

Notice of Public Budget Hearing
The Board of Trustees
Fort Bend Independent School District

Wednesday, August 4, 2021

Notice is hereby given that a Board of Trustees Public Budget Hearing will be held on Wednesday, August 4, 2021, beginning at 4:30 PM in the Board Room of the Fort Bend ISD Administration Building, 16431 Lexington Blvd., Sugar Land, TX 77479. Members of the public may also register to address the Board at the following address: <https://www.fortbendisd.com/cms/lib/TX01917858/Centricity/Domain/83/New%20Agenda%20Review%20Address%20Form%201-12-21.pdf>. Requests to address the Board must be submitted no later than 4:30 p.m. on the day of the meeting. It is the Board of Trustees' intent that a quorum of the Board of Trustees will be physically present at this location, although one or more Trustees may participate via video conference. The agenda packet for the meeting can be found here: <https://meetings.boardbook.org/Public/Organization/649>.

1. Call to order at 4:30 PM with announcement by the chair as to the presence of a quorum, that the meeting has been duly called and that notice of the meeting has been posted for the time and manner required by law
2. Audience Responses to Agenda Items Posted for this Meeting
3. Convene in closed session under Texas Open Meetings Act, Texas Government Code, Chapter 551 under the following section: 551.071 - For the purpose of a private consultation with the Board's attorney on any or all subjects or matters authorized by law; and Section 551.074 - Personnel Matters
 - A. Section 551.074: Personnel Matters
 1. Deliberate Director of Teacher Development Recommendation
4. Reconvene in Open Session
5. Consider Action on Closed Session Item
6. Action
 - A. Board Goal 1: Fort Bend ISD will provide an equitable learning environment that provides all students access to the FBISD curriculum
 1. Consider Approval of a Memorandum of Understanding for Juvenile Justice Alternative Education Program Services 3
 - B. Board Goal 4: Fort Bend ISD will develop students' social-emotional, academic, literacy, language, and life skills in a robust Collaborative Community at every school
 1. Consider Approval of the Student Code of Conduct for the 2021-22 School Year 17
 2. Consider Approval of an Interlocal Agreement Between Fort Bend ISD, Fort Bend County, and the Fort Bend County Juvenile Board Regarding the Saved by the Bell Truancy Program 106
7. Adjourn

The following Fort Bend ISD Goals may be referenced in agenda items included in this document:

- Goal 1: Fort Bend ISD will provide an equitable learning environment that provides all students access to the FBISD curriculum.
- Goal 2: Fort Bend ISD will ensure students own and are responsible for their learning, behavior, and progress through the FBISD curriculum.
- Goal 3: Fort Bend ISD will provide an inclusive, collaborative, and fluid learning environment with opportunities for both risk-taking and success.
- Goal 4: Fort Bend ISD will develop students' social-emotional, academic, literacy, language, and life skills in a robust Collaborative Community at every school.
- Goal 5: Fort Bend ISD will develop an organizational culture that embraces care, respect, safety, and inclusion.

For: Fort Bend ISD Board of Trustees
Date: August 4, 2021
Action: Action: Memorandum of Understanding for JJAEP
References: Board Policy GRAC (Legal) District Goal 1
Department: Chief of Schools / Student Affairs

Recommendation

Consideration and possible approval of the Memorandum of Understanding for Juvenile Justice Alternative Education Program (JJAEP) services with the Fort Bend County Juvenile Probation Board, Fort Bend ISD (FBISD), Stafford MSD (SMSD), and Alief ISD (AISD).

Summary

Chapter 37 of the Texas Education Code requires that a JJAEP be in operation in Fort Bend County (the County). FBISD is the largest district within the County and is therefore the designated education provider. Students enrolled in the JJAEP are assigned through court order or district placement in the program.

FBISD delivers all educational services in JJAEP as outlined in policy FODA (Legal). The Fort Bend County Juvenile Justice Department originally financed the building located at 400 Coen Road, Rosharon, Texas, and oversees all maintenance and operations. The JJAEP provides program personnel, which consists of a Director, Supervisor, Assistant Supervisor, and 10 staff members.

FBISD is responsible for providing appropriate educational staff to serve the students enrolled in the program. During the 2020-21 school year, FBISD provided five teachers, one aide, and shared a principal and counselor with the Ferndell Henry Center for Learning. The total budgeted cost to the District for 2020-21 was \$413,663, which included the staff members, supplies, and other operating expenditures. The Projected budget for 2021-22, which includes salaries, benefits, supplies, and other operating expenditures is \$436,335.

SMSD and AISD are participating school districts and may reserve up to two seats at the JJAEP at a cost of \$25,000. Additional seats may be made available to the participating districts on a space-available basis upon their request to FBISD and the Juvenile Probation Department. In the event that these districts do not utilize the facility during the school year, FBISD is required to refund 80 percent of the district's deposit.

During the 2020-21 school year, a total of 39 students were enrolled at the JJAEP. Of those 39 students, none were assigned from AISD and one was assigned from SMSD.

The remaining 38 students enrolled in the JJAEP were from Fort Bend ISD.

Recommended by:

Diana Sayavedra
Acting Superintendent of Schools

Submitted by:

Anthony Indelicato
Chief of Staff and Collaborative Communities
Interim Chief of Schools

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

MEMORANDUM OF UNDERSTANDING
FOR JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

THIS MOU is made and entered into by and between the FORT BEND COUNTY JUVENILE PROBATION BOARD, hereinafter referred to as “BOARD,” FORT BEND INDEPENDENT SCHOOL DISTRICT, hereinafter referred to as “FBISD,” STAFFORD MUNICIPAL SCHOOL DISTRICT, hereinafter referred to as “SMSD”, and ALIEF INDEPENDENT SCHOOL DISTRICT, hereinafter referred to as “AISD”.

WHEREAS, Chapter 37 of the Texas Education Code requires that a Juvenile Justice Alternative Program (“JJAEP”) be in operation in Fort Bend County, and such a JJAEP has been established; and WHEREAS, the parties hereto desire to continue the JJAEP currently in existence.

NOW THEREFORE, in consideration of the mutual covenants set forth herein the parties hereto agree as follows:

SECTION I
DEFINITIONS

For the purpose of this MOU, the following terms shall mean:

- 1.01 *BOARD Personnel* - Probation Officers, Youth Specialists, Site Supervisors, Campus Supervisors, Director, Chief Juvenile Probation Officer.
- 1.02 *Classroom* -A designated room at the JJAEP.
- 1.03 *Court-ordered students* – students who have not been expelled from school but reside within Fort Bend County and have been ordered to attend the JJAEP.
- 1.04 *Eligible Students* – Students who have been expelled from school by FBISD or a Member School District pursuant to the terms of Chapter 37 of the Texas Education Code.
- 1.05 *FBISD Personnel* - Teachers, Teacher’s Aides, and a Counselor.
- 1.06 *Home School* -The school district and campus where students would ordinarily attend school if not placed in the JJAEP.

- 1.07 *JJAEP* – The Fort Bend County Juvenile Justice Alternative Education Program.
- 1.08 *Member School District(s)* – SMSD and AISD.
- 1.09 *Parent/Guardian Consent* - Any consent required by federal or state law, or an administrative agency to facilitate the purposes of this MOU.
- 1.10 *Educational Services* - instruction and/or assistance at the JJAEP in curriculum that includes, at a minimum, reading, language arts, mathematics, living skills, science, and counseling.
- 1.11 *Teacher* - A FBISD classroom teacher who is certified by the State of Texas and assigned to provide Educational Services at the JJAEP.
- 1.12 *Teacher's Aide* - A FBISD classroom teacher's aide who is assigned to assist teachers at the JJAEP.

SECTION II

PURPOSE

- 2.01 The purpose of this MOU is to make educational services available to Eligible Students and Court-ordered students who reside in Fort Bend County.

SECTION III

TERM

- 3.01 The term of this MOU shall commence on August 1, 2021, and terminate on July 31, 2022, unless sooner terminated as provided in this MOU.
- 3.02 This MOU may be terminated at any time during its term, for any reason, by either the BOARD or FBISD, upon thirty (30) days written notice. A Member School District may withdraw from the MOU by giving fifteen (15) days written notice to the BOARD and FBISD.
- 3.03 If the BOARD wishes to renew this MOU, notice must be provided to FBISD no later than May 15, 2022.

SECTION IV
RIGHTS AND DUTIES OF FBISD

- 4.01 FBISD shall be responsible for providing educational services to students placed at the JJAEP.
- 4.02 FBISD will provide five (5) Teachers and two (2) Teacher's Aides. Professional counseling services will be provided as the need arises.
- 4.03 FBISD personnel will coordinate with students' Home Schools to provide for the administration of state-mandated standardized assessments to students assigned to the JJAEP.
- 4.04 FBISD personnel will cooperate with BOARD personnel to address behavior and discipline matters and reduce interruptions to the student's education, removing students from educational services only when they are ill or are a serious behavior disruption to the learning of others.
- 4.05 FBISD personnel will communicate with the student's Home School to clarify any questions that arise with regard to the provision of educational services, particularly to facilitate re-entry.
- 4.06 FBISD personnel will review available student education records and any available assessment records so that appropriate educational services may be provided while the student is enrolled at the JJAEP.
- 4.07 It is understood and agreed by all parties that FBISD will provide special education and related services to students who are eligible for services under the Individuals with Disabilities Education Act and/or Section 504 of the Rehabilitation Act. However, this MOU in no way places on FBISD the entire duty to provide special education students who do not reside in FBISD with a comprehensive free appropriate public education. The student's district of residence remains responsible for the provision of a free appropriate public education to any of its students who are placed at the JJAEP.
- 4.08 FBISD will provide transportation from a location in FBISD to the JJAEP. Students shall be responsible for transportation to and from the FBISD location or may arrange for private transportation.

- 4.09 Prior to providing educational services to a student who is eligible for services under the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504) or limited English proficient (LEP) classifications FBISD personnel must receive from the Home School District proof of compliance with any requirements under state or federal laws or regulations concerning notice, due process and parent consent.
- 4.10 It is understood and agreed by all parties that FBISD will provide to all eligible JJAEP students “The Free or Reduced Breakfast & Lunch Program.”

SECTION V

RIGHTS AND DUTIES OF MEMBER SCHOOL DISTRICT(S)

- 5.01 A Member School District may reserve up to two seats at the JJAEP for the 2021-2022 school year upon payment of up to \$25,000.00 to FBISD (\$12,500.00 per seat). Such payments shall be made no later than October 1, 2021 to reserve a seat for the 2021-2022 school year. Additional seats may be made available to a Member School District, on a space-available basis, upon request to FBISD and the Chief Juvenile Probation Officer. Except for Court-ordered students, cost to the Member School District for such additional placements shall be pro-rated for the amount of time the student spends in the JJAEP. A refund of 80% for any unused seats will be provided by June 30, 2022. It is expressly understood that a Member School District is not required to provide funding for a Court-ordered student, as defined above in Section 1.03, pursuant to Texas Education Code Section 37.012.
- 5.02 A Member School District shall, upon placement of a student in the JJAEP, provide JJAEP staff with student academic records and any available assessment records so that the appropriate educational services may be provided while the student is enrolled at the JJAEP.
- 5.03 Member School District staff will communicate with the student’s Home School and JJAEP staff to clarify any questions that arise with regard to the provision of educational services and administration of state-mandated standardized assessments.

- 5.04 A Member School District shall be responsible for arranging transportation services for students it expels to the JJAEP.

SECTION VI

RIGHTS AND DUTIES OF THE BOARD

- 6.01 The BOARD, acting by and through its Chief Juvenile Probation Officer, will secure the necessary parent/guardian consent to carry out the purpose of the educational services of this MOU, in a timely fashion.
- 6.02 The BOARD will ensure that the JJAEP will operate in conjunction with the FBISD academic calendar.
- 6.03 The BOARD will provide responsible personnel in the following order:
- A. Chief Juvenile Probation Officer;
 - B. Probation Officers;
 - C. Youth Specialists.
- 6.04 The Chief Juvenile Probation Officer will secure necessary parent/guardian consent, provide proof of compliance with any requirements under state and federal laws and regulations concerning notice and due process requirements with regard to children who are limited English proficient (LEP) or special education students, and assist FBISD to obtain student education records and assessment data that is pertinent to the appropriate educational placement of the student in accordance with state time lines.
- 6.05 No later than December 1, 2021, the BOARD will provide FBISD and the Member School District(s) a copy of its student code of conduct for the school districts' review and approval.
- 6.06 The Chief Juvenile Probation Officer will provide and maintain appropriate instructional space for students and FBISD personnel and will ensure that, at a minimum, one (1) Youth Specialist is present at all times in each classroom.
- 6.07 The Chief Juvenile Probation Officer will designate staff members to provide support to FBISD personnel should crisis intervention be required at the JJAEP.
- 6.08 To the extent possible, the Chief Juvenile Probation Officer will develop daily schedules/activities so that interruptions to students' education are kept at a minimum.

- 6.09 Academics and classroom discipline will be the responsibility of the teacher in accordance with FBISD classroom rules and regulations. The BOARD staff, at the request of the teacher, will remove those students not complying with classroom rules.
- 6.10 The BOARD shall require students who are age 17 at the time of expulsion to agree to the terms of placement in a contractual agreement prepared by the JJAEP.

SECTION VII

DATA PRIVACY

- 7.01 The use or disclosure by any party of information concerning a student in violation of state or federal law is prohibited except on written consent of such eligible child and/or his or her parents or guardian, or his or her attorney.
- 7.02 FBISD, the Member School District(s), and the BOARD, in providing all services hereunder, agree to abide by the provisions of any applicable federal or state data privacy laws, rules, or regulations.

SECTION VIII

ASSIGNMENTS

- 8.01 This MOU is not assignable by any party.

SECTION IX

INDEPENDENT CONTRACTOR

- 9.01 It is agreed by the parties that at all times and for all purposes hereunder that FBISD and FBISD employees are independent contractors and not employees of the BOARD. No statement contained in this MOU shall be construed so as to find FBISD or any member of its staff to be an employee of the BOARD, and FBISD shall be entitled to none of the rights, privileges or benefits of a BOARD employee, except as otherwise may be stated herein.
- 9.02 It is agreed by the parties that at all times and for all purposes hereunder the BOARD and BOARD employees are not employees of FBISD. No statement contained in this MOU shall be construed so as to find the BOARD to be employees of FBISD, and the BOARD

shall be entitled to none of the rights, privileges or benefits of FBISD employees except as otherwise may be stated herein.

- 9.03 It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties, or as constituting FBISD (including its officers, employees, and agent) as the agent, representative or employee of the BOARD for any purpose, or in any manner, whatsoever. FBISD is to be and shall remain an independent contractor with respect to all services performed under this MOU.

SECTION X

SEVERABILITY

- 10.01 The provisions of this MOU are severable. If any paragraph, section, subdivision, sentence, clause or phrase of this MOU is for any reason held to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such occurrence of such event, either party may terminate this MOU forthwith upon the delivery of written notice of termination to the other party.

SECTION XI

ENTIRE MOU: REQUIREMENT OF A WRITING

- 11.01 It is understood and agreed that the entire MOU of the parties is contained herein and that this MOU supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous MOUS presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this MOU shall be valid only when expressed in writing and duly signed by the parties.

SECTION XII

SERVICES NOT PROVIDED FOR

- 12.01 Only services specifically provided for by this MOU will be allowed by Board. Any change to the work or materials to be provided by FBISD will be considered a modification of this MOU and must be approved in writing by the Board.

SECTION XIII
SHARING OF INFORMATION

- 13.01 As authorized by Texas Family Code Chapter 58, the BOARD shall share juvenile criminal history record information about students to FBISD and the Member School District(s) upon written request of the appropriate Superintendent or Principal. Similarly, the school districts shall provide the BOARD with educational information necessary to provide services to students at the JJAEP.
- 13.02 FBISD and the Member School District(s) shall, upon a student's enrollment at the JJAEP, provide the JJAEP Program Director with the same information it would provide to another public school district when a student transfers, including but not limited to:
- (1) the student's name, date of birth, and grade level;
 - (2) enrollment forms and withdrawal form (which shall indicate the student's list of current courses in which he or she is enrolled, the grade earned, and textbooks used in those courses);
 - (3) notice of expulsion, where relevant;
 - (4) special education or Section 504 records, if any;
 - (5) transcript;
 - (6) the student's Texas Assessment of Knowledge and Skills (TAKS) summary sheets, if applicable;
 - (7) the student's State of Texas Assessment of Academic Readiness (STAAR) summary, if applicable;
 - (8) the student's previous year's attendance record;
 - (9) the student's current attendance records, immunization records, and emergency contact information.
- 13.03 The Chief Juvenile Probation Officer shall provide the school districts, upon written request of the superintendent, with information including, but not limited to:
- (1) the court order placing a student in the JJAEP;
 - (2) the probation officer's name;
 - (3) the offense for which the student is being placed in the JJAEP and the location of offense;

- (4) the length of time the student is to be assigned to the JJAEP;
- (5) any disposition of the charges against the student;
- (6) the court order releasing the student from the JJAEP; and
- (7) any notice of withdrawal from the JJAEP.

13.04 Notwithstanding any provision herein to the contrary, all Parties that are considered juvenile service providers under applicable law, including the Family Educational Rights and Privacy Act (FERPA) regulations § 99.31(a)(5) and § 99.38; Section 37.084, Tex Education Code 37.084(a) and Tex Family Code, Sect. 58.0051, do hereby agree and make the following certifications regarding the exchange of confidential information from education records pursuant to this MOU:

(1)The designee of a juvenile service provider, who is acting within the scope of his or her employment, shall make the request for confidential information from a student’s education record prior to the student’s adjudication; and the information requested must relate to the juvenile system’s ability to serve the student whose records are requested;

(2)Confidential information from a student’s education record shall be used only for the purposes of verifying the identity of a student involved in the juvenile system and to provide delinquency prevention or treatment services to the student prior to adjudication; and

(3)The confidentiality of a student’s educational record shall be maintained and shall not be re-disclosed to a third party, except a juvenile service provider that is part of the juvenile justice system and only for the purposes herein, without the prior written consent of the parent of the student or the eligible student.

13.05 Any juvenile criminal history information about a juvenile provided pursuant to the terms of this MOU shall be released only to appropriate school personnel and not to any third party. For purposes of this Section, “appropriate school personnel” is defined to include superintendents, principals, school psychologists, social workers, and counselors.

13.06 Juvenile criminal history information shall be kept strictly confidential, in a secured area separate from students’ other educational records. Such information shall be destroyed by school officials (1) upon notification by the juvenile probation department that the student is no longer under the jurisdiction of the department; or (2) at the end of one calendar year after it has been provided to the school, whichever occurs first.

SECTION XIV

COMPLIANCE WITH LAWS AND REGULATIONS

14.01 In providing all services pursuant to this MOU, FBISD, Member School District(s), and the BOARD shall abide by all statutes, ordinances, rules and regulations pertaining to, or regulating the provision of, such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules or regulations shall constitute a material breach of this MOU, and shall entitle FBISD and the BOARD to terminate this MOU immediately upon delivery of written notice of termination.

SECTION XV

SUSPENSION OF STUDENTS

JJAEP Students that are assigned to the JJAEP campus under the status of Expulsion Orders only and not on any form of court ordered probation may be removed/suspended from attending school under the following conditions:

- Having a positive drug test
- Failure to follow the campus rules, i.e., Student Code of Conduct/Consistent and unruly behavior

This applies to only those students that are ordered to attend the JJAEP campus whom are under no other orders other than the Expulsion Orders. Those students that violate the JJAEP campus rules are subject to disciplinary action by the ordering Judge per violations of court ordered probation. Students under the status of Expulsion Orders can be removed/suspended from the JJAEP campus for a period not to exceed three consecutive days and only at the direction of the site principal.

SECTION XVI

NOTICE

15.01 Notices, correspondence, and all other communications pursuant to this MOU shall be addressed to the Fort Bend County Juvenile Board and submitted to the following representative:

Honorable Teana Watson
Juvenile Board Chair
301 Jackson Street
Richmond, TX 77469

Notice to FBISD shall be delivered to: Fort Bend Independent School District
Department of Student Affairs
16431 Lexington Blvd.
Sugar Land, Texas 77479

Notice to SMSD shall be delivered to: Stafford Municipal School District
Business Office
1625 Staffordshire Road
Stafford, Texas 77477

Notice to AISD shall be delivered to: Alief Independent School District
Deputy Superintendent of Instruction
4250 Cook Road
Houston, Texas 77072

IN WITNESS HEREOF, the parties have herewith set their signatures as of the date written below.

FORT BEND COUNTY JUVENILE PROBATION BOARD

By: _____

Honorable Teana Watson, Juvenile Board Chair

Date: _____

FORT BEND INDEPENDENT SCHOOL DISTRICT

By: _____

Superintendent of Schools

Date: _____

STAFFORD MUNICIPAL SCHOOL DISTRICT

By: _____

Superintendent of Schools

Date: _____

ALIEF INDEPENDENT SCHOOL DISTRICT

By: _____

Superintendent of Schools

Date: _____

For: Fort Bend ISD Board of Trustees
Date: August 4, 2021
Action: Action: 2021-22 Student Code of Conduct
References: Board Policy FO (Legal)
District Goal 4
Department: Student Affairs

Recommendation

Consideration and possible approval of the 2021-22 school year Student Code of Conduct.

Summary

Chapter 37 of the Texas Education Code mandates that the Board of Trustees adopt a Student Code of Conduct (SCC).

The SCC provides methods and options for managing behavior and disciplining students in the classroom, on school grounds, and at school-related events. The SCC provides guidance for campus administrators to address behavior and assign consequences in a fair and equitable manner. The SCC also provides clarity for students and parents about offenses that require mandatory placement outside of the classroom and those in which campus and District administrators may exercise discretion.

To ensure fluidity throughout, the Administration revised, reorganized and inserted headers and verbiage to provide a more coherent SCC. The Administration has also made changes (listed below) based on the 87th Legislative Session.

Page	Section	2020-21 Information Change	2021-22 Actual Change	Rationale
6	Student Dress Code	Added New Language	March 2, 2021, Governor Abbott issued Executive Order GA-34 which addresses the statewide wearing of face coverings (i.e., masks), which took effect March 10, 2021. Per the Executive Order GA-34, which has the effect of state law under Section 418.012 of the Texas Government Code, school systems cannot require students or staff to wear a mask. GA-36 addresses government-mandated face coverings in response to the COVID-19 pandemic. School systems must allow individuals to wear a mask if they choose to do so.	Governor's Executive Order
9	Discipline Considerations and Techniques: Discipline of Students in Special Programs	Added New Language	If the District takes disciplinary action that constitutes a change of placement for a student with a disability, the District has 10 days after the change in placement to: 1. Seek consent from the parent to conduct a functional behavior assessment (FBA) if the student has never had an FBA or the existing FBA is more than one year old, 2. Review any previous FBA's and/or behavior intervention improvement plans (BIPS), and 3. Develop a BIP or revise the existing one, as necessary.	HB 785
11	DAEP Appeals	Changed Language from: Further, the decision to place a student in DAEP cannot be appealed beyond the Board.	Changed Language to: Further, the decision cannot be appealed beyond the Board.	Clarification of Process

11	DAEP Appeals	Added New Language	In the instance of a student who is accused of conduct that meets the definition of sexual harassment as defined by Title IX, the District will comply with applicable federal law, including the Title IX formal complaint process. FFH (LEGAL) and (LOCAL).	Clarification of Language
12	Student Speakers at Graduation	Changed Language from: Students eligible to give the opening and closing remarks at graduation or assemblies shall be notified by the campus principal. In order to be considered as an eligible student to give the opening or closing remarks, a student shall not have engaged in any misconduct in violation of this Code resulting in the removal from class to Out-of-School Suspension, DAEP, or expulsion, see FMH (Local).	<p>Changed Language to: Students eligible to give the opening and closing remarks at graduation shall be notified by the campus principal. Notwithstanding any other eligibility requirements, in order to be considered eligible, a student shall not have engaged in any misconduct that resulted in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation.</p> <p>The valedictorian and salutatorian may also have speaking roles at graduation. No student shall be eligible to have such a speaking role if he or she engaged in any misconduct that resulted in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation. See policy FNA (LOCAL).</p>	Clarification of Guidelines
13	Possessing Using, Giving, Selling or Buying Prohibited Items	Added New Language	A firearm silencer	HB 957

13	Possessing, Using, Giving, Selling, or Buying Prohibited Weapons	Removed Language from This Section	A firearm silencer	HB 957
15	Technology Offenses	Added New Language	Using the internet or other electronic communications to threaten or harass district students, employees, board members, or volunteers including off school property if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.	Clarification of Language
15	Property Offenses	Added New Language	• Enter, without authorization, district facilities that are not open for operations	Clarification
16	Disregard for District and Campus Rules	Added New Language	Unauthorized communication between students during an examination	Clarification
16	Reasons for Bus Removal	Removed Language	• Maintain the wearing of face coverings (PPE) while on the bus	Governor's Executive Order
18	Return to the Classroom	Changed Name From: Return to The Classroom	Changed Name to: Returning a Student to the Classroom	Clarification of Language
20	Regardless of Location (Mandatory DAEP)	Added New Language	• Engages in conduct that contains the elements of harassment against an employee.	TEC 37.006
23	Campus Reassignment	Changed From: Children	Changed to: Disabled Individual	HB 375 Penal code 21.02
26	Reasons for Recommendation of Mandatory Expulsion: School Related	Changed From: Children	Changed to: Disabled Individual	HB 375 Penal code 21.02
30	Appeal	Changed Name From: Appeal	Changed Name to: Expulsion Appeal Process	Clarification of Title
31	Expulsion Appeals to the Board	Removed Additional Title	Expulsion Appeals to the Board	Clarification

31	Expulsion Appeals to the Board	Reordered Section to Clarify Process	Reordered Section to Clarify Process	Clarification
32	Appeals for Registered Sex Offenders	Changed Language from: Placement in an alternative educational setting may be appealed as described in Policy FNG (Local) and Policy FOC (Local). However, the appeal is limited to the factual question of whether the student should be returned to the regular classroom. A decision of the Board is final and may not be appealed.	Changed Language to: A student or the student's parent may appeal the placement by requesting a conference with the Department of Student Affairs. The conference is limited to the factual question of whether the student is required to register as a sex offender. Any decision of the Department of Student Affairs or designee, under this section is final and may not be appealed.	Clarification of Process
34	Glossary	Added Definition	AGGRAVATED ROBBERY: Defined in part by Penal Code 29.03 (a) as when a person commits robbery and: causes serious bodily injury to another, uses or exhibits a deadly weapon; causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death if the other person is 65 years of age or older or is a disabled person.	HB 375 Penal code 21.02
35	Glossary	Added Language to: Controlled Substance	1-B	SB 768
35	Glossary	Revised Definition for: Discretionary	Authority or responsibility to exercise discretion in making judgments and assigning disciplinary consequences in the best of the students and of the district.	Clarification of the definition
35	Glossary	Added Language to: E-Cigarette	Or a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described by this provision.	SB 248

36	Glossary	Added Language to: Firearm	(3) any firearm muffler or firearm silencer, defined as any device for silencing, muffling, or diminishing the report of a portable firearm.	HB 957
36	Glossary	Removed Definition	FIREARM SILENCER: Any device designed, made, or adapted to muffle the report of a firearm.	HB 957
36	Glossary	Added Language To: Harassment	e. Publishing on an internet website, including a social media platform, repeated electronic communications in a manner reasonable likely to cause emotional distress, abuse or torment to another person, unless the communications are made in connection with a matter of public concern, as defined by law.	SB 530
39	Glossary	Changed Language for Title 5 Felony Offenses From: Children	Changed Language to: Disabled Individual	HB 375 Penal code 21.02

Recommended by:

Diana Sayavedra
Acting Superintendent of Schools

Submitted by:

Anthony Indelicato
Chief of Staff and Collaborative Communities
Interim Chief of Schools

Sonya Smith-Watson
Executive Director of Student Affairs

Fort Bend ISD 2021-2022

Student Code of Conduct

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ACCESSIBILITY

If you have difficulty accessing the information in this document because of disability, please contact the Executive Director of Student Affairs at 281-634-1059 or email Sonya.SmithWatson@fortbendisd.com for assistance.

GENERAL OVERVIEW

Philosophy

The Board of Trustees has adopted a Mission Statement, a Vision Statement, Core Beliefs and Commitments, and the Profile of a Graduate [see Policy AE (Local)] that are the governing principles of the Fort Bend Independent School District. These documents express the District's dedication to providing an educational system that will enable all students to reach their full potential. To that end, the District is committed to providing a supportive climate and safe learning environment in which restorative practices are applied as a means to help students accept responsibility for their learning and behavior, and to encourage accountability for their own actions.

