or alternative education program.

6.2. The Student Code of Conduct adopted by each ISD shall identify those categories of conduct that the ISD has defined as constituting serious or persistent misbehavior for which a student may be placed in the DCJJAEP.

6.3 A student may be subject to discretionary expulsion (TEC §37.007(c)), if the student , while placed in an alternative education program for disciplinary reasons , continues to engage in serious or persistent misbehavior that violates the ISD's student code of conduct.

6.4 The DCJJAEP shall adopt an independent Student Code of Conduct in accordance with TEC 37.001

VII. ATTENDANCE

DCJJAEP shall adopt and implement a student attendance accounting system, whether manual or automated, which includes procedures that ensure the accurate taking, recording, and reporting of attendance accounting data. Said system shall comply with the requirements of Chapter 42 of the TEC and 19 Texas Administrative Code Chapter 129. DCJJAEP shall provide the ISDs with copies of the attendance records and reports generated by DCJJAEP's attendance accounting system.

VIII. LANGUAGE SERVICES AND ASSESSMENTS

8.1 Each ISD shall bear the sole and exclusive responsibility for all matters related to the assessment and provision of Bilingual Education and Special Language Programs under Chapter 29 of the TEC.

8.2 Each ISD shall bear the sole and exclusive responsibility for all matters related to the delivery and retrieval of statewide assessment testing materials for students from the ISD. The DCJJAEP shall bear the responsibility of testing students from each ISD placed in the DCJJAEP.

IX. TRANSITION SERVICES

9.1. DCJJAEP shall perform a review of each student's progress at least once during each grading period and shall establish a transition plan for the student prior to the student's return to the school setting. The DCJJAEP liaison shall notify the student's parent or guardian and the appropriate ISD liaison at least five (5) school days in advance of each review performed under this section and TEC §37.011(d), unless such persons mutually agree to waive such five-day notice period.

9.2. DCJJAEP shall provide to the ISDs a summative evaluation of the performance of each ISD's students served by the DCJJAEP on an annual basis.

9.3. DCJJAEP shall make recommendations to the appropriate ISD liaison concerning the transition from the DCJJAEP to the school setting for each student. The transition plan shall be completed prior to the student's completion of the JJAEP placement.

X. DCJJAEP FACILITIES AND STAFFING

10.1. The DCJJAEP is provided in a facility owned by Denton County.

10.2 Personnel and services for the DCJJAEP may be provided by Denton County or a school district. Personnel and services provided by a school district to the DCJJAEP will be provided under contract with the DCJB.

XI. STUDENT AND JUVENILE RECORDS

11.1. The governing body of each party to this MOU finds that in order to appropriately serve students receiving services under this MOU, the sharing of information pertinent to the provision of education and rehabilitation services is essential and in the best interests of the students served. Therefore, the expelling ISD shall directly forward any and all school records including special education records on expelled students to the DCJJAEP.

11.2. The parties hereto agree to execute all agreements and statements necessary to effectuate this clause, including, but not limited to, those found in the Family Educational Rights and Privacy Act ("FERPA").

XII. TRANSFERS

Each ISD may, subject to its own policy, permit or accept transfer students ("transferees") attending a Juvenile Justice Alternative Education Program in another county, such transferees shall be admitted to the DCJJAEP on and under the same terms and conditions set out herein.

XIII. MISCELLANEOUS

13.1 **SEVERABILITY**. In case any one or more of the provisions, articles, sections, etc., contained in this MOU shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision, article, section, etc., hereof, and this MOU shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

13.2. **GOVERNING LAW**. This MOU shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America. Unless the obligation(s) of any party shall be materially changed, the amendment, interpretation, or change in any legislation or law cited herein shall be interpreted and understood to work a novation of this MOU.

13.3. **TERMINOLOGY**. The captions beside the article and section numbers of this MOU are for reference only and shall not modify or affect this MOU in any manner whatsoever. Wherever required by the context, any gender shall include any other gender, the singular shall include the plural, and the plural shall include the singular.

13.4. **RULE OF CONSTRUCTION**. The parties acknowledge that each party and its counsel have reviewed and revised this MOU, 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 MOU or any amendments or exhibits hereto.

13.6. COUNTERPARTS. This MOU may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original, but which together shall constitute one and the same instrument.

Approved by the Denton County Juvenile Board on the _____ day of _____ 2011.

Kimberly McCary
Chairman - Juvenile Board

Approved by the Aubrey ISD Board of Trustees on the _____ day of _____ 2011.

Board President