Scope

In adopting this Student Code of Conduct (SCC or this Code), the Board of Trustees has established rules, guidelines and procedures to further support a safe learning environment for all students. The SCC includes information regarding the Districtwide behavior management plan, descriptions of prohibited conduct, the disciplinary options, methods, and consequences for preventing and addressing student misconduct and the process the District will follow when administering disciplinary consequences.

Students may be subject to campus, classroom including online learning platforms, transportation, extracurricular, and/or organizational rules in addition to those found in this Code. Students may face consequences under these additional rules as well as possible disciplinary action under the SCC. Further, to the extent a student engages in conduct that is not specifically addressed in this Code, the student may still be disciplined if the conduct disrupts or interferes with the educational process, learning environment, or school safety.

The SCC remains in effect during summer school and at all school related events and activities outside the school year until an updated version becomes effective for the next school year. If there is a conflict between the SCC and the Student/Parent Handbook, the terms of this Code will control. If there is a conflict between this Code and another District policy, the more recently adopted policy will control.

The SCC is posted on the [District's website](#) and is available at each FBISD school in the office of the campus principal or Campus Behavior Coordinator (CBC). District policies referenced in this Code are arranged in the Board Policy Manual posted on the FBISD website, <https://www.fortbendisd.com/Page/580>.

Glossary

For the purpose of this Student Code of Conduct, we have provided definitions to key words used in this Code.

Department of Student Affairs (DSA)

The Superintendent has established the Department of Student Affairs (DSA) as a resource for students and parents/guardians to understand the expectations and rules governing student conduct, and as a liaison with campus administrators to ensure the fair and equitable application of discipline for misconduct as outlined in this Code. Under the direction of the Assistant Superintendent for Student Affairs, the DSA shall provide regular training to campus administrators on this Code, monitor trends and patterns of student misconduct and respond to student/parent complaints and appeals concerning student discipline.

Campus Behavior Coordinator (CBC)

An administrator on each campus has been designated to serve as the Campus Behavior Coordinator (CBC) or the principal may serve as the campus behavior coordinator. The CBC is primarily responsible for maintaining student discipline. The District maintains on its website a current list of the persons serving as a CBC on each campus. Specific contact information may be found at <https://www.fortbendisd.com/Page/242>

District and Campus Threat Assessment Teams

The District has created a Threat Assessment Team (D-STAT) to provide guidance and assessment to campuses when dealing with substantive (serious and very serious) student threats. D-STAT will also track all threats to ensure appropriate support is provided to students and campuses, and shall take appropriate action in accordance with this Code to ensure a safe and coordinated response to all student threats.

Each campus shall have a campus threat assessment team (C-STAT), coordinated by the CBC or principal, that investigates threats, creates safety plans, and develops behavior interventions to reduce the risk of violence. C-STAT teams are supported by the D-STAT for training, assessing student plans, and monitoring.

Anti-Discrimination

The District does not discriminate against students on the basis of race, sex, national origin, disability, religion, color, or ethnicity when enforcing the provisions of this Code.

Profile of a Graduate

The Profile of a Graduate, adopted by the Board of Trustees in 2017, supports the District's Mission, Vision, and Core Beliefs and Commitments by defining the qualities a student should possess upon graduation. A FBISD Graduate has a rigorous academic foundation, strong character, and is...

...equipped with skills for life.

Fort Bend ISD graduates exhibit grit and determination in all aspects of life; respect self and others; engage in healthy life choices; are literate and articulate; proficient with technology; and meaningfully and practically apply knowledge in productive ways.

...a servant leader.

Fort Bend ISD graduates demonstrate confidence while maintaining a humble and kind demeanor; prioritizing the needs of others while accepting responsibility for themselves and are accountable for their own actions; are optimistic; and strive to bring out the best in others.

...an effective communicator.

Fort Bend ISD graduates communicate clearly both orally and in writing; respectfully and actively listen to others; appropriately engage in courageous conversations; and appropriately adapt their communication style to the audience.

...a critical thinker.

Fort Bend ISD graduates are visionary and solutions-oriented problem solvers; are inquisitive and innovative; and have the courage to actively challenge conventional methods in order to improve themselves and the world around them.

...a compassionate citizen.

Fort Bend ISD graduates are empathetic to their fellow citizens, exhibiting care and concern for others; are inclusive and embrace differences; are culturally aware; actively engage in improving our diverse community; exercise their right to vote; and are dependable, respectful, trustworthy, and self-disciplined.

...a collaborative team member.

Fort Bend ISD graduates work effectively with others to achieve group goals; take actions that respect the needs and contributions of others; yield their own objectives to the goals of the team; and positively facilitate and contribute to teamwork.

...a life-long learner.

Fort Bend ISD graduates approach life with wonder and curiosity; seek opportunities to be creative; possess a thirst for knowledge and the ability to adapt to change; and are academically prepared to pursue and attain futures beyond what they can imagine.

STUDENT DRESS CODE

The District believes the Student Dress Code shall promote the attributes of the Profile of a Graduate. Therefore, students are expected to dress in a way that promotes respect for self and others, a safe learning environment, and honors the diversity of the learning community.

Students and parent/guardians may determine the student's personal dress and grooming standards, provided they comply with the general guidelines set forth in this Code and Board Policy FNCA (Local). Generally, students shall be dressed and groomed in a manner that is clean and neat, does not cause distraction from learning, and that does not disrupt the learning environment. The District prohibits pictures, emblems, or writings on clothing that advertise or depict tobacco products, alcoholic beverages, drugs, or any other prohibited substance.

[March 2, 2021, Governor Abbott issued Executive Order GA-34 which addresses the statewide wearing of face coverings \(i.e., masks\), which took effect March 10, 2021. Per the Executive Order GA-34, which has the effect of state law under Section 418.012 of the Texas Government Code, school systems cannot require students or staff to wear a mask. GA-36 addresses government-mandated face coverings in response to the COVID-19 pandemic. School systems must allow individuals to wear a mask if they choose to do so.](#)

Students must comply with the following dress and grooming standards, including in online learning platforms.

Shirts, Blouses, Sweatshirts, Sweaters, Vests

- Must touch the belt line with no revealing undergarments
- No oversized armholes, vented t-shirts, spaghetti straps, tank tops, sleeveless t-shirts, backless attire and off the shoulder tops
- No revealing midriff or undergarments while standing or sitting
- No revealing, low-cut, see-through, or too tight clothing such as spandex or lycra (no exposed cleavage)

Dresses, Jumpers, Skirts, Shorts, Skorts, Pants, and Jeans

- Dresses, jumpers, skirts, and skorts shall be worn at a length that is no more than 3" above the knee
- Shorts, jeans, and all pants shall be worn at the hip and must cover undergarments
- Shorts shall be worn at a length that is no more than 3" above the knee
- Students in kindergarten through second grade may wear shorts slightly above mid-thigh
- No leggings, tights or other clothing that is excessively tight, unless worn with a garment that covers to mid-thigh

Shoes

- Shoes shall be worn, and if designed to be tied shall be properly tied
- Elementary students shall not wear flip-flops or shoes with no back/heel strap
- Unsafe footwear is not permitted (i.e., house shoes, slippers)
- Appropriate shoes must be worn during PE/athletics classes, as well as during lab activities in science, CTE, etc.

Hair

- Hair shall be neat, clean, and well groomed, and worn in a style and color that is not distracting
- Mustaches, beards, or goatees shall be neat, clean, and well groomed, and worn in a style that is not distracting
- Drawings, icons, and/or other markings cut into or colored into the hair, including eyebrows, and not associated with required religious markings or hairstyles are not permitted

Miscellaneous

- All garments must be sized appropriately
- Proper undergarments shall be worn at all times

- Revealing clothing of any type may not be worn
- No clothing that has been ripped, torn, or cut in a way as to reveal undergarments, midriff, or cleavage
- Clothing including face coverings with profanity, obscene patches, references to alcohol, drugs, weapons or tobacco, or anything that may be construed as provocative or offensive may not be worn
- Any attire, tattoo, icons, or markings on body, e.g. bandanas, shoe laces, chains, t-shirts, etc., that is distracting, causes a disturbance, or identifies a student as part of an unauthorized group, gang, or society are not permitted that includes but is not limited to virtual background choices No pajama wear of any type except on-campus designated days
- Body piercings that are distracting or that pose a safety concern are not permitted
- No hats, caps, doo-rags, wave caps, bandanas or hoods worn indoors, except on campus designated days
- No sunglasses may be worn inside the building unless there is a medical note on file

SCOPE OF THE DISTRICT AUTHORITY AND JURISDICTION

School rules and the authority of the District to administer discipline apply whenever the interest of the district is involved, on or off school grounds, in conjunction with or independent of classes and school-sponsored activities. The District has disciplinary authority over a student:

- During the regular school day and while the student is going to and from school or a school-sponsored or school-related activity on district transportation;
- During lunch periods in which a student is allowed to leave campus;
- While the student is in attendance at any school-related activity, including online learning platforms, regardless of time or location;
- For any school-related misconduct, regardless of time or location;
- When retaliation against a school employee, Board member, or volunteer occurs or is threatened, regardless of time or location;
- When a student engages in cyberbullying, as provided by Education Code (TEC) §37.0832;
- When criminal mischief is committed on or off school property or at a school-related event;
- For certain offenses committed within 300 feet of school property as measured from any point on the school's real property boundary line;
- For certain offenses committed while on school property or while attending a school-sponsored or school-related activity of another district in Texas;
- When the student commits a felony, as provided by TEC §37.006 or §37.0081; and
- When the student is required to register as a sex offender.

Searches

Campus administrators may conduct searches of students, their belongings, and their vehicles in accordance with law and policy. Searches of students shall be conducted in a reasonable and nondiscriminatory manner.

The District may search a student's personal property, electronic equipment, or vehicle driven to school by any student and parked on school property, whether or not the student is present, when there is reasonable suspicion to believe the search will reveal articles or materials prohibited by the district or evidence of criminal activity.

Students are responsible for ensuring that any personal property, method of transportation, or school property used by the student does not contain prohibited items. Desks, lockers, district-provided technology, and similar items are the property of the district and are provided for student use as a matter of convenience. District property is subject to search or inspection at any time without notice. Students may be disciplined for possession of prohibited items discovered during a search. The parent/guardian will be notified if any prohibited items are found. For more information, see Policy FNF (Legal), restating federal and state law, and Policy FNF (Local).

An administrative search of a student is permissible when a school official has *reasonable suspicion* that a

search will uncover evidence of a violation of this Code or criminal activity. Reasonable suspicion is a lower standard applicable to school administrators and requires a mere awareness of facts that there is a reason to suspect a violation of law, policy and this Code to justify a search of a student.

In criminal matters, a search is permissible only when law enforcement has *probable cause* that it is “more likely than not” a crime has occurred, is occurring, or will occur. Probable cause is a higher standard and refers to a sufficient reason based upon specific facts to believe a crime has been or will be committed or that certain property is connected with a crime.

Police Department

The District police department ensures safety and security of students, employees, and visitors, and provides protection to district facilities and property. District police officers are educators first as they have the opportunity to positively interact with students and contribute to a positive culture and climate. Police officers employed by the district shall have all the powers, privileges, and immunities and shall have the authority to all behavioral and administrative duties shall remain the responsibility of the CBC and the campus administration. For more information, see Policy CKE (Local).

Use of Trained Dogs

Students and guardians are advised that the District has adopted a policy on the use of trained dogs, as outlined below, which specifically provides that: Lockers, classrooms and common areas may be sniffed by trained dogs at any time when students are not present. Vehicles parked on school property may be sniffed by trained dogs at any time. A student in possession of contraband shall be subject to appropriate disciplinary action in accordance with this Code.

The District shall use specifically trained nonaggressive dogs to sniff out and alert officials to the current presence of concealed prohibited items, illicit substances and alcohol. See Policy FNCF (Legal). This program is implemented to prevent drug and alcohol use in District schools, with the objective of maintaining a safe learning environment conducive to education. Use of trained dogs shall be unannounced and shall not be used to search students. The dogs shall be used to sniff classrooms, common areas, areas around student lockers, and where student vehicles parked are school property. If a dog alerts to a locker, a vehicle, or an item in a classroom, it may be searched by school officials.

Metal Detectors

In order to maintain a safe and secure learning environment in the District’s DAEP (Disciplinary Alternative Education Program), students shall be notified when assigned to DAEP that they shall be subject to metal detector searches when entering each day.

Reporting Criminal Conduct

Certain acts of misconduct may constitute criminal offenses in addition to violations of this Code. The CBC, school administrators, or District employees shall report crimes as required by law and shall contact local law enforcement regarding suspected criminal activity. The CBC or school administrators will cooperate with law enforcement regarding any potential criminal activity occurring on campus, within 300 feet of campus, or at a school related or school-sponsored event. Because school discipline is independent of criminal proceedings, *disciplinary consequences may not be postponed pending the outcome of any criminal proceeding or affected by the outcome of any criminal proceeding.* Further, criminal charges may be referred to the Fort Bend County District Attorney (DA) by law enforcement. Referral to the DA is a function of law enforcement and not a function of school based discipline. The campus should consult with the Department of Student Affairs when considering DAEP/expulsions for offenses committed off-campus.

DISCIPLINE CONSIDERATIONS & TECHNIQUES

Discipline of Students in Special Programs

Students eligible for services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 are subject to discipline in accordance with those laws. In accordance with the Education Code, a student who receives special education services may not be disciplined for conduct prohibited by this Code until an ARD meeting has been held to review the conduct. In deciding whether to order

suspension, DAEP placement, or expulsion, regardless of whether the action is mandatory or discretionary, the District shall take into consideration a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct. For more information, please review the Special Education Administrative Procedures <https://www.fortbendisd.com/Domain/77> posted on the District's website or contact the Executive Director of Special Education and Learning Support Services.

If the district takes disciplinary action that constitutes a change of placement for a student with a disability, the district has 10 days after the change in placement to:

- Seek consent from the parent to conduct a functional behavior assessment (FBA) if the student has never had an FBA or the existing FBA is more than one year old,
- Review any previous FBA's and/or behavior intervention improvement plans (BIPS), and
- Develop a BIP or revise the existing one, as necessary.

Discipline Considerations

To ensure that discipline is appropriate and equitable, any campus and/or personnel assigning a consequence must take into consideration the following factors:

- Whether the student acted in self-defense (see ***glossary***),
- Whether the student had intent or lack of intent at the time the student engaged in the conduct,
- The student's disciplinary history,
- Whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,
- Whether the student is in the conservatorship of the Department of Family and Protective Services (foster care), or
- Whether the student is homeless.

Additionally the degree and duration of the consequence must take into consideration factors including but not limited to:

- The effect of the conduct on the school environment
- The degree of severity and risk of danger
- The age and grade level of the student
- The frequency of the conduct
- The student's demeanor

Discipline Techniques

Discipline shall be designed to improve conduct and to encourage students to adhere to their responsibilities as members of the school community. Disciplinary action shall draw on the professional judgment of teachers and administrators, and on a range of discipline techniques, including restorative practices. Corporal punishment is not permitted in FBISD. [See Policy FO (Local)]

- Restorative discipline practices
- Positive Behavior Interventions and Supports (PBIS)
- Verbal or written correction
- Seating changes within the classroom or on vehicles owned or operated by the district
- Parent/guardian conferences
- Counseling or mediation
- Removal from the classroom
- Behavior modification contracts
- Sending the student to the office or other area
- Assignment of school-related tasks or duties
- ~~Other methods, strategies, and consequences as stated in this Code or determined by school officials.~~
- Calming-down time period, in accordance with the law
- Demerits or rewards
- In-School suspension

- Confiscation of items
- Out-of-School suspension
- Muting in online learning platforms
- Restitution or restoration
- Disciplinary Alternative Education Program (DAEP)
- Temporary assignment to an alternate setting
- Transfer to a different classroom or campus
- Revocation of transportation privileges
- Consequences identified in co-curricular or extracurricular constitutions, bylaws or handbooks
- Loss or restriction of privileges, including participation or membership in co-curricular or extracurricular activities, seeking or holding honorary positions, or speaking at school activities
- Grade reductions for academic dishonesty, such as cheating, impersonation, and plagiarism; [see Policy EIA(Local)]
- Detention, including outside regular school hours
- Assignment of school duties, such as cleaning or picking up litter
- Revocation of student transfer for any violation resulting in ISS, OSS, DAEP, or an expulsion, except transfers approved under PEG (Public Education Grant) or other Federal or State guidelines may not be revoked. DSA may revoke the transfer at the end of the school year in which the student was approved
- Expulsion

Prohibited Aversive Techniques

Aversive techniques are defined as techniques or interventions intended to reduce the reoccurrence of a behavior by intentionally inflicting significant physical or emotional discomfort or pain. Aversive techniques are prohibited for use with students. Aversive techniques include but are not limited to:

- Inhibiting, reducing, or hindering the student's ability to communicate
- Using time-out in a manner that prevents the student from being able to be involved in and progress appropriately in the required curriculum or any applicable individualized education program (IEP) goals, including isolating the student by the use of physical barriers
- Using techniques designed or likely to cause physical pain, other than corporal punishment as permitted by district policy. [See Policy FO (Local)]
- Using techniques designed or likely to cause physical pain by electric shock or any procedure involving pressure points or joint locks.
- Denying adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility.
- Directed release of noxious, toxic, or unpleasant spray, mist, or substance near a student's face.
- Ridiculing or demeaning a student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse.
- Employing a device, material, or object that immobilizes all four of a student's extremities, including prone or supine floor restraint.
- Impairing the student's breathing, including applying pressure to the student's torso or neck or placing something in, on, or over the student's mouth or nose or covering the student's face.
- Restricting the student's circulation.
- Securing the student to a stationary object while the student is standing or sitting.
- Using chemical restraints.

Notice of Disciplinary Action

The CBC shall promptly notify a student's parent/guardian by phone, email or in person of any violation that may result in In-School Suspension (ISS), Out of School Suspension (OSS), Disciplinary Alternative Education Placement (DAEP), Juvenile Justice Alternative Education Placement (JJAEP) or expulsion.

Before the principal or appropriate administrator assigns a student under age 18 to detention outside regular school hours, notice shall be given to the student's parent/guardian to inform the parent/guardian of the reason for the detention and make transportation arrangements if necessary.

The CBC shall also notify a student's parent/guardian if the student is taken into custody by a law enforcement officer. A good faith effort shall be made on the day the student is taken into custody to provide to the student's parent/guardian, written notification of the action. If the parent/guardian has not been reached by telephone, email or in person by 5:00 p.m. of the first business day after the day the action was taken, the CBC shall send written notification by U.S. Mail. If the campus behavior coordinator is not able to provide notice to the parent/guardian, the principal or designee shall provide the notice.

DAEP Appeals

Questions from parents/guardians regarding disciplinary measures should be addressed to the teacher, CBC or campus administration. Depending on the discipline assigned, different complaint procedures may apply. See Policy FNG (Local) and Policy FOD (Local). Timelines for filing appeals stated in policy will be enforced.

The student or parent/guardian appeals regarding the process used for a DAEP placement or an expulsion decision, such as issues related to the disciplinary conference or proper notice being provided, should be addressed in accordance with Policy FNG(Local) and Policy FOC (Legal), restating sections of the TEC, Chapter 37 and the Penal Code. Appeals shall begin at Level One with the Department of Student Affairs. The policy may be obtained from the DSA or the District's website. Disciplinary consequences shall not be delayed or deferred pending the outcome of an appeal. Further, the decision cannot be appealed beyond the Board.

If during the term of DAEP placement, the student engages in additional misconduct, additional disciplinary conferences may be conducted and additional days to current assignment may be imposed with the approval of the Executive Director of Student Affairs or designee.

In the instance of a student who is accused of conduct that meets the definition of sexual harassment as defined by Title IX, the district will comply with applicable federal law, including the Title IX formal complaint process. FFH (Legal) and (LOCAL)

Effect of Student Withdrawal

Withdrawal from school after a student has been accused of violating this Code will not prevent the District from investigating the alleged violation and, if it is determined that a violation did occur, assessing the appropriate disciplinary consequence and enforcing that consequence should the student re-enroll in the District. The offense and any disciplinary action shall be entered into the FBISD Student Information System/PEIMS database prior to the student withdrawing from the campus.

Participation in Graduation Activities

The District has the right to limit a student's participation in graduation activities for violating this Code. If it is determined by the administration that any senior, during the final grading period, participates in an activity on school property or in connection with any school sponsored activity that violated this Code including, but not limited to, "senior pranks", in addition to being subject to disciplinary consequences may, at the discretion of the Superintendent or the Assistant Superintendent, be prohibited from participating in year-end graduation ceremonies. This includes, but is not limited to, commencement, prom, Pro-Grad as well as other senior privileges. The campus principal shall notify parents/guardians if it is determined that the student will not participate in any or all graduation activities.

Disqualification from Graduation Activities

If a senior is charged with a felony violation of the Penal Code, and the Superintendent or has a reasonable belief that a criminal violation has occurred, the student, in addition to being subject to disciplinary consequences specified in this Code, shall be automatically disqualified from participating in graduation ceremonies, including commencement, prom and Pro-Grad.

It is important to note the difference between a charge and a referral. A referral (*see glossary*) is a notice to the District Attorney or other prosecutor recommending a criminal investigation. A charge (*see glossary*) is a formal accusation made by a governmental authority (usually a grand jury) finding that based upon the evidence presented to it, there is probable cause to believe that a crime has been committed by a criminal suspect.

For a student who is referred for a felony or misdemeanor and charges are expected, and there is reasonable

belief that a criminal offense has occurred, approval for non-participation in graduation activities must be given by the Superintendent or designee. The campus principal shall notify parents/guardians if determined that the student will not participate in any or all graduation activities.

Student Speakers at Graduation

~~Students eligible to give the opening and closing remarks at graduation or assemblies shall be notified by the campus principal. In order to be considered as an eligible student to give the opening or closing remarks, a student shall not have engaged in any misconduct in violation of this Code resulting in the removal from class to Out-of-School Suspension, DAEP, or expulsion, see FMH (Local). Students eligible to give the opening and closing remarks at graduation shall be notified by the campus principal. Notwithstanding any other eligibility requirements, in order to be considered eligible, a student shall not have engaged in any misconduct that resulted in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation.~~

~~The valedictorian and salutatorian may also have speaking roles at graduation. No student shall be eligible to have such a speaking role if he or she engaged in any misconduct that resulted in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation. See policy FNA (LOCAL).~~

GENERAL CONDUCT VIOLATIONS

Misconduct Involving Others

Misconduct identified in the list of prohibited behaviors below will result in the assignment of one or more discipline techniques if the behavior is committed at school, in online learning platforms, a school-sponsored or school related activity, during school-related travel, while traveling on district owned or operated transportation, or when the district has disciplinary authority as described in this Code.

- Horseplay, roughhousing, and other playful behavior that, though not intended to harm, presents a reasonable risk of harm or threatens the safety of others
- Fighting (*see glossary*)
- Engaging in conduct that can cause bodily injury (*see glossary*)
- Forcing an unwilling person to act or not act or obtaining money or another object of value from an unwilling person through duress, threats, force, extortion, coercion, or blackmail
- Subjecting a student or district employee, official, or volunteer to physical harm, confinement or restraint
- Bullying or cyberbullying, [See Policy FFI (Legal)]
- Name-calling, ethnic or racial slurs, or derogatory statements that school employees reasonably believe could substantially disrupt the school environment or incite violence
- Adding any substance, whether harmful or not, without permission to any food or beverages belonging to, in the possession of, or meant to be consumed by another student or district employee, official, or volunteer
- Engaging in harassment (*see glossary*) toward another student or a district employee, official, or volunteer, including harassment based on race, color, religion, national origin, disability, sex, gender (including, but not limited to, sexual identity/orientation), or age,
- Engaging in sexual harassment (*see glossary*), sexual abuse, or conduct that constitutes dating violence [See Policy FFH (Legal)]
- Release or threaten to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- Inappropriate verbal (oral or written), physical, or sexual contact toward another student or a district employee, official, or volunteer, regardless of whether it is consensual
- Engaging in inappropriate or indecent exposure of private body parts or touching one's own private body parts in a sexual manner
- Consensual hugging, touching, or other displays of affection that interfere with, detract from, or disrupt the school environment

- Engaging in physical, sexual, verbal, or emotional abuse as a means to harm, threaten, intimidate, or control another person in a current or past dating relationship
- Engaging in oral or written threats to cause harm or bodily injury (see ***glossary***) to another student, a District employee, official, or volunteer, or school property, including threats made using the internet or other technology resources at school. Students may be disciplined for threats made outside of school, including websites or internet postings, if the threat causes a material or substantial disruption at school.
- Making hit lists (see ***glossary***)
- Wrongfully obtaining and using another person's identifying information or personal data without permission in order to mislead, defraud, or deceive
- Hazing (see ***glossary***)
- Retaliating against a student for (1) reporting either a violation of this Code or bullying, or (2) participating in an investigation of a violation of this Code or bullying
- Retaliating against any school employee
- Intentionally, knowingly, or recklessly causing bodily injury to another person

Possessing, Using, Giving, Selling, or Buying Prohibited Items

- Matches or a lighter
- Tobacco products
- Electronic cigarettes, cartridges and any vapor pens/devices or look alike devices with nicotine
- Fireworks or any other pyrotechnic device
- Smoke or stink bombs
- Laser pointers (unauthorized use)
- Chemical dispensing device (including mace or pepper spray) sold commercially for person protection
- Razor blades, box cutters, chains, or any other object used in a way that threatens or inflicts bodily injury to another person
- A hand instrument designed to cut or stab another by being thrown
- A pocketknife or any other small knife, including a switchblade
- Fake or "look-alike" weapons
- Poisons, caustic acids, or other materials that may be toxic to the human body
- BB gun, air gun, stun gun, taser or similar type item
- Ammunition, shells, bullets, or gunpowder
- Material that is sexually-oriented, pornographic, obscene, or reveals a person's private body parts
- Material, including published or electronic items, that promotes or encourages illegal behavior or could threaten school safety
- Knuckles
- ~~Articles~~ Articles not generally considered to be weapons when the CBC or administrator determines that a danger exists or when used in a way that threatens or inflicts bodily injury to another
- ~~A firearm silencer~~

Possessing, Using, Giving, Selling, or Buying Prohibited Weapons

- Chemical dispensing device (mace or pepper spray) not purposed for personal protection
- Explosive weapon
- Improvised explosive device
- Machine gun
- Short-barrel firearm
- Armor-piercing ammunition
- Zip gun
- Tire deflation device

A firearm (see ***glossary***)

- A location-restricted knife (see ***glossary***)
- ~~A firearm silencer~~

- Club

Possessing, Using, Giving, Selling, or Buying Illegal, Prescription, and Over-the-Counter Drugs

Students shall not:

- Possess, use, give, or sell alcohol or an illegal drug (see DAEP Placement/Expulsion for mandatory and permissive consequences under state law)
- Possesses, use, gives or sells electronic cigarettes, cartridges, pods and/or any vapor pens/devices with THC, marijuana including those labeled as CBD with any amount of THC
- Possess or sell seeds or pieces of marijuana
- Possess, use, give, or sell paraphernalia related to any prohibited substance (See ***glossary*** of “paraphernalia”)
- Possess, use, abuse, or sell look-alike drugs or attempt to pass items off as drugs or contraband
- Abuse the student’s own prescription drug, give a prescription drug to another student, or possess or be under the influence of another person’s prescription drug on school property or at a school-related event
- Abuse over-the-counter drugs. Be under the influence of prescription or over-the-counter drugs that cause impairment of the physical or mental faculties. (See ***glossary***, “*under the influence*”)
- Have or take prescription drugs or over-the-counter drugs at school other than as provided by district policy
- Engage in conduct that contains the elements of an offense relating to an abusable volatile chemical Glue, aerosol paint etc.
- Possessing, selling, giving, delivering, using, or being under the influence of designer drugs, synthetic marijuana, synthetic cannabinoids (e.g. “K2” and “Spice”), stimulants (e.g. “bath salts”), or analogs of any controlled substance, regardless of whether currently scheduled or classified as an illegal drug under state or federal law and regardless of whether the substance is legally sold or marketed for another purpose, and is labeled “not for human consumption.”

Safety / Disruption

- Possess, use, threaten to use or exhibit a firearm
- Discharging a fire extinguisher, pulling a fire alarm, calling 911, tampering with an Automated External Defibrillator or door safety locks, or causing the sprinkler system to activate when there is no smoke, fire, danger, or emergency
- Making or participating in false statements or hoaxes regarding school safety
- Engaging in misbehavior, actions, or demonstrations that materially and substantially disrupts the educational process or the orderly operation of a classroom or school or that give school officials reasonable belief to believe that such conduct will incite violence
- Throwing objects that can cause bodily injury or property damage
- Making false accusations or providing false statements concerning wrongful, unlawful, inappropriate, or illegal conduct alleged to have been committed by another student or district employee, official, or volunteer
- Engage in verbal or written exchanges that threaten the safety or well-being of another student, a school employee, or school property
- Contributing to the disruptive environment by recording and/or posting fights or other disruptive scenes

Technology Offenses

- Using a telecommunication device, including a cellular telephone, or other electronic device in violation of district or campus rules
- Sending, possessing, or posting electronic messages, videos, audio recordings, or images that are abusive, obscene, sexually oriented, harassing, threatening, intimidating, or illegal, including cyberbullying (see ***glossary***), either on or off school property, if the conduct materially and substantially disrupts the educational process or the orderly operation of a classroom or school or infringes on the rights of another student at school
- Violating policies, rules, or agreements signed by the student or the student’s parent/guardian

- regarding the use of technology resources
- Using any device or technology to copy or capture an image or the content of any district materials (such as tests or exams) without permission of a teacher, CBC or administrator
- Making, participating in the making of, transmitting to another via an electronic device (air dropping), posting or re-posting to the internet a digital, video, or audio recording or image of an actual or simulated act that involves a crime or conduct prohibited by this Code
- Using any device or technology to record the voice or image of another in any way that disrupts the educational environment, invades the privacy of others, or without the prior consent of the individual being recorded
- Using any device or technology to record the voice or image of another to take, disseminate, transfer, circulate, exhibit, present, or share audio, images, video, or photos that reveal private parts of the body that are normally covered by clothing (aka sexting)
- Using the name, persona, or image of a student, district employee, or volunteer to create a web page or post one or more messages on a website without the other person's consent for purposes of harassing, intimidating, embarrassing, or threatening another
- Using email, websites, or electronic devices to engage in or encourage illegal conduct, violations of this Code, or to threaten school safety or infringes on the rights of another student at the school
- Attempting to or successfully accessing or circumventing passwords or other security-related information of the district, officials, volunteers, employees, or other students by any means
- Attempting to or successfully altering, destroying, interrupting, intercepting, or disabling district technology equipment, district data, the data of other users of the district's computer system, or other networks connected to the district's system, including uploading or creating computer viruses, worms, or other harmful material
- Copying, downloading, reproducing, distributing, retransmitting, redisplaying, or modifying items from the district's website
- Sending disruptive, irrelevant or inappropriate messages or images on the internet to a large number of recipients including, but not limited to online learning platforms, social media sites and personal messaging platforms.
- Use the internet or other electronic communications to threaten or harass district students, employees, board members, or volunteers including off school property if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.
- Engaging in any of the above forms of technological misconduct outside of school when such conduct causes a material or substantial disruption at school as determined by school officials

Students will not be disciplined for technological misconduct related to possessing items described above so long as the student (1) did not contribute to creation of the item in any way, (2) possessed it only after receiving the item unsolicited from another, (3) either promptly destroyed the item or reported it to a school employee as soon as possible, and (4) did not provide a copy, forward, or re-post the item to anyone other than law enforcement, a school employee, or the student's parent/guardian.

Property Offenses

- Stealing from others, including the district
- Committing or assisting in a robbery, theft, or burglary that is not punishable as a felony
- Damaging, destroying, or vandalizing property owned by others or the district
- Marking district property such as textbooks, lockers, furniture, or equipment with graffiti, tagging, or by other means
- Attempting to start or starting a fire on or in any property owned, used, or controlled by a student, the district, or district employees, officials, or volunteers that does not rise to the level of arson or criminal mischief
- Enter, without authorization, district facilities that are not open for operations.

Disregard for District and Campus Rules

- Being insubordinate or otherwise failing to comply with lawful directives given by school personnel
- Attempting to or successfully evading, avoiding, or delaying questioning by a school official

- Failing to provide proper identification including the wearing of a district provided identification badge
- Attempting to violate or assisting, encouraging, promoting, or attempting to assist another student in violating this Code
- Failing to immediately report to a school employee knowledge of a device, object, substance, or event that could cause harm to self or others
- Being tardy to class or arriving late to school (unexcused)
- Skipping school or class without the district's or parent/guardian's permission
- Leaving class, the campus, or school events without permission
- Enticing or preventing another student from attending school, class, or a school activity the student is required to attend
- Violating rules for conduct on school owned or operated transportation
- Violating rules for operating or parking a motor vehicle on school property
- Academic dishonesty, including cheating, copying the work of another, plagiarism, or unauthorized collaboration with another person in preparing an assignment
- Failure to comply with guidelines applicable to student speakers who are speaking at school sponsored or school-related events
- Violating other campus or classroom rules for behavior or district policies
- Refusing to accept discipline techniques assigned by a teacher, CBC or administrator
- Unauthorized communication between students during an examination.

Miscellaneous

- Violating dress code standards
- Using face coverings to cheat, provide answers or promote academic dishonesty
- Using profanity, vulgar language, or obscene gestures
- Falsifying, altering, forging, or destroying school records, passes, other school-related documents, or documents presented to school officials
- Gambling or betting money or other things of value
- Inappropriate exposure of a student's private body parts which are ordinarily covered by clothing, including through such acts as mooning, streaking, or flashing
- Running in the hallways or other areas which may impact the learning environment
- Repeatedly sleeping in class
- Failing to follow directions and health/safety requirements, including failure to wear face masks (PPE) in designated areas or maintain social distancing, as designated by campus staff
- Repeatedly violating other communicated campus or classroom standards of conduct including those in online learning platforms

REMOVAL FROM DISTRICT TRANSPORTATION

Reasons for Bus Removal

Appropriate student behavior is essential to the safe operation of district transportation. Students must comply with the expectations of this Code while using district transportation. In addition to compliance with this Code, students are expected to comply with the following transportation rules:

- Enter and exit transportation in an orderly manner at the designated stop
- Remain seated while the bus or vehicle is moving
- ~~Maintain the wearing of face coverings (PPE) while on the bus~~
- Keep aisles clear of books, bags, instruments, feet, or other obstructions
- Follow the driver's lawful directions at all times
- Do not extend any body part, clothing, or other article outside of the transportation
- Keep hands, feet, other body parts, or objects to yourself
- Refrain from making loud or distracting noises
- Do not obstruct the driver's view

- Do not throw objects inside the transportation or out of the windows or doors
- Do not mark, deface, destruct, or tamper with seats, windows, emergency doors, or other equipment
- Fasten seat belts when available on any vehicle
- Wait for the driver's signal upon leaving the bus or vehicle and before crossing in front of the bus or vehicle
- Misconduct on buses, in district vehicles, or at bus stops, will be disciplined in accordance with this Code. Bus riding privileges may be suspended or revoked.

For a list of bus infraction levels and their corresponding disciplinary consequences, please see the last page of the SCC.

Procedure for Bus Removal

A driver of district owned or operated transportation may refer a student to the CBC or campus administrator to maintain effective discipline during transport to or from school or a school-sponsored or school-related activity, to enforce the transportation rules, or when the student engages in behavior that violates this Code. The CBC or administrator may use one or more discipline techniques to address the behavior, which may include temporarily suspending or permanently revoking school transportation privileges. Since the district's primary responsibility in transporting students in district vehicles is to do so as safely as possible, the operator of the vehicle must focus on driving and not have his or her attention distracted by student misbehavior. Therefore, when appropriate disciplinary techniques fail, to improve student behavior or when specific misconduct warrants immediate removal, the administrator or the campus behavior coordinator may restrict or revoke a student's transportation privileges, in accordance with law.

The student will be informed of the reason for suspension or revocation of transportation privileges and will be given an opportunity to respond before the CBC's or administrator's decision is final. Suspension of transportation privileges does not excuse a student from attending school. It is the responsibility of the parent/guardian and/or student to make alternate transportation arrangements to and from school.

REMOVAL FROM THE GENERAL EDUCATIONAL ENVIRONMENT

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

Teacher Formal Removal

A teacher may remove a student from class when:

- The student's behavior has been documented by the teacher as repeatedly interfering with the teacher's ability to teach or with the learning of other students; or
- The behavior is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to teach or with the learning of other students.

A teacher may remove a student from class, including online learning platforms, if the student engages in conduct that requires or permits DAEP placement or expulsion under the TEC, in which case the procedures for DAEP placement or expulsion shall be followed. See TEC §37.002

Placement During Teacher Formal Removal

When a teacher utilizes a formal removal of the student from the regular classroom and a conference is pending, the CBC or administrator may place the student in: (1) another appropriate classroom, (2) ISS (3) OSS for a maximum of 3 days or (4) DAEP.

Procedures for Teacher Formal Removal

Not later than three school days after a teacher has formally removed a student from class, the CBC or an administrator will schedule a conference with the student's parent/guardian, the student, and the teacher who removed the student from the class and any other appropriate administrator. At the conference, the student will be provided an explanation of the basis for removal and be given an opportunity to respond. After the conference, the CBC or administrator will render a discipline decision and inform the student and

parent/guardian of the consequences.

Returning a Student to the Classroom

If the teacher removed the student from class because the student engaged in assault resulting in bodily injury, aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, or criminal attempt to commit murder or criminal attempt to commit capital murder the student may not be returned to the teacher's class without the teacher's consent. When a student has been formally removed by a teacher for any other conduct, the student may be returned to the teacher's class without the teacher's consent if the Placement Review Committee determines that the teacher's class is the best or only alternative available.

IN-SCHOOL SUSPENSION (ISS)

Reasons for ISS

Students may be placed in ISS for any misconduct listed in any category of this Code.

Procedures for ISS

The student will be informed of the reason for placement in ISS and be given an opportunity to respond before the CBC's or administrator's decision is final.

Assignments during ISS

The district shall ensure a student receives access to coursework for foundation curriculum courses while the student is placed in ISS including at least one method of receiving this coursework that doesn't require the use of the internet. While in ISS, the student will complete assignments from his or her teacher(s).

OUT-OF-SCHOOL SUSPENSION (OSS)

Reasons for OSS

Students may be suspended from school for any misconduct listed in any category of this Code. In deciding whether to order out-of-school suspension, the District shall take into consideration:

- Whether the student acted in self-defense (see *glossary*),
- Whether the student had Intent or lack of intent at the time the student engaged in the conduct,
- The student's disciplinary history,
- Whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,
- Whether the student is in the conservatorship of the Department of Family and Protective Services (foster care),
- Whether the student is homeless.

OSS for Students Below Grade 3 or for Students Who are Homeless

The District shall not use out-of-school suspension for students below grade 3 or a student who is homeless unless the conduct meets the requirements established in law. For the student who is homeless, the campus behavior coordinator should work with the homeless liaison to find an appropriate alternative for the student.

- A student below grade 3 or a student who is homeless shall not be placed in out-of-school suspension unless, while on school property or while attending a school-sponsored or school-related activity on or off school property, the student engages in conduct that contains the elements of a weapons offense, as provided in Penal Code §46.02 or §46.05;
- Conduct that contains the elements of assault, sexual assault, aggravated assault, or aggravated sexual assault, as provided by the Penal Code; or
- Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of marijuana, an alcoholic beverage, or a controlled substance or dangerous drug as defined by federal or state law.
- The District shall use a positive behavior program as a disciplinary alternative for students below grade 3 who commit general conduct violations instead of suspension or placement in a DAEP. The

program shall meet the requirements of law.

Procedures for OSS

Before being suspended, a student shall have an informal conference with the CBC or appropriate administrator who shall advise the student of the alleged misconduct. The student shall have the opportunity to respond to the allegation before the administrator makes a decision. While the student is suspended, the CBC or administrator may place restrictions on the student's participation in school-sponsored or school-related activities. Students may be suspended for a maximum of three school days per behavior violation with no limit on the number of times a student may be suspended in a school year.

Assignments during OSS

The district shall ensure a student receives access to coursework for foundation curriculum courses while the student is placed in out-of-school suspension including at least one method of receiving this coursework that doesn't require the use of the internet. While in OSS, the student will complete assignments from his or her teacher(s).

DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM (DAEP)

The DAEP shall be provided in a setting other than the student's regular classroom. An elementary school student may not be placed in a DAEP with a student who is not an elementary school student. For purposes of DAEP, elementary classification shall be kindergarten–grade 5 and secondary classification shall be grades 6–12. Elementary students will be assigned to a predetermined elementary campus separate from students in grades 6-12. Students in grades 6-12 will attend the DAEP at Ferndell Henry Center for Learning (FHCL).

All campus recommendations of students for a DAEP placement shall be reviewed by the Department of Student Affairs, and shall be effective only with approval by the Executive Director of Student Affairs, or designee. Summer programs provided by the district shall serve students assigned to a DAEP separately from those students who are not assigned to the program.

In deciding whether to place a student in a DAEP, regardless of whether the action is mandatory or discretionary, the District shall take into consideration:

- Whether the student acted in self-defense (see ***glossary***),
- Whether the student had intent or lack of intent at the time the student engaged in the conduct,
- The student's disciplinary history,
- Whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,
- Whether the student is in the conservatorship of the Department of Family and Protective Services (foster care), or
- Whether the student is homeless.

Reasons for Recommendation of Mandatory DAEP Placement

School-Related

A student shall be recommended for placement in DAEP for any of the following misconduct if committed while on school property, within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Engages in conduct punishable as a felony
- Commits an assault (see ***glossary***) resulting in bodily injury (see ***glossary***) to another
- Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any form of marijuana (THC/CBD), a controlled substance, or a dangerous drug in an amount not constituting a felony offense. A student with a valid prescription for low-THC cannabis as authorized by Chapter 487 of the Health and Safety Code does not violate this provision. School-related felony drug offenses are addressed in the Expulsion section. (See ***glossary*** for "under the influence")

- Commits a serious act or offense while under the influence of alcoholic if the conduct is not punishable as a felony
- Engages in an offense relating to abusable volatile chemicals (*see glossary*)
- Engages in public lewdness (*see glossary*)
- Engages in indecent exposure (*see glossary*)
- Engages in a federal firearm offense if the student is six years of age or younger
- Abuses the student's own prescription drug or using it in a way other than prescribed; giving, buying, or selling a prescription drug; possessing, using, or being under the influence of another person's prescription drug on school property or at a school-related event.
- Offers to sell or buy any amount of marijuana, a controlled substance (*see glossary*), a dangerous drug (*see glossary*), an abusable volatile chemical (*see glossary*), a prescription drug, or an alcoholic beverage (*see glossary*).
- Possesses, sells, gives, delivers, uses, or is under the influence of designer drugs, synthetic marijuana, synthetic cannabinoids (e.g. "K2" and "Spice"), stimulants (e.g. "bath salts"), or analogs of any controlled substance, regardless of whether currently scheduled or classified as an illegal drug under state or federal law and regardless of whether the substance is legally sold or marketed for another purpose, and is labeled "not for human consumption."
- Engages in expellable conduct if the student is enrolled in grades 3-12
- Engages in conduct that contains the elements of an offense of harassment against an employee under Penal Code 42.07(a)(1), (2), (3), or (7).

Regardless of Location (Mandatory DAEP)

A student shall be recommended for placement in DAEP for engaging in a Title 5 (*see glossary*) felony offense or aggravated robbery while off-campus and not in attendance at a school-sponsored or school-related activity if:

- The student receives deferred prosecution,
- A court or jury finds the student engaged in delinquent conduct, or
- The CBC or administrator reasonably believes that the student engaged in the misconduct
- Felony drug or alcohol-related offense
- Engages in conduct that contains the elements of harassment against an employee.

A student shall be recommended for placement in DAEP if the student engages in the following misconduct, regardless of whether the conduct occurred on or off campus:

- Commits a terroristic threat (*see glossary*) involving a public school
- Preparing a hit list (*see glossary*) verified as a terroristic threat
- Issues a false alarm or report (*see glossary*) causing a serious disruption
- Retaliates (*see glossary*) against any school employee or volunteer
- Engages in criminal mischief that results in damage to property if the damage is greater than \$2500
- Is a registered sex offender (*see glossary*) under court supervision, probation, community supervision, or parole
- Possesses, sells, gives, delivers, uses, or is under the influence of designer drugs, synthetic marijuana, synthetic cannabinoids (e.g. "K2" and "Spice"), stimulants (e.g. "bath salts"), or analogs of any controlled substance, regardless of whether currently scheduled or classified as an illegal drug under state or federal law and regardless of whether the substance is legally sold or marketed for another purpose, and is labeled "not for human consumption."

Possesses, use, gives or sells electronic cigarettes, cartridges, pods and/or any vapor pens/devices with THC including those labeled as CBD with any amount of THC.

Title 5 Felonies Regardless of Location

In addition to DAEP, a student may also be expelled and placed in Juvenile Justice Alternative Education Program (JJAEP) if the student:

- Issues a false alarm or report, including a bomb threat (*see glossary*) or a terroristic threat (*see*

- ***glossary***) involving a public school
- Is arrested for a Title 5 felony (*see glossary*) or aggravated robbery
- Is charged with engaging in a Title 5 felony or aggravated robbery
- Received deferred adjudication or deferred prosecution for a Title 5 felony or aggravated robbery
- Is on probation for a Title 5 felony or aggravated robbery
- Was found by a court or jury to have engaged in delinquent conduct for a Title 5 felony or aggravated robbery
- Has been referred to a juvenile court for delinquent conduct based on a Title 5 felony or aggravated robbery or
- Was convicted of a Title 5 felony or aggravated robbery and the CBC or administrator determines the student's presence in the regular classroom either threatens the safety of other
- Students or teachers, is detrimental to the educational process, or is not in the best interests of the District's students.

In this circumstance, expulsion to an alternative setting may be ordered regardless of (1) the date on which the conduct occurred, (2) the location at which the conduct occurred, (3) whether the student was enrolled in the District at the time the conduct occurred, or (4) whether the student successfully completed any court disposition requirements regarding the conduct.

A student may be subject to an expulsion under this circumstance until (1) the student graduates from high school, (2) the charges are dismissed or reduced to a misdemeanor, (3) the student completes the term of the placement, or (4) the District assigns the student to another program. The student will be entitled to the same periodic review afforded to other students in alternate settings. An expulsion ordered in this case is final and may not be appealed beyond the Board of Trustees.

Reasons for Recommendation of Discretionary DAEP Placement

School-Related

A student may be recommended for placement in DAEP for any of the following misconduct if committed while on school property, within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Possessing, giving, buying, or selling stems, seeds, or other pieces of marijuana
- Possessing, using, selling, buying, or giving paraphernalia (*see glossary*) related to any prohibited substance, including but not limited to marijuana, a controlled substance, a dangerous drug, or an alcoholic beverage
- Possessing, using, selling, buying or giving paraphernalia related to electronic smoking or vaping of substances not identified as controlled substances, marijuana, THC or CBD
- Engaging in bullying or cyber bullying that encourages a student to commit or attempt to commit suicide
- Inciting violence against a student through group bullying
- Releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent
- Is involved with a public school fraternity, sorority, secret society, or gang (*see glossary*), including participating as a member or pledge, or soliciting another person to become a member or pledge
- Is involved with a criminal street gang (*see glossary*) or encourages, solicits, recruits, enables, or causes another to become a member of a criminal street gang.
- Serious Offense - including but not limited to:
 - Committing/threatening physical abuse to another student or school employee
 - Hazing
 - Extortion/coercion/blackmail
 - Possession/distribution of pornographic materials
- Commit a non-felony robbery or theft/stealing
- Possess Knife blade <5 ½ inches
- Profanity/vulgar language/obscene gesture toward teachers/other
- Vandalism

- Possesses/conspires to possess explosives/explosive devices
- Repeatedly leaving school grounds without permission
- Repeated insubordination
- Aggressive, disruptive behavior
- Unauthorized use/intentional misuse of computer soft/hardware
- Falsification of records/school related documents
- Possession or use of a stun gun/device, BB/air gun, etc.
- Engaging in persistent serious misbehavior (*see **glossary***) that violates this Code
- Assault (no bodily harm) with threat of imminent bodily injury
- Assault by offensive or provocative physical contact

Regardless of Location (Discretionary DAEP)

A student may be recommended for placement in DAEP for engaging in the following misconduct while off-campus and not in attendance at a school-sponsored or school-related activity:

- CBC or administrator reasonably believes the student engaged in conduct punishable as a felony (other than aggravated robbery or a Title 5 felony), and the student's continued presence in the regular classroom is a threat to the safety of others or is detrimental to the educational process
- Off-campus conduct for which DAEP placement is required by state law when the CBC or administrator does not learn of the conduct until more than a year after the conduct occurred.

This is including when the student committed the offense on the property of another district in Texas or while the student is attending a school-sponsored or school-related activity of a school in another district in Texas. The campus should consult with the Department of Student Affairs when considering DAEP/Expulsion for offenses committed off-campus.

A student may be recommended for placement in DAEP if the student engages in the following misconduct, regardless of whether the conduct occurred on or off campus:

- Engages in bullying that encourages a student to commit or attempt to commit suicide
- Materially and substantially disrupts the educational process or the orderly operation of a classroom or school;
- Infringes on the rights of the targeted student at school;
- Incites violence against a student through group bullying
- Releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent
- Engages in criminal mischief if the damage is less than \$2500
- A student who is a registered sex offender not under any form of court supervision will be placed in regular classes. However, a student may not be placed in a regular classroom if the Board or its designee determines that the student's presence: (1) threatens the safety of other students or teachers, (2) will be detrimental to the educational process, or (3) is not in the best interests of the District's students

Criminal penalties may also apply to a student's online conduct:

- *Online impersonation*: creating certain web pages or messages, using the name or persona of another person without consent, and with the intent to harm, threaten, or intimidate that person. TEX. PENAL CODE §33.07(a).
- *Harassment by electronic communication*: sending repeated electronic communications in a manner that is intended and reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another. TEX. PENAL CODE §42.07(a)(7).

In accordance with state law, a student may be placed in a DAEP if the superintendent or the superintendent's

designee has reasonable belief (see ***glossary***) that the student has engaged in conduct punishable as a felony, other than aggravated robbery or those listed as offenses in Title 5 (see ***glossary***) of the Penal Code, that occurs off school property and not at a school-sponsored or school-related event, if the student's presence in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

The CBC may, but is not required to, place a student in a DAEP for off-campus conduct for which DAEP placement is required by state law if the administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

Campus Reassignment

If a student has been convicted of continuous sexual abuse of a young child or children-disabled individual or convicted of or placed on deferred adjudication for sexual assault or aggravated sexual assault against another student on the same campus, and if the victim's parent/guardian or another person with the authority to act on behalf of the victim requests that the Board transfer the offending student to another campus, the offending student shall be transferred to another campus in the district. If there is no other campus in the district serving the grade level of the offending student, the offending student shall be transferred to a DAEP.

Interim Placement

Until a placement conference can be held, the student may be placed in another appropriate classroom, in-school suspension, or out-of-school suspension. The student may not be returned to the regular classroom pending the placement conference nor allowed to attend any campus based activities before or after school.

Emergency DAEP Placement

The CBC or administrator may order an emergency DAEP placement if the student has been so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to teach the class, the learning of other students, or the operation of a school-related or a school-sponsored activity. An emergency placement may be ordered by the Executive Director of Student Affairs, if the D-STAT team determines a substantive threat is made by student. The reason for emergency placement must also be a reason for which DAEP placement could be ordered on a nonemergency basis. At the time of the emergency placement, the student will be told the reason for the action.

Not later than the tenth day after the date of emergency DAEP placement, the student will be given a conference as required for regular placement in DAEP.

Procedure for DAEP Placement

Removal to a DAEP shall be made by the CBC or campus principal. Not later than three school days after the student is removed from class, the CBC or campus administrator will schedule a conference with the student's parent/guardian, and the student, as well as the student's teacher if a teacher referred the student for DAEP placement. At the conference, the CBC or administrator will explain the allegations against the student, inform the student of the basis for the proposed DAEP placement, and give the student an opportunity to explain his or her version of the incident. The District may conduct the conference and make a discipline decision regardless of whether the student or the student's parent/guardian attends if the District made reasonable attempts to have them attend.

All mandatory and discretionary removals to the DAEP shall be recommended by the campus principal or CBC, and reviewed by the Executive Director of Student Affairs or designee. A recommendation will be effective only if approved by the Executive Director of Student Affairs or designee. Questions regarding disciplinary measures should be addressed to the student's home campus administration.

Assignments During DAEP

Students placed at the DAEP will complete foundation courses which are required for graduation at no cost to the student. If a student was enrolled in AP courses at the time of removal, the student will have the opportunity to complete the course after the completion of the DAEP placement.

DAEP Placement Order

If the outcome of the conference is to recommend the student for placement in DAEP, the CBC or campus

administrator will recommend DAEP placement. If the length of placement differs from the guidelines included in this Code, the DAEP placement order will give notice of the inconsistency.

A copy of the DAEP placement order will be sent to the student and the student's parent/guardian. For those students placed in DAEP, if required by the TEC, the District will also send the juvenile court a copy of the DAEP placement order not later than the second business day after the placement conference. A copy of the DAEP placement order will be included with any records sent to a school where the student seeks to enroll. The enrolling school district has discretion to enforce the DAEP placement order.

Length of DAEP Placement

The length of a student's initial placement in DAEP will be recommended by the CBC and reviewed by the Executive Director of Student Affairs or designee on a case-by-case basis using the criteria identified in the "Discipline Considerations" section of this Code. A recommendation will be effective only if approved by the Executive Director of Student Affairs or designee. The length of DAEP placement may not exceed one year. After review, the District determines that (1) the student is a safety threat, or (2) extended placement is in the best interest of the student. Discretionary and mandatory placements to the DAEP will be effective only if approved by the Executive Director of Student Affairs and/or designee.

A student placed at the DAEP, regardless of whether the offense is for a mandatory or discretionary removable offense, may reduce the term of placement based on specific qualifiers that monitor student behavior, attendance and academic progress.

Students placed in DAEP at the end of one school year may be required to complete the assigned term at the beginning of the next school year. For DAEP placement to extend beyond the end of the school year, the CBC or administrator must determine that (1) the student's presence in the regular classroom or campus presents a danger of physical harm to the student or others; or (2) the student has engaged in serious or persistent misbehavior that violates this Code. The Department of Student Affairs will coordinate a summer file review to determine whether the placement will extend beyond the current school year or whether the student will return to their regular campus. For purposes of this paragraph only, "serious misbehavior" means any misconduct identified as being punishable with placement in DAEP or expulsion for three or more violations of this Code or repeated occurrences of the same violation.

The District shall administer the required pre and post-assessments for students assigned to DAEP for 90 days or longer, in accordance with established administrative procedures for administering other diagnostic or benchmark assessments.

Unless otherwise specified in the placement order, days absent from a DAEP shall not count toward fulfilling the total number of days required in a student's DAEP placement order.

Resilience, Intervention, Support and Empowerment Program (R.I.S.E)

DAEP shall provide students with a substance or alcohol related offense the opportunity to participate in and complete the district's substance abuse education program to qualify for a reduction in the term of placement.

R.I.S.E is a curriculum-based, social and resiliency skill program designed to teach leadership, healthy self-image and substance avoidance. This twenty-day program is incorporated into but may not constitute the full total of the student's DAEP assignment.

Transition Services

In accordance with law and district procedures, campus staff shall provide transition services to a student returning to the regular classroom from an alternative education program, including the DAEP. See Policy FOCA (Legal) for more information.

OTHER DAEP ISSUES

No Participation in Activities While in DAEP

The district does not permit a student who is placed in a DAEP to participate in any school-sponsored or school-related extracurricular or co-curricular activity, including seeking or holding honorary positions and/or membership in school-sponsored clubs and organizations. This restriction applies until the student fulfills the entire DAEP assignment at this or another school district.

Periodic Review

A student placed in a DAEP shall be provided a review of his or her status, including academic status, by the campus behavior coordinator or the Board's designee at intervals not to exceed 120 days. In the case of a high school student, the student's progress toward graduation and the student's graduation plan shall also be reviewed. At the review, the student or the student's parent/guardian shall be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of a teacher who removed the student without that teacher's consent.

Newly Enrolled

The District shall continue the DAEP placement of a student who enrolls in the District and was assigned to a DAEP in an open-enrollment charter school or another district.

A newly enrolled student with a DAEP placement from a district in another state shall be placed as any other newly enrolled student if the behavior committed is a reason for DAEP placement in the receiving district. If the student was placed in a DAEP by a school district in another state for a period that exceeds one year, this District, by state law, shall reduce the period of the placement so that the total placement does not exceed one year. After a review; however, the placement may be extended beyond a year if the District determines that the student is a threat to the safety of other students or employees or the extended placement is in the best interest of the district's students.

Effect of Student Withdrawal

If a student is involved in a reportable disciplinary incident, and the student attempts to withdraw from school before the disciplinary assignment is made, the school should complete the due process proceedings that result in the required disciplinary assignment before the student is allowed to withdraw. After completion of the due process proceedings, the school is required to report the student discipline interchanged data reflecting that assignment in order to remain in compliance with TEC §37.009. If a student withdraws from school before a DAEP placement order is completed, the district may complete the proceedings and issue a DAEP placement order. If the student re-enrolls in the district during the same or subsequent school year, the district may enforce the DAEP placement order at that time, minus any portion of the placement that was served by the student during enrollment in another district. If the CBC or administrator does not issue a DAEP placement order after the student withdraws, the next district in which the student enrolls may complete the proceedings and issue a DAEP placement order.

Student Transfers

Students assigned to DAEP in another Texas public school district, a Texas open-enrollment charter school, or an out-of-state school district at the time of enrollment into the District will be placed into the District's DAEP to complete the term of their DAEP placement. In order to continue an out-of-state DAEP placement, the basis for the DAEP placement must also be a reason for DAEP placement in the enrolling district. If the out-of-state DAEP placement period exceeds one year, the District will reduce the period of placement so that the total placement does not exceed one year unless the District determines that the student is a threat to the safety of others or extended placement is in the best interests of the district's students.

Criminal Proceedings

The review and appeal process described below is limited to retaliation or off-campus misconduct. It does not apply if the student was placed in DAEP as required by law for conduct occurring on or within 300 feet of school property, at a school-sponsored or school-related activity, or for a false alarm or report or terroristic threat involving a public school.

If the District receives notice that prosecution of a student's case was refused and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated or a court or jury found the student not guilty or did not engage in delinquent conduct or conduct indicating a need for supervision and dismissed the student's case with prejudice, the District will review the student's DAEP placement and will schedule a review with the student's parent/guardian not later than the third day after receiving notice. The student will not be returned to

the regular classroom before the review. After reviewing the notice and receiving information from the student's parent/guardian, the CBC or administrator may only continue the student's DAEP placement if the administration has reason to believe the student's presence in the regular classroom threatens the safety of others.

Additional Misconduct

If during the term of placement in a DAEP the student engages in additional misconduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the appropriate CBC or administrator may enter an additional disciplinary consequence as a result of those proceedings with the approval of the Executive Director of Student Affairs.

EXPULSION

Reasons for Recommendation of Mandatory Expulsion

In deciding whether to expel a student, regardless of whether the action is mandatory or discretionary, the District shall take into consideration:

- Whether the student acted in self-defense (see ***glossary***),
- Whether the student had Intent or lack of intent at the time the student engaged in the conduct,
- The student's disciplinary history,
- Whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,
- Whether the student is in the conservatorship of the Department of Family and Protective Services (foster care), or
- Whether the student is homeless.

School-Related

A student shall be recommended for an expulsion for any of the following misconduct that occurs on school property or while attending a school-sponsored or school-related activity on or off school property:

- Brings to school a firearm, as defined by federal law (see ***glossary***)
- Uses, exhibits, or possesses the following items, as defined by state law: (1) a firearm*, (2) possesses or uses a location-restricted knife, or (4) a prohibited weapon. (See ***glossary***) * Firearm note: So long as the firearm is not brought on school property, a student will not be expelled solely for using, exhibiting, or possessing a firearm at an off-campus approved target range facility while participating in or preparing for a school-sponsored shooting sports competition or while participating in or preparing for a shooting sports educational activity sponsored or supported by the Texas Parks and Wildlife Department or an organization working with the Department
- Engages in conduct that contains the elements of the offense of the unlawfully carrying weapons under §46.02 of the Tex. Penal Code, or elements of an offense relating to prohibited weapons under §46.05 of the Tex. Penal Code
- Engages in the following misconduct as defined in the Tex. Penal Code: (1) aggravated assault, (2) sexual assault, (3) aggravated sexual assault, (4) arson, (5) murder, (6) capital murder, (7) criminal attempt to commit murder or capital murder, (8) indecency with a child (9) aggravated kidnapping, (10) aggravated robbery, (11) manslaughter, (12) criminally negligent homicide, or (13) continuous sexual abuse of a young child or **childrendisabled individual**.
- Sells, gives, delivers, possesses, uses, or is under the influence of marijuana, a controlled substance (see ***glossary***), a dangerous drug (see ***glossary***), or an alcoholic beverage (see ***glossary***) if the behavior is punishable as a felony
- Commits a serious act or offense while under the influence of an alcoholic beverage if the behavior is punishable as a felony
- Possesses a location restricted knife
- Engages in serious misbehavior, while in a Disciplinary Alternative Education Program (DAEP), DEP or expelled, as defined by TEC §37.007(c).

Regardless of Location (Mandatory Expulsion)

A student shall be recommended for an expulsion if the student engages in the following misconduct, regardless of whether the conduct occurred on or off campus.

- Retaliates against a school employee or volunteer by committing a state-mandated expellable offense

Reasons for Discretionary Expulsion

Some of the following types of conduct may result in mandatory placement in a DAEP, whether or not a student is expelled.

At School

A student shall be recommended for expulsion for engaging in documented serious misbehavior (see ***glossary***) while the student is placed in DAEP and on the DAEP site/campus despite documented behavioral interventions.

School-Related

Three Hundred Feet

Additionally, a student may be recommended for expulsion for any of the following offenses that occur within 300 feet of school property as measured from any point on the District's real property boundary line:

- Possesses a **firearm**, as defined by federal law (see ***glossary***)
- Uses, exhibits, or possesses the following items, as defined by state law: (1) a firearm*, (2) a location-restricted knife, or (4) a prohibited weapon. (See ***glossary***). * See "Firearm Note" in mandatory expulsion section above
- Engages in the following misconduct as defined in the Texas Penal Code: (1) aggravated assault, (2) sexual assault, (3) aggravated sexual assault, (4) arson, (5) murder, (6) capital murder, (7) criminal attempt to commit murder or capital murder, (8) indecency with a child, (9) aggravated kidnapping, (10) aggravated robbery, (11) manslaughter, (12) criminally negligent homicide, or (13) continuous sexual abuse of a young child or children

Regardless of Location (Discretionary Expulsion)

A student may be recommended for expulsion if the student engages in the following misconduct, regardless of whether the conduct occurred on or off campus:

- Engages in bullying that encourages a student to commit or attempt to commit suicide
- Incites violence against a student through group bullying
- Releases or threatens to release intimate visual material of a minor who is 18 years of age or older without the student's consent
- Commits aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, criminal attempt to commit murder or capital murder, or aggravated robbery against another student
- Retaliates against a school employee or volunteer by committing an assault (see ***glossary***) resulting in bodily injury
- Engages in criminal mischief if the damage is \$2,500 or more, or is punishable as a felony
- Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school
- Engages in breach of computer security by accessing a computer, computer network or computer system owned by or operated on behalf of a school district and knowingly alters, damages, or deletes school district property or information or breaches any other computer, computer network, or computer system
- Commits a state-mandated expellable offense on the school property of another Texas school district or while attending a school-sponsored or school-related activity of another Texas school district

Title 5 Felonies Regardless of Location

In addition to the expellable conduct listed above, a student may also be expelled and placed in Juvenile Justice Alternative Education Program (JJAEP) if the student:

- Issues a false alarm or report, including a bomb threat (*see glossary*) or a terroristic threat (*see glossary*) involving a public school
- Is arrested for a Title 5 felony (*see glossary*) or aggravated robbery
- Is charged with engaging in a Title 5 felony or aggravated robbery
- Received deferred adjudication or deferred prosecution for a Title 5 felony or aggravated robbery
- Is on probation for a Title 5 felony or aggravated robbery
- Was found by a court or jury to have engaged in delinquent conduct for a Title 5 felony or aggravated robbery
- Has been referred to a juvenile court for delinquent conduct based on a Title 5 felony or aggravated robbery or
- Was convicted of a Title 5 felony or aggravated robbery and the CBC or administrator determines the student's presence in the regular classroom either threatens the safety of other
- Students or teachers, is detrimental to the educational process, or is not in the best interests of the District's students.

In this circumstance, expulsion to an alternative setting may be ordered regardless of (1) the date on which the conduct occurred, (2) the location at which the conduct occurred, (3) whether the student was enrolled in the District at the time the conduct occurred, or (4) whether the student successfully completed any court disposition requirements regarding the conduct.

A student may be subject to an expulsion under this circumstance until (1) the student graduates from high school, (2) the charges are dismissed or reduced to a misdemeanor, (3) the student completes the term of the placement, or (4) the District assigns the student to another program. The student will be entitled to the same periodic review afforded to other students in alternate settings. An expulsion ordered in this case is final and may not be appealed beyond the Board of Trustees.

Emergency Expulsion

The CBC or administrator may order the immediate expulsion of a student if the CBC or administrator reasonably believes the emergency expulsion is necessary to protect persons or property from imminent harm. The reason for the emergency expulsion must also be a reason for which expulsion could be ordered on a non-emergency basis. At the time of the emergency expulsion, the student will be told the reason for the action. No later than the tenth day after the date of emergency expulsion, the student will be given a hearing as required for a regular expulsion; see below.

Procedures for Expulsion

Due Process Hearing

Before a student may be expelled, the Superintendent or designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the U.S. Constitution and which the student's parent/guardian is invited, in writing, to attend. TEC §37.009(f) The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing. The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her, and an oral or written report on the facts to which each witness testifies. After making an effort to inform the student and parent/guardian of the hearing, the District may hold the hearing regardless of whether the student or the student's parent/guardian attends. At the hearing, the student is entitled to:

- Representation by an adult, including the student's parent/guardian, who can provide guidance to the student and who is not an employee of the District;
- An opportunity to question the District's witnesses; and
- An opportunity to testify and to review and present evidence and witnesses in the student's

defense

Additional proceedings may be conducted and additional discipline may be imposed if the student engages in additional misconduct while the student is already expelled.

Interim Placement

Until an expulsion hearing can be held, the student may be placed in another appropriate classroom, in-school suspension, or out-of-school suspension.

Expulsion Order

If the outcome of the expulsion hearing is that the student will be expelled, the Superintendent or designee who conducted the hearing will issue an expulsion order and provide a copy to the student and the student's parent/guardian. If the duration of the expulsion differs from the guidelines in this Code, the expulsion order will give notice of the inconsistency. The district will send a copy of the expulsion order to the juvenile court not later than the second business day after the expulsion hearing. A copy of the expulsion order will be included with any records sent to a school where the student seeks to enroll. The enrolling school district has discretion to enforce the expulsion order.

Length of Expulsion

The duration of the expulsion will be determined on a case-by-case basis using the criteria identified in the "Discipline Considerations" section of this Code. Both mandatory and discretionary expulsions will result in expulsion for up to one calendar year. Students who bring a firearm (as defined by federal law) to school will be expelled from the regular classroom for at least one calendar year except as modified by the CBC or administrator on a case-by-case basis.

An expulsion will not exceed one calendar year unless, after review, the District determines that: (1) the student is a threat to the safety of other students or to District employees; or (2) extended expulsion is in the best interest of the district's students. Students expelled at the end of one school year may be required to complete the term of their expulsion at the beginning of the next school year.

District Expulsion Program (DEP)

The District Expulsion Program is a self-contained, separate disciplinary placement from the DAEP that maintains the expelled student on the FBISD alternative campus rather than placed off site at the JJAEP. This expulsion option is available for consideration by the expulsion hearing officer when a student has an extenuating circumstance that makes placement at the JJAEP inappropriate.

OTHER EXPULSION ISSUES

Academic Impact

Students will not receive academic credit for work missed during the period of expulsion unless the student is enrolled in a Juvenile Justice Alternative Education Program (JJAEP), District Expulsion Program (DEP), or other District-approved program or as required by the IDEA or Section 504.

Participation in Activities

Expelled students are prohibited from being on school grounds, attending, or participating in school-sponsored or school-related activities while expelled.

Age Restrictions

Students under the age of ten that engage in expellable behavior will not be expelled, but will be placed in DAEP. A student under age six shall not be placed in a DAEP, unless the student commits a federal firearm offense. Contact the Department of Student Affairs for more information.

Effect of Student Withdrawal

If a student withdraws from the district before the expulsion hearing is conducted, the District may proceed with conducting the hearing after sending written notice to the parent/guardian and student. Both the offense and any disciplinary action must be entered into the PEIMS database system prior to the student withdrawing from the campus. If the student re-enrolls during the same or subsequent school year, the District may enforce the expulsion order at that time; students will be credited for any expulsion period that was served by the student while enrolled in another district. If the district does not issue an expulsion order after the student withdraws, the next district in which the student enrolls may complete the proceedings and issue an expulsion order.

Student Transfers

The district will continue the expulsion of students expelled either from another Texas school district or from an out-of-state school district for behavior that is also a reason for expulsion in the enrolling district, until the term of expulsion has been served. If the out-of-state expulsion exceeds one year, the district will reduce the period of the expulsion so that the total expulsion does not exceed one year unless the district determines that the student is a threat to the safety of others or extended placement is in the best interest of the district's students.

State and Federal Law require one calendar year expulsion for possession of a firearm on campus. The Superintendent can modify this requirement on a case-by-case basis.

Newly Enrolled Students

The District shall continue the expulsion of any newly enrolled student expelled from another district or an open-enrollment charter school until the period of the expulsion is complete. If a student expelled in another state enrolls in the District, the District may continue the expulsion under the terms of the expulsion order, may place the student in a DAEP for the period specified in the order or may allow the student to attend regular classes if

- The out-of-state district provides the District with a copy of the expulsion order; and
- The offense resulting in the expulsion is also an expellable offense in the district in which the student is enrolling

If a student is expelled by a district in another state for a period that exceeds one year and the District continues the expulsion or places the student in a DAEP, the District shall reduce the period of the expulsion or DAEP placement so that the entire period does not exceed one year, unless after review it is determined that

- The student is a threat to the safety of other students or District employees; or
- Extended placement is in the best interest of the district's students

Expulsion while in DAEP

A student may be recommended for an expulsion for engaging in documented serious misbehavior that violated this Code, despite documented behavioral interventions while placed in a DAEP. A student who is expelled for an offense that otherwise would have resulted in a DAEP placement does not have to be placed in a DAEP in addition to the expulsion. For purposes of discretionary expulsion from a DAEP, serious misbehavior means:

- Deliberate violent behavior that poses a direct threat to the health or safety of others;
- Extortion, meaning the gaining of money or other property by force or threat;
- Conduct that constitutes coercion, as defined by §1.07, Tex. Penal Code; or
- Conduct that constitutes the offense of: public lewdness, indecent exposure, criminal mischief, personal hazing or harassment

Appeal Expulsion Appeal Process

Questions from parents/guardians regarding disciplinary measures should be addressed to the teacher, campus administration, or CBC, as appropriate. Appeals or complaints regarding the use of specific discipline

techniques should be addressed in accordance with Policy FNG (Local). The policy may be obtained from the Board Policy Manual on the FBISD website at <https://www.fortbendisd.com/domain/83>. The district shall not delay a disciplinary consequence while a student or parent/guardian pursues a grievance.

The ~~CBC's or administrator's~~expulsion hearing officers decision may be appealed to the Board. In the event of an appeal, at the next scheduled meeting the Board will: (1) review the notice, (2) hear statements from the student, the student's parent/guardian, and the CBC or administrator, and (3) confirm or reverse the decision of the CBC or administrator.

After the due process hearing, the expelled student may request that the Board review the expulsion decision. The student or parent/guardian must submit a written request to the Superintendent within seven days after receipt of the written decision. The Superintendent must provide the student or parent/guardian written notice of the date, time, and location of the meeting at which the board will review the decision.

The Board shall review the record of the expulsion hearing in a closed meeting unless the parent/guardian requests in writing that the matter be held in an open meeting. The Board may also hear a statement from the student or parent/guardian and from the Board's designee.

The Board shall hear statements made by the parties at the review and will base its decision on evidence reflected in the record and any statements made by the parties at the review. The Board shall make and communicate its decision orally at the conclusion of the presentation. Consequences shall not be deferred pending the outcome of the appeal.

If the Board confirms the decision of the ~~CBC or administrator~~hearing officer, the student and the student's parent/guardian have the right to appeal to the Commissioner of Education. The student may not be returned to the regular classroom while the appeal is pending.*

~~Questions from parents/guardians regarding disciplinary measures should be addressed to the teacher, campus administration, or CBC, as appropriate. Appeals or complaints regarding the use of specific discipline techniques should be addressed in accordance with Policy FNG(Local). The policy may be obtained from the Board Policy Manual on the FBISD website at <https://www.fortbendisd.com/domain/83>. The district shall not delay a disciplinary consequence while a student or parent/guardian pursues a grievance.~~

Expulsion Appeals to the Board

~~After the due process hearing, the expelled student may request that the Board review the expulsion decision. The student or parent/guardian must submit a written request to the Superintendent within seven days after receipt of the written decision. The Superintendent must provide the student or parent/guardian written notice of the date, time, and location of the meeting at which the board will review the decision.~~

~~The Board shall review the record of the expulsion hearing in a closed meeting unless the parent/guardian requests in writing that the matter be held in an open meeting. The Board may also hear a statement from the student or parent/guardian and from the Board's designee.~~

~~The Board shall hear statements made by the parties at the review and will base its decision on evidence reflected in the record and any statements made by the parties at the review. The Board shall make and communicate its decision orally at the conclusion of the presentation. Consequences shall not be deferred pending the outcome of the appeal.~~

PARTICULAR RULES FOR REGISTERED SEX OFFENDERS

The general rules for DAEP placement apply to students who are registered sex offenders (see ***glossary***) except as modified in this section.

Under Court Supervision Placement

Registered sex offenders will be placed in a Juvenile Justice Alternative Education Program (JJAEP) rather than DAEP if (1) ordered to attend JJAEP by a court or (2) if permitted by agreement between the District and the JJAEP.

Registered sex offenders under court supervision that transfer into the District will be required to complete the DAEP assignment assessed by the previous school district, but will receive credit for any time already spent in DAEP or may require an additional semester in an alternative placement without conducting a review of the placement.

Not Under Court Supervision Placement

Registered sex offenders who are not under court supervision that transfer into the District will be required to complete the DAEP assignment assessed by the previous school district, but will receive credit for any time already spent in DAEP. If the student is under any form of court supervision, including probation, community supervision, or parole, the placement shall be in either DAEP or JJAEP for at least one semester. If the student is not under any court supervision, the placement may be in DAEP or JJAEP for one semester.

Review Committee for Registered Sex Offenders

At the end of the first semester of a student's placement in an alternative educational setting and before the beginning of each school year for which the student remains in an alternative placement, the District shall convene a committee, in accordance with state law, to review the student's placement. The review committee shall determine the student's placement by majority vote and recommend to the Board or designee whether the student should remain in alternative educational setting or be returned to the regular classroom. Absent a special finding, the Board or its designee must follow the committee's recommendation. The Executive Director of Student Affairs shall not return the student to the regular classroom if the student is a threat to the safety of others, is detrimental to the educational process, or is not in the best interests of the District's students. If the student remains in DAEP, the review committee will reconsider the student's placement before the beginning of the next school year.

Appeals for Registered Sex Offenders

~~Placement in an alternative educational setting may be appealed as described in Policy FNG (Local) and Policy FOC (Local). A student or the student's parent may appeal the placement by requesting a conference with the Department of Student Affairs, the student, and the student's parent. The conference is limited to the factual question of whether the student is required to register as a sex offender. Any decision of the Department of Student Affairs, under this section is final and may not be appealed.~~ However, the appeal is limited to the factual question of whether the student should be returned to the regular classroom. A decision of the Board is final and may not be appealed.

STUDENTS WITH DISABILITIES

The discipline of students with disabilities is subject to the applicable federal and state law in addition to this Code. To the extent that any conflict exists, the federal and/or state law shall prevail.

Generally, a student with a disability cannot be suspended from school for more than 10 days if the misconduct was a manifestation of his/her disability. School personnel may remove a student with a disability who violates this Code from his/her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities). If the ARD committee determines that the student's disruptive behavior is a manifestation of the student's disability, the student shall not be removed from the instructional setting.

A manifestation of the student's disability occurs when the disruptive behavior is caused by, or has a direct and substantial relationship to, the child's disability, or is the direct result of the district's failure to implement the student's Individualized Education Plan (IEP). If the disruptive behavior on the part of the student indicates it is related to the student's disability and the ARD committee determines that the student is in an inappropriate placement, the ARD committee shall review the placement and recommend alternatives. If the ARD committee determines that the behavior was related to the disability, it shall revise the IEP to address the student's behavior and educational need.

If the student's misconduct includes bringing a weapon or drugs to school, or the student has inflicted serious bodily injury on someone at school or at a school function, then different rules governing removal of a student with a disability apply. In such circumstances, the district may unilaterally place a student with a disability in an interim alternative educational setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability.

For a student not previously identified by the district as a student potentially in need of special education, a parent/guardian may request an evaluation. A due process hearing after a disciplinary removal has commenced does not obligate the District to return the student to the pre-discipline placement. The educational placement that will be subject to the "stay-put" provision will be the disciplinary placement, which shall continue until either the resolution of due process proceedings, completion or consideration of evaluation data by the ARD committee, or expiration of the disciplinary sanction term, whichever may apply.

A student with a disability who has brought a firearm to school may be placed in an interim alternative educational setting for up to 45 calendar days by an ARD meeting. However, if the student's parents/guardians initiate a due process hearing and if the parties cannot agree on another placement, the student must remain in that interim placement during the authorized review proceedings. In this situation, the student could remain in the interim alternative education setting for more than 45 calendar days. For more information, please review the Special Education Administrative Procedures <https://www.fortbendisd.com/Domain/77> posted on the District's website.

GLOSSARY

ABUSABLE VOLATILE CHEMICALS: Those substances defined in Health and Safety Code §485.001.

AGGRAVATED ROBBERY: Defined in part by Penal Code 29.03 (a) as when a person commits robbery and: causes serious bodily injury to another, uses or exhibits a deadly weapon; causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death if the other person is 65 years of age or older or is a disabled person.

ALCOHOLIC BEVERAGE: Those substances defined in Alcoholic Beverage Code §1.04.

ARMOR-PIERCING AMMUNITION: Handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols, revolvers or other firearms.

ASSAULT: intentionally, knowingly, or recklessly causing bodily injury to another or intentionally or knowingly threatening another with imminent bodily injury or intentionally or knowingly causing physical contact with another that can reasonably be regarded as offensive or provocative. Penal Code §22.01(a)(1) and (a)(3)

BODILY INJURY: Physical pain, illness, or impairment of a physical condition.

BREACH OF COMPUTER SECURITY: includes knowingly accessing a computer, computer network, or computer system without the effective consent of the owner as defined in Penal Code §33.02, if the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and the student knowingly alters, damages, or deletes school district property or information; or commits a breach of any other computer, computer network, or computer system.

BULLYING: Defined in TEC §37.0832 as a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and occurs when a student or group of students engages in written or verbal expression, expression through electronic means, or physical conduct against another student that:

- Has the effect or will have the effect of physically harming a student, or damaging the student's property; or
- Places a student in reasonable fear of physical harm to the student's person;
- Is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
- Materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or
- Infringes on the rights of the targeted student at school.

Bullying includes cyberbullying, which means

- Bullying that occurs on or is delivered to school property or to the site of a school sponsored or school-related activity on or off school property;
- Bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and
- Cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying interferes with a student's educational opportunities or substantially disrupts the orderly operation of a classroom, school, or school sponsored or school related activity.

CHARGE: A charge is a formal accusation made by a governmental authority (usually a grand jury) finding that based upon the evidence presented to it, there is probable cause to believe that a crime has been committed by a criminal suspect

CHEMICAL DISPENSING DEVICE: A device other than a small chemical dispenser sold commercially for personal protection that is designed, made, or adapted for the purpose of dispensing a substance capable of causing an adverse psychological or physiological effect on an individual.

CLUB: An instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death. A blackjack nightstick, mace, and tomahawk are also considered in the category.

CONTROLLED SUBSTANCE: includes the aggregate weight of any mixture, solution, or other substance containing a substance, including a drug, adulterant, and dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 1-B, 2, 2-A, 3, or 4 of the Controlled Substances Act. The term does not include hemp, as defined by Agriculture Code §121.001, or the tetrahydrocannabinols (THC) in hemp.

CRIMINAL STREET GANG: Three or more persons having a common identifying sign or symbol or an identifiable leadership which continuously or regularly associate in the commission of criminal activities as defined by Penal Code §71.01

CYBERBULLYING: Defined by TEC §37.0832 as bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an internet website, or any other internet-based communication tool.

DANGEROUS DRUG: Dangerous drug is defined by Health and Safety Code §483.001 as a device or a drug that is unsafe for self-medication and that is not included in Schedules I through V or Penalty Groups 1 through 4 of the Texas Controlled Substances Act. The term includes a device or drug that federal law prohibits dispensing without prescription or restricts to use by or on the order of a licensed veterinarian.

DATING VIOLENCE: occurs when a person in a current or past dating relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person in the relationship. Dating violence also occurs when a person commits these acts against a person in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense, as defined by Family Code §71.0021.

DEADLY CONDUCT: When a person recklessly engages in conduct that places another in imminent danger of serious bodily injury or by knowingly discharging a firearm in the direction of an individual, habitation, building, or vehicle.

DEFERRED ADJUDICATION: An alternative to seeking a conviction in court that may be offered to a juvenile for delinquent conduct or conduct indicating a need for supervision; may be referred to as deferred prosecution.

DELINQUENT CONDUCT: Conduct that violates either state or federal law and is punishable by imprisonment or confinement in jail. It includes conduct that violates certain juvenile court orders, including probation orders, but does not include violations of traffic laws.

DISCRETIONARY: Authority or responsibility to exercise discretion in making judgments and assigning disciplinary consequences in the best of the students and of the district.

E-CIGARETTE: An electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device or a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described by this provision. The term includes any device that is manufactured, distributed, or sold as an e-cigarette, e-cigar, vape, or e-pipe or under another product name or description and a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

EXPLOSIVE WEAPON: Any explosive or incendiary bomb, grenade, rocket, or mine and its delivery mechanism that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or

substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror.

FALSE ALARM OR REPORT: Knowingly initiating, communicating, or circulating a report of a present, past, or future bombing, fire, offense, or other emergency that is known to be false or baseless and that would ordinarily:

1. cause action by an official or volunteer agency organized to deal with emergencies;
2. place a person in fear of imminent serious bodily injury; or
3. prevent or interrupt the occupation of a building, room, place of assembly, publicly accessible place, or mode of conveyance such as an automobile.

FIGHTING: Two or more persons engaged in any mutual violent or physically aggressive contact toward each other such as scuffling, pushing, shoving, or hitting.

FIREARM (federal law): (1) any weapon, including a starter gun, that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; (2) the frame or receiver of any such weapon; (3) any firearm muffler or firearm ~~weaponsilencer, defined as any device for silencing, muffling, or diminishing the report of a portable firearm;~~ or (4) any destructive device, such as any explosive, incendiary or poison gas bomb, grenade, missile, rocket, or mine.

~~**FIREARM SILENCER:** Any device designed, made, or adapted to muffle the report of a firearm.~~

GANG: An organization, combination, or association of persons composed wholly or in part of students that (1) seeks to perpetuate itself by taking in additional members on the basis of the decision of the membership rather than on the free choice of the individual, or (2) that engages in illegal and/or violent activities. In identifying gangs and associated gang attire, signs, or symbols, the district will consult with law enforcement authorities.

GRAFFITI: Includes markings with paint, an indelible pen or marker, or an etching or engraving device on tangible property without the effective consent of the owner. The markings may include inscriptions, slogans, drawings, or paintings.

HARASSMENT:

1. Conduct that threatens to cause harm or bodily injury to another person, including a student, district employee, Board member, or volunteer, is sexually intimidating, causes physical damage to the property of another student, subjects another student to physical confinement or restraint, or maliciously and substantially harms another student's physical or emotional health or safety, as defined in TEC §37.001(b)(2); or
2. Conduct that is punishable as a crime under Penal Code §42.07, including the following types of conduct if carried out with the intent to harass, annoy, alarm, abuse, torment, or embarrass another:
 - a. Initiating communication and, in the course of the communication, making a comment, request, suggestion, or proposal that is obscene, as defined by law;
 - b. Threatening, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;
 - c. Conveying, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury; ~~and~~
 - d. Sending repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another; and-
 - d.e. Publishing on an internet website, including a social media platform, repeated electronic communications in a manner reasonable likely to cause emotional distress, abuse or torment to another person, unless the communications are made in connection with a matter of

public concern, as defined by law.

HAZING: an intentional, knowing, or reckless act, on or off campus, by one person alone or acting with others, that endangers the mental or physical health or safety of a student directed against a student for the purpose of pledging, initiation into, affiliation with, holding office in, or maintaining membership in a student organization, group, student government, or teams if the act meets the elements in TEC §37.151, including:

1. Any type of physical brutality;
2. An activity that subjects the student to an unreasonable risk of harm or that adversely affects the student's mental or physical health, such as sleep deprivation, exposure to the elements, confinement to small spaces, calisthenics, or consumption of food, liquids, drugs, or other substances;
- ~~3.~~
- ~~4.~~3. An activity that induces, causes, or requires the student to perform a duty or task that violates the Penal Code; and
- ~~5.~~
- ~~6.~~4. Coercing a student to consume a drug or alcoholic beverage in an amount that would lead a reasonable person to believe the student is intoxicated.

HIT LIST: List of people targeted to be harmed using a firearm, knife, or any other object to be used with intent to cause bodily harm.

IMPROVISED EXPLOSIVE DEVICE: a completed and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components, as defined in Penal Code §46.01

INDECENT EXPOSURE: an offense that occurs when a person exposes the person's anus or any part of the person's genitals with intent to arouse or gratify the sexual desire of any person, and is reckless about whether another person is present who will be offended or alarmed by the act, as defined in Penal Code §21.08.

INTENT: The design, resolve, determination, or state of mind with which a person acts, ordinarily proven through inferences drawn from the act and/or circumstances surrounding the act. Intent includes the conscious objective or desire to engage in the conduct or cause the result, an awareness that the conduct is reasonably certain to cause the result, or disregard of a substantial and justifiable risk when there is an awareness that the circumstances exist or the result will occur. The fact that a student may not have been motivated by a desire to violate this Code does not preclude imposing a disciplinary consequence so long as the student intended to engage in the underlying conduct that violated this Code.

INTIMATE VISUAL MATERIALS: Intimate visual material is defined by Civil Practices and Remedies Code §98B.001 and Penal Code §21.16 as visual material that depicts a person with the person's intimate parts exposed or engaged in sexual conduct. "Visual material" means any film, photograph, video tape, negative, or slide of any photographic reproduction or any other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen.

KNUCKLES: Any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles.

LOCATION-RESTRICTED KNIFE: Defined by Penal Code §46.01(6) as a knife with a blade over 5½ inches.

LOOK-ALIKE WEAPON: An item that resembles a weapon but is not intended to be used to cause serious bodily injury.

MACHINE GUN: Any firearm capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

MANDATORY: Obligatory or required because of an authority.

PARAPHERNALIA: Any article or device used or intended for use to inject, ingest, inhale, or otherwise introduce marijuana, a controlled substance, a dangerous drug, or an alcoholic beverage into the human body, including but not limited to roach clips, rolling papers, juuls, cartridges, any vape pens/devices, needles, baggies with residue, razor blades, or pipes.

POSSESSION: To have in or on: (1) a student's person or in the student's personal property, such as the student's clothing, purse, or backpack; (2) in any conveyance used by the student for transportation to or from school or school-related activities, such as an automobile, truck, motorcycle, or bicycle; or (3) any other school property used by the student, such as a locker or desk.

PROHIBITED WEAPONS: includes the following items: armor-piercing ammunition, chemical dispensing device, improvised explosive device, explosive weapon, firearm silencer, machine gun, short-barrel firearm, zip gun, or tire deflation device.

PUBLIC LEWDNESS: An offense that occurs when a person knowingly engages in an act of sexual intercourse, deviate sexual intercourse, or sexual contact in a public place or, if not in a public place, is reckless about whether another is present who will be offended or alarmed by the act.

PUBLIC SCHOOL FRATERNITY, SORORITY, SECRET SOCIETY, OR GANG: An organization composed wholly or in part of students that seeks to perpetuate itself by taking additional members from the students enrolled in school based on a decision of its membership rather than on the free choice of a qualified student.

REASONABLE BELIEF: that which an ordinary person of average intelligence and sound mind would believe. TEC Chapter 37 requires certain disciplinary decisions when the superintendent or designee has a reasonable belief that a student engaged in conduct punishable as a felony offense. In forming such a reasonable belief, the superintendent or designee may use all available information, including the notice of a student's arrest under Article 15.27 of the Code of Criminal Procedure.

REFERRAL: A referral is a notice to a prosecutor recommending a criminal investigation.

RETALIATION: Harming or threatening to harm another (1) on account of their service as a District employee or volunteer, (2) to prevent or delay another's service to the District, or (3) because the person intends to report a crime.

SELF-DEFENSE: the use of force against another to the degree a person reasonably believes the force is immediately necessary to protect himself or herself.

SERIOUS MISBEHAVIOR: To engage in (1) deliberate violent behavior that poses a direct threat to the health or safety of others, (2) extortion to gain money or other property by force or threat, (3) coercion, meaning to threaten to either commit an offense; inflict bodily harm; accuse a person of any offense; expose a person to hatred, contempt, or ridicule; or to harm the credit of any person, or (4) conduct that constitutes the any of the following offenses:

1. public lewdness as defined in Penal Code §21.07,
2. indecent exposure as defined in Penal Code §21.08,
3. criminal mischief as defined in Penal Code §28.03,
4. hazing as defined in TEC §37.152, or
5. harassment of a student or district employee under Penal Code § 42.07(a)(1).

SEX OFFENDER: A student required to register as a sex offender for an offense committed on or after September 1, 2007 under Chapter 62 of the Code of Criminal Procedure. The term does not include a student who (1) is no longer required to register as a sex offender, (2) is exempt from registering as a sex offender, or (3) receives an early termination of the obligation to register as a sex offender under Chapter 62.

SEXUAL HARASSMENT: Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or conduct prohibited by Policy FFH (Local) or FNC (Legal) restating TEC that is so severe, persistent, or pervasive that it has the purpose or effect of substantially or unreasonably interfering with a student's performance; creates an intimidating, threatening, hostile, or offensive educational environment; affects a student's ability to participate in or benefit from an educational program or activity; or otherwise adversely affects the student's educational opportunities.

SHORT-BARREL FIREARM: A rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun if, as altered, has an overall length of less than 26 inches.

SWITCHBLADE KNIFE: Any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or other device located on the handle or opens or releases a blade from the handle or sheath by the force of gravity or centrifugal force. It does not include a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife (also known as one-handed openers or assisted openers).

TELECOMMUNICATIONS DEVICE: Any type of device that (1) emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor, or (2) permits the recording, transmission, and/or receipt of messages, voices, images, or information in any format or media, electronic or otherwise. It does not include an amateur radio under control of someone with an amateur radio license.

TERRORISTIC THREAT: Threats to commit any offense involving violence to any person or property with intent to (1) cause a reaction by an official or volunteer agency organized to deal with emergencies; (2) place any person in fear of imminent serious bodily injury; (3) prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public place; (4) cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service; (5) place the public or a substantial group of the public in fear of serious bodily injury; or (6) influence the conduct or activities of an agency of the federal or state government, or a political subdivision of the state (including the District).

TIRE DEFLATION DEVICE: A device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires.

TITLE 5 FELONY OFFENSES: Crimes that typically involve injury to a person. Criminal offenses against the person that, depending on the circumstances, may include murder; capital murder; manslaughter; criminally negligent homicide; unlawful restraint; kidnapping; aggravated kidnapping; trafficking of persons; unlawful transport; assault; aggravated assault; sexual assault; aggravated sexual assault; improper relationship between educator and student; indecency with a child; injury to a child, an elderly person, or a disabled person; abandoning or endangering a child; improper photography or visual recording; deadly conduct; terroristic threat; aiding a person to commit suicide; harassment by a person in a correctional facility; continuous sexual abuse of a young child or ~~child~~ disabled individual; and tampering with a consumer product.

UNDER THE INFLUENCE: Lacking the normal use of mental or physical faculties. Impairment of a person's physical or mental faculties may be evidenced by a pattern of abnormal or erratic behavior, the presence of physical symptoms of drug or alcohol use, or by admission. A student "under the influence" need not be legally intoxicated to trigger disciplinary action.

USE: With respect to substances, voluntarily injecting, ingesting, inhaling, or otherwise introducing a prohibited substance into the body. With respect to objects or devices, putting into action or service or carrying out an action or purpose with the object or device.

VANDALISM: Refers to willful or malicious damage to school grounds and buildings or furnishings and

equipment. Damage to property equal to or in excess of \$2500 is felony criminal mischief and requires placement in a DAEP or Expulsion.

ZIP GUN: A device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance

Appendix A: Examples of Infractions Regarding Buses			
Level I	Level II	Level III	Level IV
<ul style="list-style-type: none"> • Standing up while bus is moving • Out of assigned seat • Loud voice • Not seated “on pockets” • Gum • Food • Getting on/off at the wrong stop 	<ul style="list-style-type: none"> • Throwing objects on the bus • Arguing/disrespectful toward the bus driver • Profanity • Inappropriate physical contact • Verbal altercation with another student • Persistent Level I offenses 	<ul style="list-style-type: none"> • Profanity directed at the bus driver • Physical altercation: slapping, kicking, hitting, pushing • Throwing objects out of the bus • Throwing items at or near the bus driver • Vandalism to the bus • Any action that necessitates a delay in completing the route • Threats toward a student • Possession of a knife • Bullying • Persistent Level II offenses 	<ul style="list-style-type: none"> • PSUU of drugs, alcohol or tobacco • Assault of a student • Assault of the bus driver • Threats toward the bus driver • Possession of an illegal knife • Persistent Level III offenses

Consequences

	Elementary Grades (Pre-K to 5)	Secondary Grades (6 to 12)
Level I	Driver documents and conferences with student	Driver documents and conferences with student
First Referral Consequences		
	Elementary Grades (Pre-K to 5)	Secondary Grades (6 to 12)
Level II, First Offense	Discipline referral by Transportation to school administration and parent/guardian contact by school	Discipline referral by Transportation to school administration and parent/guardian contact by school
Level II, Additional Offenses	1 Day Bus Suspension	3 Day Bus Suspension
Level III	3 Day Bus Suspension	5 Day Bus Suspension
Level IV	5 Day Bus Suspension	10 Day Bus Suspension
Second and Third Referral Consequences***		
	Elementary Grades (Pre-K to 5)	Secondary Grades (6 to 12)

Level II	3 Day Bus Suspension	5 Day Bus Suspension
Level III	5 Day Bus Suspension	10 Day Bus Suspension
Level IV	10 Day Bus Suspension	15 Day Bus Suspension

*** Severe and repeated infractions may result in immediate and permanent bus removal.

Fort Bend ISD 2021-2022

Student Code of Conduct

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ACCESSIBILITY

If you have difficulty accessing the information in this document because of disability, please contact the Executive Director of Student Affairs at 281-634-1059 or email Sonya.SmithWatson@fortbendisd.com for assistance.

GENERAL OVERVIEW

Philosophy

The Board of Trustees has adopted a Mission Statement, a Vision Statement, Core Beliefs and Commitments, and the Profile of a Graduate [see Policy AE (Local)] that are the governing principles of the Fort Bend Independent School District. These documents express the District's dedication to providing an educational system that will enable all students to reach their full potential. To that end, the District is committed to providing a supportive climate and safe learning environment in which restorative practices are applied as a means to help students accept responsibility for their learning and behavior, and to encourage accountability for their own actions.

Scope

In adopting this Student Code of Conduct (SCC or this Code), the Board of Trustees has established rules, guidelines and procedures to further support a safe learning environment for all students. The SCC includes information regarding the District-wide behavior management plan, descriptions of prohibited conduct, the disciplinary options, methods, and consequences for preventing and addressing student misconduct and the process the District will follow when administering disciplinary consequences.

Students may be subject to campus, classroom including online learning platforms, transportation, extracurricular, and/or organizational rules in addition to those found in this Code. Students may face consequences under these additional rules as well as possible disciplinary action under the SCC. Further, to the extent a student engages in conduct that is not specifically addressed in this Code, the student may still be disciplined if the conduct disrupts or interferes with the educational process, learning environment, or school safety.

The SCC remains in effect during summer school and at all school related events and activities outside the school year until an updated version becomes effective for the next school year. If there is a conflict between the SCC and the Student/Parent Handbook, the terms of this Code will control. If there is a conflict between this Code and another District policy, the more recently adopted policy will control.

The SCC is posted on the [District's website](#) and is available at each FBISD school in the office of the campus principal or Campus Behavior Coordinator (CBC). District policies referenced in this Code are arranged in the Board Policy Manual posted on the FBISD website, <https://www.fortbendisd.com/Page/580>.

Glossary

For the purpose of this Student Code of Conduct, we have provided definitions to key words used in this Code.

Department of Student Affairs (DSA)

The Superintendent has established the Department of Student Affairs (DSA) as a resource for students and parents/guardians to understand the expectations and rules governing student conduct, and as a liaison with campus administrators to ensure the fair and equitable application of discipline for misconduct as outlined in this Code. Under the direction of the Assistant Superintendent for Student Affairs, the DSA shall provide regular training to campus administrators on this Code, monitor trends and patterns of student misconduct, and respond to student/parent complaints and appeals concerning student discipline.

Campus Behavior Coordinator (CBC)

An administrator on each campus has been designated to serve as the Campus Behavior Coordinator (CBC) or the principal may serve as the CBC. The CBC is primarily responsible for maintaining student discipline. The District maintains on its website a current list of the persons serving as a CBC on each campus. Specific contact information may be found at <https://www.fortbendisd.com/Page/242>

District and Campus Threat Assessment Teams

The District has created a District Threat Assessment Team (D-STAT) to provide guidance and assessment to campuses when dealing with substantive (serious and very serious) student threats. D-STAT will also track all threats to ensure appropriate support is provided to students and campuses and shall take appropriate action in accordance with this Code to ensure a safe and coordinated response to all student threats.

Each campus shall have a campus threat assessment team (C-STAT), coordinated by the CBC or principal, that investigates threats, creates safety plans, and develops behavior interventions to reduce the risk of violence. C-STAT teams are supported by the D-STAT for training, assessing student plans, and monitoring.

Anti-Discrimination

The District does not discriminate against students on the basis of race, sex, national origin, disability, religion, color, or ethnicity when enforcing the provisions of this Code.

Profile of a Graduate

The Profile of a Graduate, adopted by the Board of Trustees in 2017, supports the District's Mission, Vision, and Core Beliefs and Commitments by defining the qualities a student should possess upon graduation. A FBISD Graduate has a rigorous academic foundation, strong character, and is...

...equipped with skills for life.

Fort Bend ISD graduates exhibit grit and determination in all aspects of life; respect self and others; engage in healthy life choices; are literate and articulate; proficient with technology; and meaningfully and practically apply knowledge in productive ways.

...a servant leader.

Fort Bend ISD graduates demonstrate confidence while maintaining a humble and kind demeanor; prioritizing the needs of others while accepting responsibility for themselves and are accountable for their own actions; are optimistic; and strive to bring out the best in others.

...an effective communicator.

Fort Bend ISD graduates communicate clearly both orally and in writing; respectfully and actively listen to others; appropriately engage in courageous conversations; and appropriately adapt their communication style to the audience.

...a critical thinker.

Fort Bend ISD graduates are visionary and solutions-oriented problem solvers; are inquisitive and innovative; and have the courage to actively challenge conventional methods in order to improve themselves and the world around them.

...a compassionate citizen.

Fort Bend ISD graduates are empathetic to their fellow citizens, exhibiting care and concern for others; are inclusive and embrace differences; are culturally aware; actively engage in improving our diverse community; exercise their right to vote; and are dependable, respectful, trustworthy, and self-disciplined.

...a collaborative team member.

Fort Bend ISD graduates work effectively with others to achieve group goals; take actions that respect the needs and contributions of others; yield their own objectives to the goals of the team; and positively facilitate and contribute to teamwork.

...a life-long learner.

Fort Bend ISD graduates approach life with wonder and curiosity; seek opportunities to be creative; possess a thirst for knowledge and the ability to adapt to change; and are academically prepared to pursue and attain futures beyond what they can imagine.

STUDENT DRESS CODE

The District believes the Student Dress Code shall promote the attributes of the Profile of a Graduate. Therefore, students are expected to dress in a way that promotes respect for self and others, a safe learning environment, and honors the diversity of the learning community.

Students and parent/guardians may determine the student's personal dress and grooming standards, provided they comply with the general guidelines set forth in this Code and Board Policy FNCA (Local). Generally, students shall be dressed and groomed in a manner that is clean and neat, does not cause distraction from learning, and that does not disrupt the learning environment. The District prohibits pictures, emblems, or writings on clothing that advertise or depict tobacco products, alcoholic beverages, drugs, or any other prohibited substance.

In accordance with Texas Gov. Greg Abbott's Executive Order GA-36, effective June 5, 2021, students, staff, parents, and visitors will no longer be required to wear masks in schools or in District buildings. However, any individual may wear a mask if they choose to do so. Personal choice about mask wearing is always to be respected by all staff, students, parents, and visitors. Face coverings protect not only the wearer, but also significantly reduce the risk of spreading COVID-19. Guidance from the CDC, as well as local and state health agencies, recommends that people who are unvaccinated wear facial coverings.

Students must comply with the following dress and grooming standards, including in online learning platforms.

Shirts, Blouses, Sweatshirts, Sweaters, Vests

- Must touch the belt line with no revealing undergarments
- No oversized armholes, vented t-shirts, spaghetti straps, tank tops, sleeveless t-shirts, backless attire and off the shoulder tops
- No revealing midriff or undergarments while standing or sitting
- No revealing, low-cut, see-through, or too tight clothing such as spandex or lycra (no exposed cleavage)

Dresses, Jumpers, Skirts, Shorts, Skorts, Pants, and Jeans

- Dresses, jumpers, skirts, and skorts shall be worn at a length that is no more than 3" above the knee
- Shorts, jeans, and all pants shall be worn at the hip and must cover undergarments
- Shorts shall be worn at a length that is no more than 3" above the knee
- Students in kindergarten through second grade may wear shorts slightly above mid-thigh
- No leggings, tights or other clothing that is excessively tight, unless worn with a garment that covers to mid-thigh

Shoes

- Shoes shall be worn, and if designed to be tied shall be properly tied
- Elementary students shall not wear flip-flops or shoes with no back/heel strap
- Unsafe footwear is not permitted (i.e., house shoes, slippers)
- Appropriate shoes must be worn during PE/athletics classes, as well as during lab activities in science, CTE, etc.

Hair

- Hair shall be neat, clean, and well groomed, and worn in a style and color that is not distractive
- Mustaches, beards, or goatees shall be neat, clean, and well groomed, and worn in a style that is not distracting
- Drawings, icons, and/or other markings cut into or colored into the hair, including eyebrows, and not associated with required religious markings or hairstyles are not permitted

Miscellaneous

- All garments must be sized appropriately
- Proper undergarments shall be worn at all times
- Revealing clothing of any type may not be worn
- No clothing that has been ripped, torn, or cut in a way as to reveal undergarments, midriff, or cleavage
- Clothing including face coverings with profanity, obscene patches, references to alcohol, drugs, weapons or tobacco, or anything that may be construed as provocative or offensive may not be worn
- Any attire, tattoo, icons, or markings on body, e.g. bandanas, shoelaces, chains, t-shirts, etc., that is distracting, causes a disturbance, or identifies a student as part of an unauthorized group, gang, or society are not permitted that includes but is not limited to virtual background choices No pajama wear of any type except on-campus designated days
- Body piercings that are distracting or that pose a safety concern are not permitted
- No hats, caps, doo-rags, wave caps, bandanas or hoods worn indoors, except on campus designated days
- No sunglasses may be worn inside the building unless there is a medical note on file

SCOPE OF THE DISTRICT AUTHORITY AND JURISDICTION

School rules and the authority of the District to administer discipline apply whenever the interest of the District is involved, on or off school grounds, in conjunction with or independent of classes and school-sponsored activities. The District has disciplinary authority over a student:

- During the regular school day and while the student is going to and from school or a school-sponsored or school-related activity on District transportation;
- During lunch periods in which a student is allowed to leave campus;
- While the student attends any school-related activity, including online learning platforms, regardless of time or location;
- For any school-related misconduct, regardless of time or location;
- When retaliation against a school employee, Board member, or volunteer occurs or is threatened, regardless of time or location;
- When a student engages in cyberbullying, as provided by Education Code (TEC) §37.0832;
- When criminal mischief is committed on or off school property or at a school-related event;
- For certain offenses committed within 300 feet of school property as measured from any point on the school's real property boundary line;
- For certain offenses committed while on school property or while attending a school-sponsored or school-related activity of another District in Texas;
- When the student commits a felony, as provided by TEC §37.006 or §37.0081; and
- When the student is required to register as a sex offender.

Searches

Campus administrators may conduct searches of students, their belongings, and their vehicles in accordance with law and policy. Searches of students shall be conducted in a reasonable and nondiscriminatory manner.

The District may search a student's personal property, electronic equipment, or vehicle driven to school by any student and parked on school property, whether or not the student is present, when there is reasonable suspicion to believe the search will reveal articles or materials prohibited by the District or evidence of criminal activity.

Students are responsible for ensuring that any personal property, method of transportation, or school property used by the student does not contain prohibited items. Desks, lockers, District-provided technology, and similar items are the property of the District and are provided for student use as a matter of convenience. District property is subject to search or inspection at any time without notice. Students may be disciplined for possession of prohibited items discovered during a search.

The parent/guardian will be notified if any prohibited items are found. For more information, see Policy FNF (Legal), restating federal and state law, and Policy FNF (LOCAL).

An administrative search of a student is permissible when a school official has *reasonable suspicion* that a search will uncover evidence of a violation of this Code or criminal activity. Reasonable suspicion is a lower standard applicable to school administrators and requires a mere awareness of facts that there is a reason to suspect a violation of law, policy and this Code to justify a search of a student.

In criminal matters, a search is permissible only when law enforcement has *probable cause* that it is “more likely than not” a crime has occurred, is occurring, or will occur. Probable cause is a higher standard and refers to a sufficient reason based upon specific facts to believe a crime has been or will be committed or that certain property is connected with a crime.

Police Department

The District police department ensures safety and security of students, employees, and visitors, and provides protection to District facilities and property. District police officers are educators first as they have the opportunity to positively interact with students and contribute to a positive culture and climate. Police officers employed by the District shall have all the powers, privileges, and immunities and shall have the authority to all behavioral and administrative duties shall remain the responsibility of the CBC and the campus administration. For more information, see Policy CKE (Local).

Use of Trained Dogs

Students and guardians are advised that the District has adopted a policy on the use of trained dogs, as outlined below, which specifically provides that: lockers, classrooms and common areas may be sniffed by trained dogs at any time when students are not present. Vehicles parked on school property may be sniffed by trained dogs at any time. A student in possession of contraband shall be subject to appropriate disciplinary action in accordance with this Code.

The District shall use specifically trained nonaggressive dogs to sniff out and alert officials to the current presence of concealed prohibited items, illicit substances and alcohol. See Policy FNCF (Legal). This program is implemented to prevent drug and alcohol use in District schools, with the objective of maintaining a safe learning environment conducive to education. Use of trained dogs shall be unannounced and shall not be used to search students. The dogs shall be used to sniff classrooms, common areas, areas around student lockers, and where student vehicles parked are school property. If a dog alerts to a locker, a vehicle, or an item in a classroom, it may be searched by school officials.

Metal Detectors

In order to maintain a safe and secure learning environment in the District’s DAEP (Disciplinary Alternative Education Program), students shall be notified when assigned to DAEP that they shall be subject to metal detector searches when entering each day.

Reporting Criminal Conduct

Certain acts of misconduct may constitute criminal offenses in addition to violations of this Code. The CBC, school administrators, or District employees shall report crimes as required by law and shall contact local law enforcement regarding suspected criminal activity. The CBC or school administrators will cooperate with law enforcement regarding any potential criminal activity occurring on campus, within 300 feet of campus, or at a school related or school-sponsored event. Because school discipline is independent of criminal proceedings, *disciplinary consequences may not be postponed pending the outcome of any criminal proceeding or affected by the outcome of any criminal proceeding*. Further, criminal charges may be referred to the Fort Bend County District Attorney (DA) by law enforcement. Referral to the DA is a function of law enforcement and not a function of school-based discipline. The campus should consult with the Department of Student Affairs when considering DAEP/expulsions for offenses committed off-campus.

DISCIPLINE CONSIDERATIONS & TECHNIQUES

Discipline of Students in Special Programs

Students eligible for services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 are subject to discipline in accordance with those laws. In accordance with the Education Code, a student who receives special education services may not be disciplined for conduct prohibited by this Code until an ARD meeting has been held to review the conduct. In deciding whether to order suspension, DAEP placement, or expulsion, regardless of whether the action is mandatory or discretionary, the District shall take into consideration a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct. For more information, please review the Special Education Administrative Procedures <https://www.fortbendisd.com/Domain/77> posted on the District's website or contact the Executive Director of Special Education and Learning Support Services.

If the District takes disciplinary action that constitutes a change of placement for a student with a disability, the District has 10 days after the change in placement to:

- Seek consent from the parent to conduct a functional behavior assessment (FBA) if the student has never had an FBA or the existing FBA is more than one year old,
- Review any previous FBA's and/or behavior intervention improvement plans (BIP), and
- Develop a BIP or revise the existing one, as necessary.

Discipline Considerations

To ensure that discipline is appropriate and equitable, any campus and/or personnel assigning a consequence must take into consideration the following factors:

- Whether the student acted in self-defense (see ***glossary***),
- Whether the student had intent or lack of intent at the time the student engaged in the conduct,
- The student's disciplinary history,
- Whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,
- Whether the student is in the conservatorship of the Department of Family and Protective Services (foster care), or
- Whether the student is homeless.

Additionally the degree and duration of the consequence must take into consideration factors including but not limited to:

- The effect of the conduct on the school environment
- The degree of severity and risk of danger
- The age and grade level of the student
- The frequency of the conduct
- The student's demeanor

Discipline Techniques

Discipline shall be designed to improve conduct and to encourage students to adhere to their responsibilities as members of the school community. Disciplinary action shall draw on the professional judgment of teachers and administrators, and on a range of discipline techniques, including restorative practices. Corporal punishment is not permitted in FBISD. [See Policy FO (Local)] The following are examples of approved discipline techniques:

- Restorative discipline practices
- Positive Behavior Interventions and Supports (PBIS)
- Verbal or written correction
- Seating changes within the classroom or on vehicles owned or operated by the District

- Parent/guardian conferences
- Counseling or mediation
- Removal from the classroom
- Behavior modification contracts
- Sending the student to the office or other area
- Assignment of school-related tasks or duties
- Other methods, strategies, and consequences as stated in this Code or determined by school officials
- Calming-down time period, in accordance with the law
- Demerits or rewards
- In-School suspension
- Confiscation of items
- Out-of-School suspension
- Muting in online learning platforms
- Restitution or restoration
- Disciplinary Alternative Education Program (DAEP)
- Temporary assignment to an alternate setting
- Transfer to a different classroom or campus
- Revocation of transportation privileges
- Consequences identified in co-curricular or extracurricular constitutions, bylaws or handbooks
- Loss or restriction of privileges, including participation or membership in co-curricular or extracurricular activities, seeking or holding honorary positions, or speaking at school activities
- Grade reductions for academic dishonesty, such as cheating, impersonation, and plagiarism; [see Policy EIA(Local)]
- Detention, including outside regular school hours
- Assignment of school duties, such as cleaning or picking up litter
- Revocation of student transfer for any violation resulting in ISS, OSS, DAEP, or an expulsion, except transfers approved under PEG (Public Education Grant) or other Federal or State guidelines may not be revoked. DSA may revoke the transfer at the end of the school year in which the student was approved
- Expulsion

Prohibited Aversive Techniques

Aversive techniques are defined as techniques or interventions intended to reduce the reoccurrence of a behavior by intentionally inflicting significant physical or emotional discomfort or pain. Aversive techniques are prohibited for use with students. Aversive techniques include but are not limited to:

- Inhibiting, reducing, or hindering the student's ability to communicate
- Using time-out in a manner that prevents the student from being able to be involved in and progress appropriately in the required curriculum or any applicable individualized education program (IEP) goals, including isolating the student by the use of physical barriers
- Using techniques designed or likely to cause physical pain, other than corporal punishment as permitted by District policy. [See Policy FO (Local)]
- Using techniques designed or likely to cause physical pain by electric shock or any procedure involving pressure points or joint locks.
- Denying adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility.
- Directed release of noxious, toxic, or unpleasant spray, mist, or substance near a student's face.
- Ridiculing or demeaning a student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse.
- Employing a device, material, or object that immobilizes all four of a student's extremities, including prone or supine floor restraint.
- Impairing the student's breathing, including applying pressure to the student's torso or neck or placing something in, on, or over the student's mouth or nose or covering the student's face.
- Restricting the student's circulation.
- Securing the student to a stationary object while the student is standing or sitting.
- Using chemical restraints.

Notice of Disciplinary Action

The CBC shall promptly notify a student's parent/guardian by phone, email or in person of any violation that may result in In-School Suspension (ISS), Out of School Suspension (OSS), Disciplinary Alternative Education Placement (DAEP), Juvenile Justice Alternative Education Placement (JJAEP) or expulsion.

Before the principal or appropriate administrator assigns a student under age 18 to detention outside regular school hours, notice shall be given to the student's parent/guardian to inform the parent/guardian of the reason for the detention and make transportation arrangements if necessary.

The CBC shall also notify a student's parent/guardian if the student is taken into custody by a law enforcement officer. A good faith effort shall be made on the day the student is taken into custody to provide to the student's parent/guardian, written notification of the action. If the parent/guardian has not been reached by telephone, email or in person by 5:00 p.m. of the first business day after the day the action was taken, the CBC shall send written notification by U.S. Mail. If the campus behavior coordinator is not able to provide notice to the parent/guardian, the principal or designee shall provide the notice.

DAEP Appeals

Questions from parents/guardians regarding disciplinary measures should be addressed to the teacher, CBC or campus administration. Depending on the discipline assigned, different complaint procedures may apply. See Policy FNG (Local) and Policy FOD (Local). Timelines for filing appeals stated in policy will be enforced.

The student or parent/guardian appeals regarding the process used for a DAEP placement or an expulsion decision, such as issues related to the disciplinary conference or proper notice being provided, should be addressed in accordance with Policy FNG(Local) and Policy FOC (Legal), restating sections of the TEC, Chapter 37 and the Penal Code. Appeals shall begin at Level One with the Department of Student Affairs. The policy may be obtained from the DSA or the District's website. Disciplinary consequences shall not be delayed or deferred pending the outcome of an appeal. Further, the decision cannot be appealed beyond the Board.

If during the term of DAEP placement, the student engages in additional misconduct, additional disciplinary conferences may be conducted and additional days to current assignment may be imposed with the approval of the Executive Director of Student Affairs or designee.

In the instance of a student who is accused of conduct that meets the definition of sexual harassment as defined by Title IX, the District will comply with applicable federal law, including the Title IX formal complaint process. FFH (Legal) and (LOCAL)

Effect of Student Withdrawal

Withdrawal from school after a student has been accused of violating this Code will not prevent the District from investigating the alleged violation and, if it is determined that a violation did occur, assessing the appropriate disciplinary consequence and enforcing that consequence should the student re-enroll in the District. The offense and any disciplinary action shall be entered into the FBISD Student Information System/PEIMS database prior to the student withdrawing from the campus.

Participation in Graduation Activities

The District has the right to limit a student's participation in graduation activities for violating this Code. If it is determined by the administration that any senior, during the final grading period, participates in an activity on school property or in connection with any school sponsored activity that violated this Code including, but not limited to, "senior pranks", in addition to being subject to disciplinary consequences may, at the discretion of the Superintendent or the Assistant Superintendent, be prohibited from participating in year-end graduation ceremonies. This includes, but is not limited to, commencement, prom, Pro-Grad as well as other senior privileges. The campus principal shall notify parents/guardians if it is determined that the student will not participate in any or all graduation activities.

Disqualification from Graduation Activities. If a senior is charged with a felony violation of the Penal Code, and the Superintendent or has a reasonable belief that a criminal violation has occurred, the student, in addition to being subject to disciplinary consequences specified in this Code, shall be automatically disqualified from participating in graduation ceremonies, including commencement, prom and Pro-Grad.

It is important to note the difference between a charge and a referral. A referral (see ***glossary***) is a notice to the District Attorney or other prosecutor recommending a criminal investigation. A charge (see ***glossary***) is a formal accusation made by a governmental authority (usually a grand jury) finding that based upon the evidence presented to it, there is probable cause to believe that a crime has been committed by a criminal suspect.

For a student who is referred for a felony or misdemeanor and charges are expected, and there is reasonable belief that a criminal offense has occurred, approval for non-participation in graduation activities must be given by the Superintendent or designee. The campus principal shall notify parents/guardians if determined that the student will not participate in any or all graduation activities.

Student Speakers at Graduation

Students eligible to have a speaking role at graduation shall be notified by the campus principal. Notwithstanding any other eligibility requirements, in order to be considered eligible, a student shall not have engaged in any misconduct that resulted in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation. See policy FNA (LOCAL).

GENERAL CONDUCT VIOLATIONS

Misconduct Involving Others

Misconduct identified in the list of prohibited behaviors below will result in the assignment of one or more discipline techniques if the behavior is committed at school, in online learning platforms, a school-sponsored or school related activity, during school-related travel, while traveling on District-owned or operated transportation, or when the District has disciplinary authority as described in this Code.

- Engaging in conduct that can cause bodily injury (see ***glossary***)
- Horseplay, roughhousing, and other playful behavior that, though not intended to harm, presents a reasonable risk of harm or threatens the safety of others.
- Fighting (see ***glossary***)
- Forcing an unwilling person to act or not act or obtaining money or another object of value from an unwilling person through duress, threats, force, extortion, coercion, or blackmail
- Subjecting a student or District employee, official, or volunteer to physical harm, confinement or restraint
- Bullying or cyberbullying, [See Policy FFI (Legal)]
- Name-calling, ethnic or racial slurs, or derogatory statements that school employees reasonably believe could substantially disrupt the school environment or incite violence
- Adding any substance, whether harmful or not, without permission to any food or beverages belonging to, in the possession of, or meant to be consumed by another student or District employee, official, or volunteer
- Engaging in harassment (see ***glossary***) toward another student or a District employee, official, or volunteer, including harassment based on race, color, religion, national origin, disability, sex, gender (including, but not limited to, sexual identity/orientation), or age,
- Engaging in sexual harassment (see ***glossary***), sexual abuse, or conduct that constitutes dating violence [See Policy FFH (Legal)]
- Release or threaten to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- Inappropriate verbal (oral or written), physical, or sexual contact toward another student or a District employee, official, or volunteer, regardless of whether it is consensual
- Engaging in inappropriate or indecent exposure of private body parts or touching one's own private body parts in a sexual manner Consensual hugging, touching, or other displays of affection that interfere with, detract from, or disrupt the school environment

- Engaging in physical, sexual, verbal, or emotional abuse as a means to harm, threaten, intimidate, or control another person in a current or past dating relationship
- Engaging in oral or written threats to cause harm or bodily injury (see ***glossary***) to another student, a District employee, official, or volunteer, or school property, including threats made using the internet or other technology resources at school. Students may be disciplined for threats made outside of school, including websites or internet postings, if the threat causes a material or substantial disruption at school.
- Making hit lists (see ***glossary***)
- Wrongfully obtaining and using another person's identifying information or personal data without permission in order to mislead, defraud, or deceive
- Hazing (see ***glossary***)
- Retaliating against a student for (1) reporting either a violation of this Code or bullying, or (2) participating in an investigation of a violation of this Code or bullying
- Retaliating against any school employee
- Intentionally, knowingly, or recklessly causing bodily injury to another person

Possessing, Using, Giving, Selling, or Buying Prohibited Items

- Matches or a lighter
- Tobacco products
- Electronic cigarettes, cartridges and any vapor pens/devices or look alike devices with nicotine
- Fireworks or any other pyrotechnic device
- Smoke or stink bombs
- Laser pointers (unauthorized use)
- Chemical dispensing device (including mace or pepper spray) sold commercially for person protection
- Razor blades, box cutters, chains, or any other object used in a way that threatens or inflicts bodily injury to another person
- A hand instrument designed to cut or stab another by being thrown
- A pocketknife or any other small knife, including a switchblade
- Fake or "look-alike" weapons
- Poisons, caustic acids, or other materials that may be toxic to the human body
- BB gun, air gun, stun gun, taser or similar type item
- Ammunition, shells, bullets, or gunpowder
- Material that is sexually-oriented, pornographic, obscene, or reveals a person's private body parts
- Material, including published or electronic items, that promotes or encourages illegal behavior or could threaten school safety
- Knuckles
- Articles not generally considered to be weapons when the CBC or administrator determines that a danger exists or when used in a way that threatens or inflicts bodily injury to another
- A firearm silencer

Possessing, Using, Giving, Selling, or Buying Prohibited Weapons

- Chemical dispensing device (mace or pepper spray) not purposed for personal protection
- Explosive weapon
- Improvised explosive device
- Machine gun
- Short-barrel firearm
- Armor-piercing ammunition
- Zip gun
- Tire deflation device
- A firearm (see ***glossary***) A location-restricted knife (see ***glossary***)
- Club

Possessing, Using, Giving, Selling, or Buying Illegal, Prescription, and Over-the-Counter Drugs.

Students shall not:

- Possess, use, give, or sell alcohol or an illegal drug (see DAEP Placement/Expulsion for mandatory and permissive consequences under state law)
- Possesses, use, gives or sells electronic cigarettes, cartridges, pods and/or any vapor pens/devices with THC, marijuana including those labeled as CBD with any amount of THC
- Possess or sell seeds or pieces of marijuana
- Possess, use, give, or sell paraphernalia related to any prohibited substance (See ***glossary*** of “paraphernalia”)
- Possess, use, abuse, or sell look-alike drugs or attempt to pass items off as drugs or contraband
- Abuse the student’s own prescription drug, give a prescription drug to another student, or possess or be under the influence of another person’s prescription drug on school property or at a school-related event
- Abuse over-the-counter drugs. Be under the influence of prescription or over-the-counter drugs that cause impairment of the physical or mental faculties. (See ***glossary***, “*under the influence*”)
- Have or take prescription drugs or over-the-counter drugs at school other than as provided by District policy
- Engage in conduct that contains the elements of an offense relating to an abusable volatile chemical Glue, aerosol paint etc.
- Possessing, selling, giving, delivering, using, or being under the influence of designer drugs, synthetic marijuana, synthetic cannabinoids (e.g. “K2” and “Spice”), stimulants (e.g. “bath salts”), or analogs of any controlled substance, regardless of whether currently scheduled or classified as an illegal drug under state or federal law and regardless of whether the substance is legally sold or marketed for another purpose, and is labeled “not for human consumption.”

Safety / Disruption

- Possess, use, threaten to use or exhibit a firearm
- Discharging a fire extinguisher, pulling a fire alarm, calling 911, tampering with an Automated External Defibrillator or door safety locks, or causing the sprinkler system to activate when there is no smoke, fire, danger, or emergency
- Making or participating in false statements or hoaxes regarding school safety
- Engaging in misbehavior, actions, or demonstrations that materially and substantially disrupts the educational process or the orderly operation of a classroom or school or that give school officials reasonable belief to believe that such conduct will incite violence
- Throwing objects that can cause bodily injury or property damage
- Making false accusations or providing false statements concerning wrongful, unlawful, inappropriate, or illegal conduct alleged to have been committed by another student or District employee, official, or volunteer
- Engage in verbal or written exchanges that threaten the safety or well-being of another student, a school employee, or school property
- Contributing to the disruptive environment by recording and/or posting fights or other disruptive scenes

Technology Offenses

- Using a telecommunication device, including a cellular telephone, or other electronic device in violation of District or campus rules
- Sending, possessing, or posting electronic messages, videos, audio recordings, or images that are abusive, obscene, sexually oriented, harassing, threatening, intimidating, or illegal, including cyberbullying (see ***glossary***), either on or off school property, if the conduct materially and substantially disrupts the educational process or the orderly operation of a classroom or school or infringes on the rights of another student at school
- Violating policies, rules, or agreements signed by the student or the student's parent/guardian regarding the use of technology resources

- Using any device or technology to copy or capture an image or the content of any District materials (such as tests or exams) without permission of a teacher, CBC or administrator
- Making, participating in the making of, transmitting to another via an electronic device (air dropping), posting or re-posting to the internet a digital, video, or audio recording or image of an actual or simulated act that involves a crime or conduct prohibited by this Code
- Using any device or technology to record the voice or image of another in any way that disrupts the educational environment, invades the privacy of others, or without the prior consent of the individual being recorded
- Using any device or technology to record the voice or image of another to take, disseminate, transfer, circulate, exhibit, present, or share audio, images, video, or photos that reveal private parts of the body that are normally covered by clothing (aka sexting)
- Using the name, persona, or image of a student, District employee, or volunteer to create a web page or post one or more messages on a website without the other person's consent for purposes of harassing, intimidating, embarrassing, or threatening another
- Using email, websites, or electronic devices to engage in or encourage illegal conduct, violations of this Code, or to threaten school safety or infringes on the rights of another student at the school
- Attempting to or successfully accessing or circumventing passwords or other security-related information of the District, officials, volunteers, employees, or other students by any means
- Attempting to or successfully altering, destroying, interrupting, intercepting, or disabling District technology equipment, District data, the data of other users of the District's computer system, or other networks connected to the District's system, including uploading or creating computer viruses, worms, or other harmful material
- Copying, downloading, reproducing, distributing, retransmitting, redisplaying, or modifying items from the District's website
- Sending disruptive, irrelevant or inappropriate messages or images on the internet to a large number of recipients including, but not limited to online learning platforms, social media sites and personal messaging platforms.
- Use the internet or other electronic communications to threaten or harass District students, employees, board members, or volunteers including off school property if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.
- Engaging in any of the above forms of technological misconduct outside of school when such conduct causes a material or substantial disruption at school as determined by school officials

Students will not be disciplined for technological misconduct related to possessing items described above so long as the student (1) did not contribute to creation of the item in any way, (2) possessed it only after receiving the item unsolicited from another, (3) either promptly destroyed the item or reported it to a school employee as soon as possible, and (4) did not provide a copy, forward, or re-post the item to anyone other than law enforcement, a school employee, or the student's parent/guardian.

Property Offenses

- Stealing from others, including the District
- Committing or assisting in a robbery, theft, or burglary that is not punishable as a felony
- Damaging, destroying, or vandalizing property owned by others or the District
- Marking District property such as textbooks, lockers, furniture, or equipment with graffiti, tagging, or by other means
- Attempting to start or starting a fire on or in any property owned, used, or controlled by a student, the District, or District employees, officials, or volunteers that does not rise to the level of arson or criminal mischief
- Enter, without authorization, District facilities that are not open for operations.

Disregard for District and Campus Rules

- Being insubordinate or otherwise failing to comply with lawful directives given by school personnel
- Attempting to or successfully evading, avoiding, or delaying questioning by a school official
- Failing to provide proper identification including the wearing of a District-provided identification badge

- Attempting to violate or assisting, encouraging, promoting, or attempting to assist another student in violating this Code
- Failing to immediately report to a school employee knowledge of a device, object, substance, or event that could cause harm to self or others
- Being tardy to class or arriving late to school (unexcused)
- Skipping school or class without the District's or parent/guardian's permission
- Leaving class, the campus, or school events without permission
- Enticing or preventing another student from attending school, class, or a school activity the student is required to attend
- Violating rules for conduct on school owned or operated transportation
- Violating rules for operating or parking a motor vehicle on school property
- Academic dishonesty, including cheating, copying the work of another, plagiarism, or unauthorized collaboration with another person in preparing an assignment
- Failure to comply with guidelines applicable to student speakers who are speaking at school sponsored or school-related events
- Violating other campus or classroom rules for behavior or District policies
- Refusing to accept discipline techniques assigned by a teacher, CBC or administrator
- Unauthorized communication between students during an examination.

Miscellaneous

- Violating dress code standards
- Using any method to cheat, provide answers or promote academic dishonesty
- Using profanity, vulgar language, or obscene gestures
- Falsifying, altering, forging, or destroying school records, passes, other school-related documents, or documents presented to school officials
- Gambling or betting money or other things of value
- Inappropriate exposure of a student's private body parts which are ordinarily covered by clothing, including through such acts as mooning, streaking, or flashing
- Running in the hallways or other areas which may impact the learning environment
- Repeatedly sleeping in class
- Failing to follow directions and safety requirements in designated areas as designated by campus staff
- Repeatedly violating other communicated campus or classroom standards of conduct including those in online learning platforms

REMOVAL FROM DISTRICT TRANSPORTATION

Reasons for Bus Removal

Appropriate student behavior is essential to the safe operation of District transportation. Students must comply with the expectations of this Code while using District transportation. In addition to compliance with this Code, students are expected to comply with the following transportation rules:

- Enter and exit transportation in an orderly manner at the designated stop
- Remain seated while the bus or vehicle is moving
- Keep aisles clear of books, bags, instruments, feet, or other obstructions
- Follow the driver's lawful directions at all times
- Do not extend any body part, clothing, or other article outside of the transportation
- Keep hands, feet, other body parts, or objects to yourself
- Refrain from making loud or distracting noises
- Do not obstruct the driver's view
- Do not throw objects inside the transportation or out of the windows or doors
- Do not mark, deface, destruct, or tamper with seats, windows, emergency doors, or other equipment
- Fasten seat belts when available on any vehicle
- Wait for the driver's signal upon leaving the bus or vehicle and before crossing in front of the bus or

- vehicle
- Misconduct on buses, in District vehicles, or at bus stops, will be disciplined in accordance with this Code. Bus riding privileges may be suspended or revoked.

For a list of bus infraction levels and their corresponding disciplinary consequences, please see the last page of the SCC.

Procedure for Bus Removal

A driver of District-owned or operated transportation may refer a student to the CBC or campus administrator to maintain effective discipline during transport to or from school or a school-sponsored or school-related activity, to enforce the transportation rules, or when the student engages in behavior that violates this Code. The CBC or administrator may use one or more discipline techniques to address the behavior, which may include temporarily suspending or permanently revoking school transportation privileges. Since the District's primary responsibility in transporting students in District vehicles is to do so as safely as possible, the operator of the vehicle must focus on driving and not have his or her attention distracted by student misbehavior. Therefore, when appropriate disciplinary techniques fail, to improve student behavior or when specific misconduct warrants immediate removal, the administrator or the campus behavior coordinator may restrict or revoke a student's transportation privileges, in accordance with law.

The student will be informed of the reason for suspension or revocation of transportation privileges and will be given an opportunity to respond before the CBC's or administrator's decision is final. Suspension of transportation privileges does not excuse a student from attending school. It is the responsibility of the parent/guardian and/or student to make alternate transportation arrangements to and from school.

REMOVAL FROM THE GENERAL EDUCATIONAL ENVIRONMENT

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

Teacher Formal Removal

A teacher may remove a student from class when:

- The student's behavior has been documented by the teacher as repeatedly interfering with the teacher's ability to teach or with the learning of other students; or
- The behavior is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to teach or with the learning of other students.

A teacher may remove a student from class, including online learning platforms, if the student engages in conduct that requires or permits DAEP placement or expulsion under the TEC, in which case the procedures for DAEP placement or expulsion shall be followed. See TEC §37.002

Placement During Teacher Formal Removal. When a teacher utilizes a formal removal of the student from the regular classroom and a conference is pending, the CBC or administrator may place the student in: (1) another appropriate classroom, (2) ISS (3) OSS for a maximum of 3 days or (4) DAEP.

Procedures for Teacher Formal Removal. Not later than three school days after a teacher has formally removed a student from class, the CBC or an administrator will schedule a conference with the student's parent/guardian, the student, and the teacher who removed the student from the class and any other appropriate administrator.

At the conference, the student will be provided an explanation of the basis for removal and be given an opportunity to respond. After the conference, the CBC or administrator will render a discipline decision and inform the student and parent/guardian of the consequences.

Returning a Student to the Classroom. If the teacher removed the student from class because the student engaged in assault resulting in bodily injury, aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, or criminal attempt to commit murder or criminal attempt to commit capital murder the student may not be returned to the teacher's class without the teacher's consent. When a student has been

formally removed by a teacher for any other conduct, the student may be returned to the teacher's class without the teacher's consent if the Placement Review Committee determines that the teacher's class is the best or only alternative available.

IN-SCHOOL SUSPENSION (ISS)

Reasons for ISS. Students may be placed in ISS for any misconduct listed in any category of this Code.

Procedures for ISS

The student will be informed of the reason for placement in ISS and be given an opportunity to respond before the CBC's or administrator's decision is final.

Assignments during ISS

The District shall ensure a student receives access to coursework for foundation curriculum courses while the student is placed in ISS including at least one method of receiving this coursework that doesn't require the use of the internet. While in ISS, the student will complete assignments from his or her teacher(s).

OUT-OF-SCHOOL SUSPENSION (OSS)

Reasons for OSS

Students may be suspended from school for any misconduct listed in any category of this Code. In deciding whether to order out-of-school suspension, the District shall take into consideration:

- Whether the student acted in self-defense (see *glossary*),
- Whether the student had Intent or lack of intent at the time the student engaged in the conduct,
- The student's disciplinary history,
- Whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,
- Whether the student is in the conservatorship of the Department of Family and Protective Services (foster care),
- Whether the student is homeless.

OSS for Students Below Grade 3 or for Students Who are Homeless

The District shall not use out-of-school suspension for students below grade 3 or a student who is homeless unless the conduct meets the requirements established in law. For the student who is homeless, the campus behavior coordinator should work with the homeless liaison to find an appropriate alternative for the student.

- A student below grade 3 or a student who is homeless shall not be placed in out-of-school suspension unless, while on school property or while attending a school-sponsored or school-related activity on or off school property, the student engages in conduct that contains the elements of a weapons offense, as provided in Penal Code §46.02 or §46.05;
 - Conduct that contains the elements of assault, sexual assault, aggravated assault, or aggravated sexual assault, as provided by the Penal Code; or
 - Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of marijuana, an alcoholic beverage, or a controlled substance or dangerous drug as defined by federal or state law.
-
- The District shall use a positive behavior program as a disciplinary alternative for students below grade 3 who commit general conduct violations instead of suspension or placement in a DAEP. The program shall meet the requirements of law.

Procedures for OSS

Before being suspended, a student shall have an informal conference with the CBC or appropriate administrator who shall advise the student of the alleged misconduct. The student shall have the opportunity to respond to the allegation before the administrator decides. While the student is suspended, the CBC or

administrator may place restrictions on the student's participation in school-sponsored or school-related activities. Students may be suspended for a maximum of three school days per behavior violation with no limit on the number of times a student may be suspended in a school year.

Assignments during OSS

The District shall ensure a student receives access to coursework for foundation curriculum courses while the student is placed in out-of-school suspension including at least one method of receiving this coursework that doesn't require the use of the internet. While in OSS, the student will complete assignments from his or her teacher(s).

DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM (DAEP)

The DAEP shall be provided in a setting other than the student's regular classroom. An elementary school student may not be placed in a DAEP with a student who is not an elementary school student. For purposes of DAEP, elementary classification shall be kindergarten–grade 5 and secondary classification shall be grades 6–12. Elementary students will be assigned to a predetermined elementary campus separate from students in grades 6-12. Students in grades 6-12 will attend the DAEP at Ferndell Henry Center for Learning (FHCL).

All campus recommendations of students for a DAEP placement shall be reviewed by the Department of Student Affairs and shall be effective only with approval by the Executive Director of Student Affairs, or designee. Summer programs provided by the District shall serve students assigned to a DAEP separately from those students who are not assigned to the program.

In deciding whether to place a student in a DAEP, regardless of whether the action is mandatory or discretionary, the District shall take into consideration:

- Whether the student acted in self-defense (see ***glossary***),
- Whether the student had intent or lack of intent at the time the student engaged in the conduct,
- The student's disciplinary history,
- Whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,
- Whether the student is in the conservatorship of the Department of Family and Protective Services (foster care), or
- Whether the student is homeless.

Reasons for Recommendation of Mandatory DAEP Placement

School-Related

A student shall be recommended for placement in DAEP for any of the following misconduct if committed while on school property, within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Engages in conduct punishable as a felony
- Commits an assault (see ***glossary***) resulting in bodily injury (see ***glossary***) to another
- Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any form of marijuana (THC/CBD), a controlled substance, or a dangerous drug in an amount not constituting a felony offense. A student with a valid prescription for low-THC cannabis as authorized by Chapter 487 of the Health and Safety Code does not violate this provision. School-related felony drug offenses are addressed in the Expulsion section. (See ***glossary*** for "under the influence")
- Commits a serious act or offense while under the influence of alcohol if the conduct is not punishable as a felony
- Engages in an offense relating to abusable volatile chemicals (see ***glossary***)
- Engages in public lewdness (see ***glossary***)
- Engages in indecent exposure (see ***glossary***)
- Engages in a federal firearm offense if the student is six years of age or younger
- Abuses the student's own prescription drug or using it in a way other than prescribed; giving, buying,

or selling a prescription drug; possessing, using, or being under the influence of another person's prescription drug on school property or at a school-related event.

- Offers to sell or buy any amount of marijuana, a controlled substance (see ***glossary***), a dangerous drug (see ***glossary***), an abusable volatile chemical (see ***glossary***), a prescription drug, or an alcoholic beverage (see ***glossary***).
- Possesses, sells, gives, delivers, uses, or is under the influence of designer drugs, synthetic marijuana, synthetic cannabinoids (e.g. "K2" and "Spice"), stimulants (e.g. "bath salts"), or analogs of any controlled substance, regardless of whether currently scheduled or classified as an illegal drug under state or federal law and regardless of whether the substance is legally sold or marketed for another purpose, and is labeled "not for human consumption."
- Engages in expellable conduct if the student is enrolled in grades 3-12
- Engages in conduct that contains the elements of an offense of harassment against an employee under Penal Code 42.07(a)(1), (2), (3), or (7).

Regardless of Location (Mandatory DAEP)

A student shall be recommended for placement in DAEP for engaging in a Title 5 (see ***glossary***) felony offense or aggravated robbery while off-campus and not in attendance at a school-sponsored or school-related activity if:

- The student receives deferred prosecution,
- A court or jury finds the student engaged in delinquent conduct, or
- The CBC or administrator reasonably believes that the student engaged in the misconduct
- Felony drug or alcohol-related offense
- Engages in conduct that contains the elements of harassment against an employee.

A student shall be recommended for placement in DAEP if the student engages in the following misconduct, regardless of whether the conduct occurred on or off campus:

- Commits a terroristic threat (see ***glossary***) involving a public school
- Preparing a hit list (see ***glossary***) verified as a terroristic threat
- Issues a false alarm or report (see ***glossary***) causing a serious disruption
- Retaliates (see ***glossary***) against any school employee or volunteer
- Engages in criminal mischief that results in damage to property if the damage is greater than \$2500
- Is a registered sex offender (see ***glossary***) under court supervision, probation, community supervision, or parole
- Possesses, sells, gives, delivers, uses, or is under the influence of designer drugs, synthetic marijuana, synthetic cannabinoids (e.g. "K2" and "Spice"), stimulants (e.g. "bath salts"), or analogs of any controlled substance, regardless of whether currently scheduled or classified as an illegal drug under state or federal law and regardless of whether the substance is legally sold or marketed for another purpose, and is labeled "not for human consumption."
- Possesses, use, gives or sells electronic cigarettes, cartridges, pods and/or any vapor pens/devices with THC including those labeled as CBD with any amount of THC.

Title 5 Felonies Regardless of Location

In addition to DAEP, a student may also be expelled and placed in Juvenile Justice Alternative Education Program (JJAEP) if the student:

- Issues a false alarm or report, including a bomb threat (see ***glossary***) or a terroristic threat (see ***glossary***) involving a public school
- Is arrested for a Title 5 felony (see ***glossary***) or aggravated robbery
- Is charged with engaging in a Title 5 felony or aggravated robbery
- Received deferred adjudication or deferred prosecution for a Title 5 felony or aggravated robbery
- Is on probation for a Title 5 felony or aggravated robbery
- Was found by a court or jury to have engaged in delinquent conduct for a Title 5 felony or aggravated robbery

- Has been referred to a juvenile court for delinquent conduct based on a Title 5 felony or aggravated robbery or
- Was convicted of a Title 5 felony or aggravated robbery and the CBC or administrator determines the student's presence in the regular classroom either threatens the safety of other students or teachers, is detrimental to the educational process, or is not in the best interests of the District's students.

In this circumstance, expulsion to an alternative setting may be ordered regardless of (1) the date on which the conduct occurred, (2) the location at which the conduct occurred, (3) whether the student was enrolled in the District at the time the conduct occurred, or (4) whether the student successfully completed any court disposition requirements regarding the conduct.

A student may be subject to an expulsion under this circumstance until (1) the student graduates from high school, (2) the charges are dismissed or reduced to a misdemeanor, (3) the student completes the term of the placement, or (4) the District assigns the student to another program. The student will be entitled to the same periodic review afforded to other students in alternate settings. An expulsion ordered in this case is final and may not be appealed beyond the Board of Trustees.

Reasons for Recommendation of Discretionary DAEP Placement: School-Related

A student may be recommended for placement in DAEP for any of the following misconduct if committed while on school property, within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Possessing, giving, buying, or selling stems, seeds, or other pieces of marijuana
- Possessing, using, selling, buying, or giving paraphernalia (see ***glossary***) related to any prohibited substance, including but not limited to marijuana, a controlled substance, a dangerous drug, or an alcoholic beverage
- Possessing, using, selling, buying or giving paraphernalia related to electronic smoking or vaping of substances not identified as controlled substances, marijuana, THC or CBD
- Engaging in bullying or cyber bullying that encourages a student to commit or attempt to commit suicide
- Inciting violence against a student through group bullying
- Releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent
- Is involved with a public-school fraternity, sorority, secret society, or gang (see ***glossary***), including participating as a member or pledge, or soliciting another person to become a member or pledge
- Is involved with a criminal street gang (see ***glossary***) or encourages, solicits, recruits, enables, or causes another to become a member of a criminal street gang.
- Serious Offense - including but not limited to:
 - Committing/threatening physical abuse to another student or school employee
 - Hazing
 - Extortion/coercion/blackmail
 - Possession/distribution of pornographic materials
- Commit a non-felony robbery or theft/stealing
- Possess Knife blade <5 ½ inches
- Profanity/vulgar language/obscene gesture toward teachers/other
- Vandalism
- Possesses/conspires to possess explosives/explosive devices
- Repeatedly leaving school grounds without permission
- Repeated insubordination
- Aggressive, disruptive behavior
- Unauthorized use/intentional misuse of computer soft/hardware
- Falsification of records/school related documents
- Possession or use of a stun gun/device, BB/air gun, etc.
- Engaging in persistent serious misbehavior (see ***glossary***) that violates this Code
- Assault (no bodily harm) with threat of imminent bodily injury

- Assault by offensive or provocative physical contact

Regardless of Location (Discretionary DAEP)

A student may be recommended for placement in DAEP for engaging in the following misconduct while off-campus and not in attendance at a school-sponsored or school-related activity:

- CBC or administrator reasonably believes the student engaged in conduct punishable as a felony (other than aggravated robbery or a Title 5 felony), and the student's continued presence in the regular classroom is a threat to the safety of others or is detrimental to the educational process
- Off-campus conduct for which DAEP placement is required by state law when the CBC or administrator does not learn of the conduct until more than a year after the conduct occurred.

This is including when the student committed the offense on the property of another District in Texas or while the student is attending a school-sponsored or school-related activity of a school in another District in Texas. The campus should consult with the Department of Student Affairs when considering DAEP/Expulsion for offenses committed off-campus.

A student may be recommended for placement in DAEP if the student engages in the following misconduct, regardless of whether the conduct occurred on or off campus:

- Engages in bullying that encourages a student to commit or attempt to commit suicide
- Materially and substantially disrupts the educational process or the orderly operation of a classroom or school;
- Infringes on the rights of the targeted student at school;
- Incites violence against a student through group bullying
- Releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent
- Engages in criminal mischief if the damage is less than \$2500
- A student who is a registered sex offender not under any form of court supervision will be placed in regular classes. However, a student may not be placed in a regular classroom if the Board or its designee determines that the student's presence: (1) threatens the safety of other students or teachers, (2) will be detrimental to the educational process, or (3) is not in the best interests of the District's students

Criminal penalties may also apply to a student's online conduct:

- *Online impersonation*: creating certain web pages or messages, using the name or persona of another person without consent, and with the intent to harm, threaten, or intimidate that person. TEX. PENAL CODE §33.07(a).
- *Harassment by electronic communication*: sending repeated electronic communications in a manner that is intended and reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another. TEX. PENAL CODE §42.07(a)(7).

In accordance with state law, a student may be placed in a DAEP if the superintendent or the superintendent's designee has reasonable belief (see ***glossary***) that the student has engaged in conduct punishable as a felony, other than aggravated robbery or those listed as offenses in Title 5 (see ***glossary***) of the Penal Code, that occurs off school property and not at a school-sponsored or school-related event, if the student's presence in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

The CBC may, but is not required to, place a student in a DAEP for off-campus conduct for which DAEP placement is required by state law if the administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

Campus Reassignment

If a student has been convicted of continuous sexual abuse of a young child or disabled individual or convicted of or placed on deferred adjudication for sexual assault or aggravated sexual assault against another student on the same campus, and if the victim's parent/guardian or another person with the authority to act on behalf

of the victim requests that the Board transfer the offending student to another campus, the offending student shall be transferred to another campus in the District. If there is no other campus in the District serving the grade level of the offending student, the offending student shall be transferred to a DAEP.

Interim Placement

Until a placement conference can be held, the student may be placed in another appropriate classroom, in-school suspension, or out-of-school suspension. The student may not be returned to the regular classroom pending the placement conference nor allowed to attend any campus-based activities before or after school.

Emergency DAEP Placement

The CBC or administrator may order an emergency DAEP placement if the student has been so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to teach the class, the learning of other students, or the operation of a school-related or a school-sponsored activity. An emergency placement may be ordered by the Executive Director of Student Affairs, if the D-STAT team determines a substantive threat is made by student. The reason for emergency placement must also be a reason for which DAEP placement could be ordered on a nonemergency basis. At the time of the emergency placement, the student will be told the reason for the action.

Not later than the tenth day after the date of emergency DAEP placement, the student will be given a conference as required for regular placement in DAEP.

Procedure for DAEP Placement

Removal to a DAEP shall be made by the CBC or campus principal. Not later than three school days after the student is removed from class, the CBC or campus administrator will schedule a conference with the student's parent/guardian, and the student, as well as the student's teacher if a teacher referred the student for DAEP placement. At the conference, the CBC or administrator will explain the allegations against the student, inform the student of the basis for the proposed DAEP placement, and give the student an opportunity to explain his or her version of the incident. The District may conduct the conference and make a discipline decision regardless of whether the student or the student's parent/guardian attends if the District made reasonable attempts to have them attend.

All mandatory and discretionary removals to the DAEP shall be recommended by the campus principal or CBC and reviewed by the Executive Director of Student Affairs or designee. A recommendation will be effective only if approved by the Executive Director of Student Affairs or designee. Questions regarding disciplinary measures should be addressed to the student's home campus administration.

Assignments During DAEP

Students placed at the DAEP will complete foundation courses which are required for graduation at no cost to the student. If a student was enrolled in AP courses at the time of removal, the student will have the opportunity to complete the course after the completion of the DAEP placement.

DAEP Placement Order

If the outcome of the conference is to recommend the student for placement in DAEP, the CBC or campus administrator will recommend DAEP placement. If the length of placement differs from the guidelines included in this Code, the DAEP placement order will give notice of the inconsistency.

A copy of the DAEP placement order will be sent to the student and the student's parent/guardian. For those students placed in DAEP, if required by the TEC, the District will also send the juvenile court a copy of the DAEP placement order not later than the second business day after the placement conference.

A copy of the DAEP placement order will be included with any records sent to a school where the student seeks to enroll. The enrolling school District has discretion to enforce the DAEP placement order.

Length of DAEP Placement

The length of a student's initial placement in DAEP will be recommended by the CBC and reviewed by the Executive Director of Student Affairs or designee on a case-by-case basis using the criteria identified in the "Discipline Considerations" section of this Code. A recommendation will be effective only if approved by the Executive Director of Student Affairs or designee. The length of DAEP placement may not exceed one year.

After review, the District determines that (1) the student is a safety threat, or (2) extended placement is in the best interest of the student. Discretionary and mandatory placements to the DAEP will be effective only if approved by the Executive Director of Student Affairs and/or designee.

A student placed at the DAEP, regardless of whether the offense is for a mandatory or discretionary removable offense, may reduce the term of placement based on specific qualifiers that monitor student behavior, attendance and academic progress.

Students placed in DAEP at the end of one school year may be required to complete the assigned term at the beginning of the next school year. For DAEP placement to extend beyond the end of the school year, the CBC or administrator must determine that (1) the student's presence in the regular classroom or campus presents a danger of physical harm to the student or others; or (2) the student has engaged in serious or persistent misbehavior that violates this Code. The Department of Student Affairs will coordinate a summer file review to determine whether the placement will extend beyond the current school year or whether the student will return to their regular campus. For purposes of this paragraph only, "serious misbehavior" means any misconduct identified as being punishable with placement in DAEP or expulsion for three or more violations of this Code or repeated occurrences of the same violation.

The District shall administer the required pre- and post-assessments for students assigned to DAEP for 90 days or longer, in accordance with established administrative procedures for administering other diagnostic or benchmark assessments.

Unless otherwise specified in the placement order, days absent from a DAEP shall not count toward fulfilling the total number of days required in a student's DAEP placement order.

Resilience, Intervention, Support and Empowerment Program (R.I.S.E)

DAEP shall provide students with a substance or alcohol related offense the opportunity to participate in and complete the District's substance abuse education program to qualify for a reduction in the term of placement.

R.I.S.E is a curriculum-based, social and resiliency skill program designed to teach leadership, healthy self-image and substance avoidance. This twenty-day program is incorporated into but may not constitute the full total of the student's DAEP assignment.

Transition Services

In accordance with law and District procedures, campus staff shall provide transition services to a student returning to the regular classroom from an alternative education program, including the DAEP. See Policy FOCA (Legal) for more information.

OTHER DAEP ISSUES

No Participation in Activities While in DAEP

The District does not permit a student who is placed in a DAEP to participate in any school-sponsored or school-related extracurricular or co-curricular activity, including seeking or holding honorary positions and/or membership in school-sponsored clubs and organizations. This restriction applies until the student fulfills the entire DAEP assignment at this or another school District.

Periodic Review

A student placed in a DAEP shall be provided a review of his or her status, including academic status, by the campus behavior coordinator or the Board's designee at intervals not to exceed 120 days. In the case of a high school student, the student's progress toward graduation and the student's graduation plan shall also be reviewed. At the review, the student or the student's parent/guardian shall be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of a teacher who removed the student without that teacher's consent.

Newly Enrolled

The District shall continue the DAEP placement of a student who enrolls in the District and was assigned to a DAEP in an open-enrollment charter school or another District. A newly enrolled student with a DAEP

placement from a District in another state shall be placed as any other newly enrolled student if the behavior committed is a reason for DAEP placement in the receiving District. If the student was placed in a DAEP by a school District in another state for a period that exceeds one year, this District, by state law, shall reduce the period of the placement so that the total placement does not exceed one year. After a review; however, the placement may be extended beyond a year if the District determines that the student is a threat to the safety of other students or employees, or the extended placement is in the best interest of the District's students.

Effect of Student Withdrawal

If a student is involved in a reportable disciplinary incident, and the student attempts to withdraw from school before the disciplinary assignment is made, the school should complete the due process proceedings that result in the required disciplinary assignment before the student is allowed to withdraw. After completion of the due process proceedings, the school is required to report the student discipline interchanged data reflecting that assignment in order to remain in compliance with TEC §37.009. If a student withdraws from school before a DAEP placement order is completed, the District may complete the proceedings and issue a DAEP placement order. If the student re-enrolls in the District during the same or subsequent school year, the District may enforce the DAEP placement order at that time, minus any portion of the placement that was served by the student during enrollment in another District. If the CBC or administrator does not issue a DAEP placement order after the student withdraws, the next District in which the student enrolls may complete the proceedings and issue a DAEP placement order.

Student Transfers

Students assigned to DAEP in another Texas public school District, a Texas open-enrollment charter school, or an out-of-state school District at the time of enrollment into the District will be placed into the District's DAEP to complete the term of their DAEP placement. In order to continue an out-of-state DAEP placement, the basis for the DAEP placement must also be a reason for DAEP placement in the enrolling District. If the out-of-state DAEP placement period exceeds one year, the District will reduce the period of placement so that the total placement does not exceed one year unless the District determines that the student is a threat to the safety of others or extended placement is in the best interests of the District's students.

Criminal Proceedings

The review and appeal process described below is limited to retaliation or off-campus misconduct. It does not apply if the student was placed in DAEP as required by law for conduct occurring on or within 300 feet of school property, at a school-sponsored or school-related activity, or for a false alarm or report or terroristic threat involving a public school.

If the District receives notice that prosecution of a student's case was refused and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated or a court or jury found the student not guilty or did not engage in delinquent conduct or conduct indicating a need for supervision and dismissed the student's case with prejudice, the District will review the student's DAEP placement and will schedule a review with the student's parent/guardian not later than the third day after receiving notice. The student will not be returned to the regular classroom before the review. After reviewing the notice and receiving information from the student's parent/guardian, the CBC or administrator may only continue the student's DAEP placement if the administration has reason to believe the student's presence in the regular classroom threatens the safety of others.

Additional Misconduct

If during the term of placement in a DAEP the student engages in additional misconduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the appropriate CBC or administrator may enter an additional disciplinary consequence as a result of those proceedings with the approval of the Executive Director of Student Affairs.

EXPULSION

Reasons for Recommendation of Mandatory Expulsion

In deciding whether to expel a student, regardless of whether the action is mandatory or discretionary, the District shall take into consideration:

- Whether the student acted in self-defense (see ***glossary***),
- Whether the student had Intent or lack of intent at the time the student engaged in the conduct,
- The student's disciplinary history,
- Whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct,
- Whether the student is in the conservatorship of the Department of Family and Protective Services (foster care), or
- Whether the student is homeless.

School-Related

A student shall be recommended for an expulsion for any of the following misconduct that occurs on school property or while attending a school-sponsored or school-related activity on or off school property:

- Brings to school a firearm, as defined by federal law (see ***glossary***)
- Uses, exhibits, or possesses the following items, as defined by state law: (1) a firearm*, (2) possesses or uses a location-restricted knife, or (4) a prohibited weapon. (See ***glossary***) * Firearm note: So long as the firearm is not brought on school property, a student will not be expelled solely for using, exhibiting, or possessing a firearm at an off-campus approved target range facility while participating in or preparing for a school-sponsored shooting sports competition or while participating in or preparing for a shooting sports educational activity sponsored or supported by the Texas Parks and Wildlife Department or an organization working with the Department
- Engages in conduct that contains the elements of the offense of the unlawfully carrying weapons under §46.02 of the Tex. Penal Code, or elements of an offense relating to prohibited weapons under §46.05 of the Tex. Penal Code
- Engages in the following misconduct as defined in the Tex. Penal Code: (1) aggravated assault, (2) sexual assault, (3) aggravated sexual assault, (4) arson, (5) murder, (6) capital murder, (7) criminal attempt to commit murder or capital murder, (8) indecency with a child (9) aggravated kidnapping, (10) aggravated robbery, (11) manslaughter, (12) criminally negligent homicide, or (13) continuous sexual abuse of a young child or disabled individual.
- Sells, gives, delivers, possesses, uses, or is under the influence of marijuana, a controlled substance (see ***glossary***), a dangerous drug (see ***glossary***), or an alcoholic beverage (see ***glossary***) if the behavior is punishable as a felony
- Commits a serious act or offense while under the influence of an alcoholic beverage if the behavior is punishable as a felony
- Possesses a location restricted knife
- Engages in serious misbehavior, while in a Disciplinary Alternative Education Program (DAEP), DEP or expelled, as defined by TEC §37.007(c).

Regardless of Location (Mandatory Expulsion)

A student shall be recommended for an expulsion if the student engages in the following misconduct, regardless of whether the conduct occurred on or off campus.

- Retaliates against a school employee or volunteer by committing a state-mandated expellable offense

Reasons for Discretionary Expulsion

Some of the following types of conduct may result in mandatory placement in a DAEP, whether or not a student is expelled.

At School

A student shall be recommended for expulsion for engaging in documented serious misbehavior (see ***glossary***) while the student is placed in DAEP and on the DAEP site/campus despite documented behavioral interventions.

School-Related Three Hundred Feet

Additionally, a student may be recommended for expulsion for any of the following offenses that occur within

300 feet of school property as measured from any point on the District's real property boundary line:

- Possesses a **firearm**, as defined by federal law (see **glossary**)
- Uses, exhibits, or possesses the following items, as defined by state law: (1) a firearm*, (2) a location-restricted knife, or (4) a prohibited weapon. (See **glossary**). * See "Firearm Note" in mandatory expulsion section above
- Engages in the following misconduct as defined in the Texas Penal Code: (1) aggravated assault, (2) sexual assault, (3) aggravated sexual assault, (4) arson, (5) murder, (6) capital murder, (7) criminal attempt to commit murder or capital murder, (8) indecency with a child, (9) aggravated kidnapping, (10) aggravated robbery, (11) manslaughter, (12) criminally negligent homicide, or (13) continuous sexual abuse of a young child or children

Regardless of Location (Discretionary Expulsion)

A student may be recommended for expulsion if the student engages in the following misconduct, regardless of whether the conduct occurred on or off campus:

- Engages in bullying that encourages a student to commit or attempt to commit suicide
- Incites violence against a student through group bullying
- Releases or threatens to release intimate visual material of a minor who is 18 years of age or older without the student's consent
- Commits aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, criminal attempt to commit murder or capital murder, or aggravated robbery against another student
- Retaliates against a school employee or volunteer by committing an assault (see **glossary**) resulting in bodily injury
- Engages in criminal mischief if the damage is \$2,500 or more, or is punishable as a felony
- Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school
- Engages in breach of computer security by accessing a computer, computer network or computer system owned by or operated on behalf of a school District and knowingly alters, damages, or deletes school District property or information or breaches any other computer, computer network, or computer system
- Commits a state-mandated expellable offense on the school property of another Texas school District or while attending a school-sponsored or school-related activity of another Texas school District

Title 5 Felonies Regardless of Location

In addition to the expellable conduct listed above, a student may also be expelled and placed in Juvenile Justice Alternative Education Program (JJAEP) if the student:

- Issues a false alarm or report, including a bomb threat (see **glossary**) or a terroristic threat (see **glossary**) involving a public school
- Is arrested for a Title 5 felony (see **glossary**) or aggravated robbery
- Is charged with engaging in a Title 5 felony or aggravated robbery
- Received deferred adjudication or deferred prosecution for a Title 5 felony or aggravated robbery
- Is on probation for a Title 5 felony or aggravated robbery
- Was found by a court or jury to have engaged in delinquent conduct for a Title 5 felony or aggravated robbery
- Has been referred to a juvenile court for delinquent conduct based on a Title 5 felony or aggravated robbery or
- Was convicted of a Title 5 felony or aggravated robbery and the CBC or administrator determines the student's presence in the regular classroom either threatens the safety of other students or teachers, is detrimental to the educational process, or is not in the best interests of the District's students.

In this circumstance, expulsion to an alternative setting may be ordered regardless of (1) the date on which the conduct occurred, (2) the location at which the conduct occurred, (3) whether the student was enrolled in the District at the time the conduct occurred, or (4) whether the student successfully completed any court

disposition requirements regarding the conduct.

A student may be subject to an expulsion under this circumstance until (1) the student graduates from high school, (2) the charges are dismissed or reduced to a misdemeanor, (3) the student completes the term of the placement, or (4) the District assigns the student to another program. The student will be entitled to the same periodic review afforded to other students in alternate settings. An expulsion ordered in this case is final and may not be appealed beyond the Board of Trustees.

Emergency Expulsion

The CBC or administrator may order the immediate expulsion of a student if the CBC or administrator reasonably believes the emergency expulsion is necessary to protect persons or property from imminent harm. The reason for the emergency expulsion must also be a reason for which expulsion could be ordered on a non-emergency basis. At the time of the emergency expulsion, the student will be told the reason for the action. No later than the tenth day after the date of emergency expulsion, the student will be given a hearing as required for a regular expulsion; see below.

Procedures for Expulsion

Due Process Hearing

Before a student may be expelled, the Superintendent or designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the U.S. Constitution and which the student's parent/guardian is invited, in writing, to attend. TEC §37.009(f) The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing. The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her, and an oral or written report on the facts to which each witness testifies. After trying to inform the student and parent/guardian of the hearing, the District may hold the hearing regardless of whether the student or the student's parent/guardian attends. At the hearing, the student is entitled to:

- Representation by an adult, including the student's parent/guardian, who can provide guidance to the student and who is not an employee of the District.
- An opportunity to question the District's witnesses; and
- An opportunity to testify and to review and present evidence and witnesses in the student's defense

Additional proceedings may be conducted, and additional discipline may be imposed if the student engages in additional misconduct while the student is already expelled.

Interim Placement

Until an expulsion hearing can be held, the student may be placed in another appropriate classroom, in-school suspension, or out-of-school suspension.

Expulsion Order

If the outcome of the expulsion hearing is that the student will be expelled, the Superintendent or designee who conducted the hearing will issue an expulsion order and provide a copy to the student and the student's parent/guardian. If the duration of the expulsion differs from the guidelines in this Code, the expulsion order will give notice of the inconsistency. The District will send a copy of the expulsion order to the juvenile court not later than the second business day after the expulsion hearing. A copy of the expulsion order will be included with any records sent to a school where the student seeks to enroll. The enrolling school District has discretion to enforce the expulsion order.

Length of Expulsion

The duration of the expulsion will be determined on a case-by-case basis using the criteria identified in the "Discipline Considerations" section of this Code. Both mandatory and discretionary expulsions will result in expulsion for up to one calendar year. Students who bring a firearm (as defined by federal law) to school will be expelled from the regular classroom for at least one calendar year except as modified by the CBC or administrator on a case-by-case basis.

An expulsion will not exceed one calendar year unless, after review, the District determines that: (1) the student is a threat to the safety of other students or to District employees; or (2) extended expulsion is in the best interest of the District's students. Students expelled at the end of one school year may be required to complete the term of their expulsion at the beginning of the next school year.

District Expulsion Program (DEP)

The District Expulsion Program is a self-contained, separate disciplinary placement from the DAEP that maintains the expelled student on the FBISD alternative campus rather than placed off site at the JJAEP. This expulsion option is available for consideration by the expulsion hearing officer when a student has an extenuating circumstance that makes placement at the JJAEP inappropriate.

OTHER EXPULSION ISSUES

Academic Impact

Students will not receive academic credit for work missed during the period of expulsion unless the student is enrolled in a Juvenile Justice Alternative Education Program (JJAEP), District Expulsion Program (DEP), or other District-approved program or as required by the IDEA or Section 504.

Participation in Activities

Expelled students are prohibited from being on school grounds, attending, or participating in school-sponsored or school-related activities while expelled.

Age Restrictions

Students under the age of ten that engage in expellable behavior will not be expelled but will be placed in DAEP. A student under age six shall not be placed in a DAEP unless the student commits a federal firearm offense. Contact the Department of Student Affairs for more information.

Effect of Student Withdrawal

If a student withdraws from the District before the expulsion hearing is conducted, the District may proceed with conducting the hearing after sending written notice to the parent/guardian and student. Both the offense and any disciplinary action must be entered into the PEIMS database system prior to the student withdrawing from the campus. If the student re-enrolls during the same or subsequent school year, the District may enforce the expulsion order at that time; students will be credited for any expulsion period that was served by the student while enrolled in another District. If the District does not issue an expulsion order after the student withdraws, the next District in which the student enrolls may complete the proceedings and issue an expulsion order.

Student Transfers

The District will continue the expulsion of students expelled either from another Texas school District or from an out-of-state school District for behavior that is also a reason for expulsion in the enrolling District, until the term of expulsion has been served. If the out-of-state expulsion exceeds one year, the District will reduce the period of the expulsion so that the total expulsion does not exceed one year unless the District determines that the student is a threat to the safety of others or extended placement is in the best interest of the District's students. State and Federal Law require one calendar year expulsion for possession of a firearm on campus. The Superintendent can modify this requirement on a case-by-case basis.

Newly Enrolled Students

The District shall continue the expulsion of any newly enrolled student expelled from another District or an open-enrollment charter school until the period of the expulsion is complete. If a student expelled in another state enrolls in the District, the District may continue the expulsion under the terms of the expulsion order, may place the student in a DAEP for the period specified in the order or may allow the student to attend regular classes if

- The out-of-state District provides the District with a copy of the expulsion order; and
- The offense resulting in the expulsion is also an expellable offense in the District in which the student is enrolling

If a student is expelled by a District in another state for a period that exceeds one year and the District continues the expulsion or places the student in a DAEP, the District shall reduce the period of the expulsion or DAEP placement so that the entire period does not exceed one year, unless after review it is determined that:

- The student is a threat to the safety of other students or District employees; or
- Extended placement is in the best interest of the District's students

Expulsion while in DAEP

A student may be recommended for an expulsion for engaging in documented serious misbehavior that violated this Code, despite documented behavioral interventions while placed in a DAEP. A student who is expelled for an offense that otherwise would have resulted in a DAEP placement does not have to be placed in a DAEP in addition to the expulsion. For purposes of discretionary expulsion from a DAEP, serious misbehavior means:

- Deliberate violent behavior that poses a direct threat to the health or safety of others;
- Extortion, meaning the gaining of money or other property by force or threat;
- Conduct that constitutes coercion, as defined by §1.07, Tex. Penal Code; or
- Conduct that constitutes the offense of public lewdness, indecent exposure, criminal mischief, personal hazing or harassment

Expulsion Appeal Process

Questions from parents/guardians regarding disciplinary measures should be addressed to the teacher, campus administration, or CBC, as appropriate. Appeals or complaints regarding the use of specific discipline techniques should be addressed in accordance with Policy FNG (Local). The policy may be obtained from the Board Policy Manual on the FBISD website at <https://www.fortbendisd.com/domain/83>. The District shall not delay a disciplinary consequence while a student or parent/guardian pursues a grievance.

The expulsion hearing officers decision may be appealed to the Board. In the event of an appeal, at the next scheduled meeting the Board will: (1) review the notice, (2) hear statements from the student, the student's parent/guardian, and the CBC or administrator, and (3) confirm or reverse the decision of the CBC or administrator.

After the due process hearing, the expelled student may request that the Board review the expulsion decision. The student or parent/guardian must submit a written request to the Superintendent within seven days after receipt of the written decision. The Superintendent must provide the student or parent/guardian written notice of the date, time, and location of the meeting at which the board will review the decision.

The Board shall review the record of the expulsion hearing in a closed meeting unless the parent/guardian requests in writing that the matter be held in an open meeting. The Board may also hear a statement from the student or parent/guardian and from the Board's designee.

The Board shall hear statements made by the parties at the review and will base its decision on evidence reflected in the record and any statements made by the parties at the review. The Board shall make and communicate its decision orally at the conclusion of the presentation. Consequences shall not be deferred pending the outcome of the appeal.

If the Board confirms the decision of the hearing officer, the student and the student's parent/guardian have the right to appeal to the Commissioner of Education. The student may not be returned to the regular classroom while the appeal is pending.

PARTICULAR RULES FOR REGISTERED SEX OFFENDERS

The general rules for DAEP placement apply to students who are registered sex offenders (*see glossary*) except as modified in this section.

Under Court Supervision Placement

Registered sex offenders will be placed in a Juvenile Justice Alternative Education Program (JJAEP) rather than DAEP if (1) ordered to attend JJAEP by a court or (2) if permitted by agreement between the District and the JJAEP.

Registered sex offenders under court supervision that transfer into the District will be required to complete the DAEP assignment assessed by the previous school District, but will receive credit for any time already spent in DAEP or may require an additional semester in an alternative placement without conducting a review of the placement.

Not Under Court Supervision Placement

Registered sex offenders who are not under court supervision that transfer into the District will be required to complete the DAEP assignment assessed by the previous school District but will receive credit for any time already spent in DAEP. If the student is under any form of court supervision, including probation, community supervision, or parole, the placement shall be in either DAEP or JJAEP for at least one semester. If the student is not under any court supervision, the placement may be in DAEP or JJAEP for one semester.

Review Committee for Registered Sex Offenders

At the end of the first semester of a student's placement in an alternative educational setting and before the beginning of each school year for which the student remains in an alternative placement, the District shall convene a committee, in accordance with state law, to review the student's placement. The review committee shall determine the student's placement by majority vote and recommend to the Board or designee whether the student should remain in alternative educational setting or be returned to the regular classroom. Absent a special finding, the Board or its designee must follow the committee's recommendation. The Executive Director of Student Affairs shall not return the student to the regular classroom if the student is a threat to the safety of others, is detrimental to the educational process, or is not in the best interests of the District's students. If the student remains in DAEP, the review committee will reconsider the student's placement before the beginning of the next school year.

Appeals for Registered Sex Offenders

A student or the student's parent may appeal the placement by requesting a conference with the Department of Student Affairs, the student, and the student's parent. The conference is limited to the factual question of whether the student is required to register as a sex offender. Any decision of the Department of Student Affairs, under this section is final and may not be appealed. However, the appeal is limited to the factual question of whether the student should be returned to the regular classroom. A decision of the Board is final and may not be appealed.

STUDENTS WITH DISABILITIES

The discipline of students with disabilities is subject to the applicable federal and state law in addition to this Code. To the extent that any conflict exists, the federal and/or state law shall prevail.

Generally, a student with a disability cannot be suspended from school for more than 10 days if the misconduct was a manifestation of his/her disability. School personnel may remove a student with a disability who violates this Code from his/her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities). If the ARD committee determines that the student's disruptive behavior is a manifestation of the student's disability, the student shall not be removed from the instructional setting.

A manifestation of the student's disability occurs when the disruptive behavior is caused by, or has a direct and substantial relationship to, the child's disability, or is the direct result of the District's failure to implement the student's Individualized Education Plan (IEP). If the disruptive behavior on the part of the student indicates it is related to the student's disability and the ARD committee determines that the student is in an inappropriate placement, the ARD committee shall review the placement and recommend alternatives. If the ARD committee determines that the behavior was related to the disability, it shall revise the IEP to address the student's behavior and educational need.

If the student's misconduct includes bringing a weapon or drugs to school, or the student has inflicted serious bodily injury on someone at school or at a school function, then different rules governing removal of a student with a disability apply. In such circumstances, the District may unilaterally place a student with a disability in an interim alternative educational setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability.

For a student not previously identified by the District as a student potentially in need of special education, a parent/guardian may request an evaluation. A due process hearing after a disciplinary removal has commenced does not obligate the District to return the student to the pre-discipline placement. The educational placement that will be subject to the "stay-put" provision will be the disciplinary placement, which shall continue until either the resolution of due process proceedings, completion or consideration of evaluation data by the ARD committee, or expiration of the disciplinary sanction term, whichever may apply.

A student with a disability who has brought a firearm to school may be placed in an interim alternative educational setting for up to 45 calendar days by an ARD meeting. However, if the student's parents/guardians initiate a due process hearing and if the parties cannot agree on another placement, the student must remain in that interim placement during the authorized review proceedings. In this situation, the student could remain in the interim alternative education setting for more than 45 calendar days. For more information, please review the Special Education Administrative Procedures <https://www.fortbendisd.com/Domain/77> posted on the District's website.

GLOSSARY

ABUSABLE VOLATILE CHEMICALS: Those substances defined in Health and Safety Code §485.001.

AGGRAVATED ROBBERY: Defined in part by Penal Code 29.03 (a) as when a person commits robbery and: causes serious bodily injury to another, uses or exhibits a deadly weapon; causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death if the other person is 65 years of age or older or is a disabled person.

ALCOHOLIC BEVERAGE: Those substances defined in Alcoholic Beverage Code §1.04.

ARMOR-PIERCING AMMUNITION: Handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols, revolvers or other firearms.

ASSAULT: Intentionally, knowingly, or recklessly causing bodily injury to another or intentionally or knowingly threatening another with imminent bodily injury or intentionally or knowingly causing physical contact with another that can reasonably be regarded as offensive or provocative. Penal Code §22.01(a)(1) and (a)(3)

BODILY INJURY: Physical pain, illness, or impairment of a physical condition.

BREACH OF COMPUTER SECURITY: Includes knowingly accessing a computer, computer network, or computer system without the effective consent of the owner as defined in Penal Code §33.02, if the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school District; and the student knowingly alters, damages, or deletes school District property or information; or commits a breach of any other computer, computer network, or computer system.

BULLYING: Defined in TEC §37.0832 as a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and occurs when a student or group of students engages in written or verbal expression, expression through electronic means, or physical conduct against another student that:

- Has the effect or will have the effect of physically harming a student, or damaging the student's property; or
- Places a student in reasonable fear of physical harm to the student's person;
- Is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
- Materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or
- Infringes on the rights of the targeted student at school.

Bullying includes cyberbullying, which means

- Bullying that occurs on or is delivered to school property or to the site of a school sponsored or school-related activity on or off school property;
- Bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and
- Cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying interferes with a student's educational opportunities or substantially disrupts the orderly operation of a classroom, school, or school sponsored or school related activity.

CHARGE: A charge is a formal accusation made by a governmental authority (usually a grand jury) finding that based upon the evidence presented to it, there is probable cause to believe that a crime has been committed by a criminal suspect

CHEMICAL DISPENSING DEVICE: A device other than a small chemical dispenser sold commercially for personal protection that is designed, made, or adapted for the purpose of dispensing a substance capable of

causing an adverse psychological or physiological effect on an individual.

CLUB: An instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death. A blackjack nightstick, mace, and tomahawk are also considered in the category.

CONTROLLED SUBSTANCE: Includes the aggregate weight of any mixture, solution, or other substance containing a substance, including a drug, adulterant, and dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 1-B, 2, 2-A, 3, or 4 of the Controlled Substances Act. The term does not include hemp, as defined by Agriculture Code §121.001, or the tetrahydrocannabinols (THC) in hemp.

CRIMINAL STREET GANG: Three or more persons having a common identifying sign or symbol or an identifiable leadership which continuously or regularly associate in the commission of criminal activities as defined by Penal Code §71.01

CYBERBULLYING: Defined by TEC §37.0832 as bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an internet website, or any other internet-based communication tool.

DANGEROUS DRUG: Dangerous drug is defined by Health and Safety Code §483.001 as a device or a drug that is unsafe for self-medication and that is not included in Schedules I through V or Penalty Groups 1 through 4 of the Texas Controlled Substances Act. The term includes a device or drug that federal law prohibits dispensing without prescription or restricts to use by or on the order of a licensed veterinarian.

DATING VIOLENCE: Occurs when a person in a current or past dating relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person in the relationship. Dating violence also occurs when a person commits these acts against a person in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense, as defined by Family Code §71.0021.

DEADLY CONDUCT: When a person recklessly engages in conduct that places another in imminent danger of serious bodily injury or by knowingly discharging a firearm in the direction of an individual, habitation, building, or vehicle.

DEFERRED ADJUDICATION: An alternative to seeking a conviction in court that may be offered to a juvenile for delinquent conduct or conduct indicating a need for supervision; may be referred to as deferred prosecution.

DELINQUENT CONDUCT: Conduct that violates either state or federal law and is punishable by imprisonment or confinement in jail. It includes conduct that violates certain juvenile court orders, including probation orders, but does not include violations of traffic laws.

DISCRETIONARY: Authority or responsibility to exercise discretion in making judgments and assigning disciplinary consequences in the best interest of the students and of the District.

E-CIGARETTE: An electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device or a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described by this provision. The term includes any device that is manufactured, distributed, or sold as an e-cigarette, e-cigar, vape, or e-pipe or under another product name or description and a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

EXPLOSIVE WEAPON: Any explosive or incendiary bomb, grenade, rocket, or mine and its delivery mechanism that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror.

FALSE ALARM OR REPORT: Knowingly initiating, communicating, or circulating a report of a present, past, or future bombing, fire, offense, or another emergency that is known to be false or baseless and that would ordinarily:

- cause action by an official or volunteer agency organized to deal with emergencies;
- place a person in fear of imminent serious bodily injury; or
- prevent or interrupt the occupation of a building, room, place of assembly, publicly accessible place, or mode of conveyance such as an automobile.

FIGHTING: Two or more persons engaged in any mutual violent or physically aggressive contact toward each other such as scuffling, pushing, shoving, or hitting.

FIREARM (federal law): (1) Any weapon, including a starter gun, that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; (2) the frame or receiver of any such weapon; (3) any firearm muffler or firearm silencer, defined as any device for silencing, muffling, or diminishing the report of a portable firearm; or (4) any destructive device, such as any explosive, incendiary or poison gas bomb, grenade, missile, rocket, or mine.

GANG: An organization, combination, or association of persons composed wholly or in part of students that (1) seeks to perpetuate itself by taking in additional members on the basis of the decision of the membership rather than on the free choice of the individual, or (2) that engages in illegal and/or violent activities. In identifying gangs and associated gang attire, signs, or symbols, the District will consult with law enforcement authorities.

GRAFFITI: Includes markings with paint, an indelible pen or marker, or an etching or engraving device on tangible property without the effective consent of the owner. The markings may include inscriptions, slogans, drawings, or paintings.

HARASSMENT:

- Conduct that threatens to cause harm or bodily injury to another person, including a student, District employee, Board member, or volunteer, is sexually intimidating, causes physical damage to the property of another student, subjects another student to physical confinement or restraint, or maliciously and substantially harms another student's physical or emotional health or safety, as defined in TEC §37.001(b)(2); or
- Conduct that is punishable as a crime under Penal Code §42.07, including the following types of conduct if carried out with the intent to harass, annoy, alarm, abuse, torment, or embarrass another:
- Initiating communication and, in the course of the communication, making a comment, request, suggestion, or proposal that is obscene, as defined by law;
- Threatening, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;
- Conveying, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury;
- Sending repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another; and
- Publishing on an internet website, including a social media platform, repeated electronic communications in a manner reasonable likely to cause emotional distress, abuse or torment to another person, unless the communications are made in connection with a matter of public concern, as defined by law.

HAZING: an intentional, knowing, or reckless act, on or off campus, by one person alone or acting with others, that endangers the mental or physical health or safety of a student directed against a student for the purpose of pledging, initiation into, affiliation with, holding office in, or maintaining membership in a student organization, group, student government, or teams if the act meets the elements in TEC §37.151, including:

- Any type of physical brutality;

- An activity that subjects the student to an unreasonable risk of harm or that adversely affects the student's mental or physical health, such as sleep deprivation, exposure to the elements, confinement to small spaces, calisthenics, or consumption of food, liquids, drugs, or other substances;
- An activity that induces, causes, or requires the student to perform a duty or task that violates the Penal Code; and
- Coercing a student to consume a drug or alcoholic beverage in an amount that would lead a reasonable person to believe the student is intoxicated.

HIT LIST: List of people targeted to be harmed using a firearm, knife, or any other object to be used with intent to cause bodily harm.

IMPROVISED EXPLOSIVE DEVICE: A completed, and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components, as defined in Penal Code §46.01

INDECENT EXPOSURE: An offense that occurs when a person exposes the person's anus or any part of the person's genitals with intent to arouse or gratify the sexual desire of any person, and is reckless about whether another person is present who will be offended or alarmed by the act, as defined in Penal Code §21.08.

INTENT: The design, resolve, determination, or state of mind with which a person acts, ordinarily proven through inferences drawn from the act and/or circumstances surrounding the act. Intent includes the conscious objective or desire to engage in the conduct or cause the result, an awareness that the conduct is reasonably certain to cause the result, or disregard of a substantial and justifiable risk when there is an awareness that the circumstances exist or the result will occur. The fact that a student may not have been motivated by a desire to violate this Code does not preclude imposing a disciplinary consequence so long as the student intended to engage in the underlying conduct that violated this Code.

INTIMATE VISUAL MATERIALS: Intimate visual material is defined by Civil Practices and Remedies Code §98B.001 and Penal Code §21.16 as visual material that depicts a person with the person's intimate parts exposed or engaged in sexual conduct. "Visual material" means any film, photograph, video tape, negative, or slide of any photographic reproduction or any other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen.

KNUCKLES: Any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles.

LOCATION-RESTRICTED KNIFE: Defined by Penal Code §46.01(6) as a knife with a blade over 5½ inches.

LOOK-ALIKE WEAPON: An item that resembles a weapon but is not intended to be used to cause serious bodily injury.

MACHINE GUN: Any firearm capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

MANDATORY: Obligatory or required because of an authority.

PARAPHERNALIA: Any article or device used or intended for use to inject, ingest, inhale, or otherwise introduce marijuana, a controlled substance, a dangerous drug, or an alcoholic beverage into the human body, including but not limited to roach clips, rolling papers, juuls, cartridges, any vape pens/devices, needles, baggies with residue, razor blades, or pipes.

POSSESSION: To have in or on: (1) a student's person or in the student's personal property, such as the student's clothing, purse, or backpack; (2) in any conveyance used by the student for transportation to or from school or school-related activities, such as an automobile, truck, motorcycle, or bicycle; or (3) any other school property used by the student, such as a locker or desk.

PROHIBITED WEAPONS: Includes the following items: armor-piercing ammunition, chemical dispensing device, improvised explosive device, explosive weapon, firearm silencer, machine gun, short-barrel firearm, zip gun, or tire deflation device.

PUBLIC LEWDNESS: An offense that occurs when a person knowingly engages in an act of sexual intercourse, deviate sexual intercourse, or sexual contact in a public place or, if not in a public place, is reckless about whether another is present who will be offended or alarmed by the act.

PUBLIC SCHOOL FRATERNITY, SORORITY, SECRET SOCIETY, OR GANG: An organization composed wholly or in part of students that seeks to perpetuate itself by taking additional members from the students enrolled in school based on a decision of its membership rather than on the free choice of a qualified student.

REASONABLE BELIEF: That which an ordinary person of average intelligence and sound mind would believe. TEC Chapter 37 requires certain disciplinary decisions when the superintendent or designee has a reasonable belief that a student engaged in conduct punishable as a felony offense. In forming such a reasonable belief, the superintendent or designee may use all available information, including the notice of a student's arrest under Article 15.27 of the Code of Criminal Procedure.

REFERRAL: A referral is a notice to a prosecutor recommending a criminal investigation.

RETALIATION: Harming or threatening to harm another (1) on account of their service as a District employee or volunteer, (2) to prevent or delay another's service to the District, or (3) because the person intends to report a crime.

SELF-DEFENSE: The use of force against another to the degree a person reasonably believes the force is immediately necessary to protect himself or herself.

SERIOUS MISBEHAVIOR: To engage in (1) deliberate violent behavior that poses a direct threat to the health or safety of others, (2) extortion to gain money or other property by force or threat, (3) coercion, meaning to threaten to either commit an offense; inflict bodily harm; accuse a person of any offense; expose a person to hatred, contempt, or ridicule; or to harm the credit of any person, or (4) conduct that constitutes the any of the following offenses:

- public lewdness as defined in Penal Code §21.07,
- indecent exposure as defined in Penal Code §21.08,
- criminal mischief as defined in Penal Code §28.03,
- hazing as defined in TEC §37.152, or
- harassment of a student or District employee under Penal Code § 42.07(a)(1).

SEX OFFENDER: A student required to register as a sex offender for an offense committed on or after September 1, 2007 under Chapter 62 of the Code of Criminal Procedure. The term does not include a student who (1) is no longer required to register as a sex offender, (2) is exempt from registering as a sex offender, or (3) receives an early termination of the obligation to register as a sex offender under Chapter 62.

SEXUAL HARASSMENT: Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, or conduct prohibited by Policy FFH (Local) or FNC (Legal) restating TEC that is so severe, persistent, or pervasive that it has the purpose or effect of substantially or unreasonably interfering with a student's performance; creates an intimidating, threatening, hostile, or offensive educational environment; affects a student's ability to participate in or benefit from an educational program or activity; or otherwise adversely affects the student's educational opportunities.

SHORT-BARREL FIREARM: A rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun if, as altered, has an overall length of less than 26 inches.

SWITCHBLADE KNIFE: Any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or other device located on the handle or opens or releases a blade from the handle or sheath by the force of gravity or centrifugal force. It does not include a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife (also known as one-handed openers or assisted openers).

TELECOMMUNICATIONS DEVICE: Any type of device that (1) emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor, or (2) permits the recording, transmission, and/or receipt of messages, voices, images, or information in any format or media, electronic or otherwise. It does not include an amateur radio under control of someone with an amateur radiolicense.

TERRORISTIC THREAT: Threats to commit any offense involving violence to any person or property with intent to (1) cause a reaction by an official or volunteer agency organized to deal with emergencies; (2) place any person in fear of imminent serious bodily injury; (3) prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public place; (4) cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service; (5) place the public or a substantial group of the public in fear of serious bodily injury; or (6) influence the conduct or activities of an agency of the federal or state government, or a political subdivision of the state (including the District).

TIRE DEFLATION DEVICE: A device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires.

TITLE 5 FELONY OFFENSES: Crimes that typically involve injury to a person. Criminal offenses against the person that, depending on the circumstances, may include murder; capital murder; manslaughter; criminally negligent homicide; unlawful restraint; kidnapping; aggravated kidnapping; trafficking of persons; unlawful transport; assault; aggravated assault; sexual assault; aggravated sexual assault; improper relationship between educator and student; indecency with a child; injury to a child, an elderly person, or a disabled person; abandoning or endangering a child; improper photography or visual recording; deadly conduct; terroristic threat; aiding a person to commit suicide; harassment by a person in a correctional facility; continuous sexual abuse of a young child or disabled individual; and tampering with a consumer product.

UNDER THE INFLUENCE: Lacking the normal use of mental or physical faculties. Impairment of a person's physical or mental faculties may be evidenced by a pattern of abnormal or erratic behavior, the presence of physical symptoms of drug or alcohol use, or by admission. A student "under the influence" need not be legally intoxicated to trigger disciplinary action.

USE: With respect to substances, voluntarily injecting, ingesting, inhaling, or otherwise introducing a prohibited substance into the body. With respect to objects or devices, putting into action or service or carrying out an action or purpose with the object or device.

VANDALISM: Refers to willful or malicious damage to school grounds and buildings or furnishings and equipment. Damage to property equal to or in excess of \$2500 is felony criminal mischief and requires placement in a DAEP or Expulsion.

ZIP GUN: A device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance

Appendix A: Examples of Infractions Regarding Buses

Level I	Level II	Level III	Level IV
<ul style="list-style-type: none"> • Standing up while bus is moving • Out of assigned seat • Loud voice • Not seated “on pockets” • Gum • Food • Getting on/off at the wrong stop 	<ul style="list-style-type: none"> • Throwing objects on the bus • Arguing/disrespectful toward the bus driver • Profanity • Inappropriate physical contact • Verbal altercation with another student • Persistent Level I offenses 	<ul style="list-style-type: none"> • Profanity directed at the bus driver • Physical altercation: slapping, kicking, hitting, pushing • Throwing objects out of the bus • Throwing items at or near the bus driver • Vandalism to the bus • Any action that necessitates a delay in completing the route • Threats toward a student • Possession of a knife • Bullying • Persistent Level II offenses 	<ul style="list-style-type: none"> • PSUU of drugs, alcohol or tobacco • Assault of a student • Assault of the bus driver • Threats toward the bus driver • Possession of an illegal knife • Persistent Level III offenses

Consequences

	Elementary Grades (Pre-K to 5)	Secondary Grades (6 to 12)
Level I	Driver documents and conferences with student	Driver documents and conferences with student

First Referral Consequences

	Elementary Grades (Pre-K to 5)	Secondary Grades (6 to 12)
Level II: First Offense	Discipline referral by Transportation to school administration and parent/guardian contact by school	Discipline referral by Transportation to school administration and parent/guardian contact by school
Level II: Additional Offenses	1 Day Bus Suspension	3 Day Bus Suspension
Level III	3 Day Bus Suspension	5 Day Bus Suspension
Level IV	5 Day Bus Suspension	10 Day Bus Suspension

Second and Third Referral Consequences

Severe and repeated infractions may result in immediate and permanent bus removal

	Elementary Grades (Pre-K to 5)	Secondary Grades (6 to 12)
Level II	3 Day Bus Suspension	5 Day Bus Suspension
Level III	5 Day Bus Suspension	10 Day Bus Suspension

Level IV	10 Day Bus Suspension	15 Day Bus Suspension
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For: Fort Bend ISD Board of Trustees
Date: August 4, 2021
Action: Action: Interlocal Agreement
Regarding Saved by the Bell
References: Board Policies FED (Legal)
FEA (Local) District 4
Department: Student Affairs

Recommendation

Consideration and approval of a revised Interlocal Agreement for the 2021-22 school year regarding the Saved by the Bell truancy program between Fort Bend ISD (FBISD), Fort Bend County (the County), and the Fort Bend County Juvenile Board (Juvenile Board).

Summary

FBISD has collaborated with the County and the Juvenile Board to address truancy through the Saved by the Bell program. The goal of the Saved by the Bell program is to apply proactive casework management strategies together with meaningful interventions in order to address truancy issues and increase attendance. The Fort Bend County Civil Court will act as the central filing location for truancy citations specific to FBISD.

As provided in the agreement, the County shall assign five juvenile caseworkers to FBISD to address relevant truancy issues. These caseworkers will work as liaisons to coordinate and provide follow up with the judicial system and will work with the Student Attendance Specialists, school administrators, counselors, social workers, and community resources to address the social factors behind truancy. Additionally, the caseworkers will perform home visits to support students with low engagement or truancy related attendance patterns. In return, FBISD agrees to fund the caseworkers for the court in the amount not to exceed \$276,912. Our goal is to continue to reduce truancy in our community and assist with promoting student ownership of learning.

This agreement would begin the date of execution by the last party and end September 30, 2022 unless terminated earlier by the parties.

Recommended by:

Diana Sayavedra
Acting Superintendent

Submitted by:

Anthony Indelicato
Chief of Staff and Collaborative Communities
Interim Chief of Schools

STATE OF TEXAS §

§ KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF FORT BEND §

**INTERLOCAL AGREEMENT FOR TRUANCY PREVENTION AND INTERVENTION SERVICES
BETWEEN FORT BEND COUNTY, FORT BEND COUNTY JUVENILE BOARD AND
FORT BEND INDEPENDENT SCHOOL DISTRICT 2021-2022**

This Agreement for Truancy Prevention and Intervention Services is made by and between the **Fort Bend County** ("County"), **Fort Bend County Juvenile Board** ("BOARD") and **Fort Bend Independent School District**, ("FBISD") all governmental entities under the Interlocal Cooperation Act.

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code authorizes governmental entities to contract with each other to perform government functions and services which may include governmental functions in which the contracting parties are mutually interested;

WHEREAS, County, the Board and FBISD are mutually interested in the public goals of educational intervention, and truancy and dropout prevention;

WHEREAS, schools such as FBISD may enforce compulsory school attendance requirements by applying truancy prevention measures and if the truancy prevention measures fail to meaningfully address a student's conduct, may refer a student to an appropriate court;

WHEREAS, the County provides partial funding for, and the Board approves the budget of, the "Saved by the Bell" program which is a pro-active truancy abatement program in the Fort Bend County area administered by and through the Juvenile Probation Department; and

WHEREAS, the Texas Code of Criminal Procedure Article 45.056 authorizes a commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority to permit a county court, justice court, municipal court, school district, juvenile probation department or other appropriate governmental entity to jointly employ or contribute to the costs of a case manager employed by one governmental entity to provide services to prevent and deter truancy conduct.

In consideration of the foregoing and further consideration of the mutual promises, covenants and conditions herein, the parties hereby agree as follows:

I. Scope of Service

- A. As allowed by Texas CCP Article 45.056, the Board, agrees to allow Juvenile Probation Department personnel to be assigned to FBISD students when a judge has

referred the student to the Saved by the Bell program. The specific personnel shall be six (6) case managers whose duties shall be:

1. Assisting the Fort Bend County Justice Courts in administering the court's juvenile docket and in supervising the court's orders in juvenile cases for FBISD students;
 2. Prevention services for FBISD students considered at risk of entering the juvenile justice system; and
 3. Intervention services to FBISD juveniles engaged in misconduct before cases are filed, excluding traffic offenses.
- B. County shall allocate funding for the assigned case managers from the general fund to the Juvenile Probation Department Budget, using the County's regular budget process.
- C. Scheduling and the manner in which services are provided by the case managers shall be determined by the Juvenile Probation Department, with reasonable consideration given to programing requests from FBISD.
- D. It is expressly understood and agreed to by the Parties that:
1. The case managers shall be subject to the management and supervision of the Chief Probation Officer in the same manner as all other juvenile probation department employees, even though they may perform their duties on FBISD property. Such control and supervision includes, but is not limited to: hiring, supervision, discipline, and termination of the case managers; and
 2. The case managers will not be required to perform any FBISD administrative duties; and
 3. The execution of any truancy prevention measures legally required of FBISD is the sole responsibility of FBISD personnel.
 4. Interpretation, application and enforcement of law remains with the Justice Court or the Court entering the Order and is in no way delegated to any other Party as a result of this Agreement.

II. Duration of Agreement

Unless mutually initiated, cancelled, or terminated earlier with thirty (30) days written notice, the term of this Interlocal Agreement will be from October 1, 2021 through September 30, 2022.

III. Compensation

- A. FBISD shall be obligated to provide funding in the amount of two hundred seventy-six thousand nine hundred twelve dollars (\$276,912.00). Funding from FBISD shall be provided to the Fort Bend County Treasurer on or before December 31 of each year during

the term of this Agreement and will be deposited in the Fort Bend County General Fund. Failure of FBISD to provide funding to Board as provided herein may result in the rejection of FBISD students from the Saved by the Bell Program.

- B. The Parties agree that two hundred seventy-six thousand nine hundred twelve dollars (\$276,912.00) is fair compensation for the services or functions performed under the Agreement for the services to be provided and must be from current revenues available to FBISD.

IV. Relationship of Parties

The Parties agree that in performing services specified in this agreement, that each is an independent contractor and shall have control of its work and the manner in which it is performed. Neither Party, its agents, employees, volunteer help or any other person operating under this Agreement, shall be considered an agent or employee of the other and neither shall be entitled to participate in any pension or other benefits that the other provides its employees.

V. Notice to Parties

- A. Any notice given hereunder by either party to the other shall be in writing and sent by certified mail, return receipt requested.

- B. Notice to Board shall be sent to:

Fort Bend County Juvenile Board
ATTN: Chair
301 Jackson Street
Richmond, Texas 77469

- C. Notice to County shall be sent to:

Fort Bend County
Attn: County Judge
401 Jackson
Richmond, Texas 77469

- D. Notice to FBISD:

Fort Bend ISD
Attn: Executive Director of Student Affairs
16431 Lexington Boulevard
Sugar Land, Texas 77479

- E. Each party may change the address for notice to it by giving notice of such change in accordance with the provisions of this paragraph.

VI. Insurance

- A. FBISD shall furnish certificates of insurance to Board evidencing compliance with the insurance requirements hereof. Certificates shall indicate name of FBISD, name of insurance company, policy number, term of coverage and limits of coverage. FBISD shall cause its insurance companies to provide Board with at least 30 days prior written notice of any reduction in the limit of liability by endorsement of the policy, cancellation or non-renewal of the insurance coverage required under this Agreement. FBISD shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
- B. Workers' Compensation insurance in accordance with the laws of the State of Texas, or state of hire/location of Services, and Employers' Liability coverage with a limit of not less than \$1,000,000 each employee for Occupational Disease, \$1,000,000 policy limit for Occupational Disease; and Employer's Liability of \$1,000,000 each accident.
- C. FBISD agrees to maintain General Liability Coverage with limits of not less than \$1,000,000 per occurrence, \$2,000,000 in aggregate and Policy shall include contractual liability coverage.
- D. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
- E. Board and the members of the Board shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies written on behalf of FBISD shall contain a waiver of subrogation in favor of Board and members of the Board.
- F. If required coverage is written on a claims-made basis, FBISD warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the Agreement; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

VII. Indemnification

To the extent allowed by law, FBISD agrees to promptly defend, indemnify and hold County and the Board harmless from and against any and all claims, demands, suits, causes of action, and judgments for (a) damages to the loss of property of any person; and/or (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person, arising out of or incident to, concerning or resulting from the negligent or willful act or omissions of the FBISD, its agents, officers, and or employees in the performance of this Agreement.

VIII. Governmental Immunity

It is expressly understood and agreed that in the execution of this Agreement, the Parties hereto do not intend to waive, nor shall be deemed to waive, any immunity or defense at law

or in equity, that would otherwise be available to each against claims arising in the exercise of governmental powers and functions, including the defense of governmental immunity.

IX. Miscellaneous Provisions

- A. This Agreement contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect except in a subsequent modification in writing signed by all parties.
- B. This Agreement shall be governed by and constructed in accordance with the laws of the State of Texas.
- C. No assignment of this Agreement or of any right accrued hereunder shall be made, in whole or in part, by either party without the prior written consent of the other party. Venue shall be in Fort Bend County, Texas.
- D. The undersigned officer and/or agents of the parties hereto are the properly authorized officials of the party presented and have the necessary authority to execute this Agreement on behalf of the parties hereto and each party hereby certifies to the other that any necessary approvals have been duly passed and approved and are now in full force and effect.
- E. The parties to this Agreement do not intend by this Agreement that any specific third party may obtain a right by virtue of the execution of performance of this Agreement.
- F. In the event that any one or more of the terms, provisions or conditions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other terms, provisions or conditions; and the Agreement shall be construed as if such invalid, illegal, or unenforceable term, provision or condition had never been contained in it.

{Remainder left blank}

{Execution page follows}

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the ____ day of _____, 2021.

FORT BEND COUNTY:

Attest:

KP George
County Judge

Laura Richard, County Clerk

Date: _____

FORT BEND COUNTY JUVENILE BOARD:

Chair
FBC Juvenile Board

Date: _____

FORT BEND INDEPENDENT SCHOOL DISTRICT:

Attest:

Date: _____

AUDITOR'S CERTIFICATE

I hereby certify that funds are available from current revenues legally available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under this Interlocal Agreement.

Ed Sturdivant, Fort Bend County Auditor