



# *Student Code of Conduct*

*Your Rights and Responsibilities*

*Revised for 2018-2019*

Board Approved May 21, 2018

# **ACKNOWLEDGMENT**

## **Student Code of Conduct Acknowledgment**

Dear Student and Parent:

As required by state law, the board of trustees has officially adopted the Student Code of Conduct in order to promote a safe and orderly learning environment for every student.

We urge you to read this publication thoroughly and to discuss it with your family. If you have any questions about the required conduct and consequences for misconduct, we encourage you to ask for an explanation from the student's teacher or campus administrator.

The student and parent should each sign the acknowledgement page and return the page to the student's school.

Thank you.

*Cheryl Burns, Superintendent of Schools*

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# STUDENT CODE OF CONDUCT

## ***Purpose***

The Student Code of Conduct is the district's response to the requirements of Chapter 37 of the Texas Education Code.

The Code provides methods and options for managing students in the classroom and on school grounds, disciplining students, and preventing and intervening in student discipline problems.

The law requires the district to define misconduct that may—or must—result in a range of specific disciplinary consequences including removal from a regular classroom or campus, suspension, placement in a disciplinary alternative education program (DAEP), or expulsion from school.

This Student Code of Conduct has been adopted by the Smithville ISD Board of Trustees and developed with the advice of the district-level committee. This Code provides information to parents and students regarding standards of conduct, consequences of misconduct, and procedures for administering discipline.

In accordance with state law, the Code will be posted at each school campus or will be available for review at the office of the campus principal. Additionally, the Code is posted on the district's web site – [www.smithvilleisd.org](http://www.smithvilleisd.org). Parents will be notified of any conduct violation that may result in a student being suspended, placed in a DAEP, or expelled.

Because the Student Code of Conduct is adopted by the district's board of trustees, it has the force of policy; therefore, in case of conflict between the Code and the student handbook, the Code will prevail.

**Please Note:** The discipline of students with disabilities who are eligible for services under federal law (Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973) is subject to the provisions of those laws.

## **School District Authority and Jurisdiction**

### ***Campus Behavior Coordinator***

As required by law, a person at each campus must be designated to serve as the campus behavior coordinator. The designated person may be the principal of the campus or any other administrator selected by the principal. On all Smithville ISD campuses the designated behavior coordinator will be the assistant principals. The campus behavior coordinator is primarily responsible for maintaining student discipline. The district maintains a current list of persons serving as a campus behavior coordinator in the Student Handbook and on the district's website at [www.smithvilleisd.org](http://www.smithvilleisd.org)

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 assistant principal of each campus in Smithville I.S.D. has been designated as the Campus Behavior Coordinator.

The district has disciplinary authority over a student:

1. During the regular school day and while the student is going to and from school or school-related activity on district owned or operated transportation;
2. While the student is in attendance at any school-related activity, regardless of time or location;
3. For any school-related misconduct, regardless of time or location;
4. When retaliation against a school employee or volunteer occurs or is threatened, regardless of time or location;
5. When criminal mischief is committed on or off school property or at a school-related event;
6. For certain offenses committed within 300 feet of school property as measured from any point on the school's real property boundary line;
7. For certain offenses committed while on school property or while attending a school-sponsored or school-related activity of another district in Texas;
8. When the student commits a felony, as provided by Education Code 37.006 or 37.0081; and
9. When the student is required to register as a sex offender.

The district has the right to search a vehicle driven to school by a student and parked on school property whenever there is reasonable cause to believe it contains articles or materials prohibited by the district.

The district has the right to search a student's locker or desk when there is reasonable cause to believe it contains articles or materials prohibited by the district.

### ***Reporting Crimes***

School administrators will report crimes as required by law and will call local law enforcement when an administrator suspects that a crime has been committed on campus.

### ***"Parent" Defined***

Throughout the Code of Conduct and related discipline policies, the term "parent" includes a parent, legal guardian, or other person having lawful control of the child.

### ***Revoking Transfers***

The district has the right to revoke the transfer of a nonresident student for violating the district's Code.

### ***Participating in Graduation Activities***

The district has the right to limit a student's participation in graduation activities for violating the district's Code.

Participation might include a speaking role, as established by district policy and procedures.

A student is ineligible for a speaking role in graduation ceremonies if they receive a mandatory or discretionary DAEP placement, or an expulsion from school, during their junior or senior years.

See **DAEP—Restrictions During Placement** on page 21 for information regarding a student assigned to DAEP at the time of graduation.

## **Standards for Student Conduct**

Each student is expected to:

- Demonstrate courtesy, even when others do not.
- Behave in a responsible manner, always exercising self-discipline.
- Attend all classes, regularly and on time.
- Prepare for each class; take appropriate materials and assignments to class.
- Meet district and campus standards of grooming and dress.
- Obey all campus and classroom rules.
- Respect the rights and privileges of students, teachers, and other district staff and volunteers.
- Respect the property of others, including district property and facilities.
- Cooperate with and assist the school staff in maintaining safety, order, and discipline.
- Adhere to the requirements of the Student Code of Conduct.

## **General Conduct Violations**

The categories of conduct below are prohibited at school and all school-related activities, but the list does not include the most severe offenses. In the subsequent sections on Suspension, DAEP Placement, Placement and/or Expulsion for Certain Serious Offenses, and Expulsion, certain offenses that require or permit specific consequences are listed. Any offense, however, may be severe enough to result in Removal from the Regular Educational Setting as detailed in that section.

### ***Disregard for Authority***

Students shall not:

- Fail to comply with directives given by school personnel (insubordination).
- Leave school grounds or school-sponsored events without permission.
- Disobey rules for conduct on school buses.

- Refuse to accept discipline management techniques assigned by a teacher or principal.

### ***Mistreatment of Others***

Students shall not:

- Use profanity or vulgar language or make obscene gestures.
- Fight or scuffle. (For assault see DAEP Placement and Expulsion)
- Threaten a district student, employee, or volunteer, including off school property if the conduct causes a substantial disruption to the educational environment.
- Engage in bullying, harassment, or making hit lists. (See glossary for all three terms)
- Engage in conduct that constitutes sexual harassment or sexual or gender-based abuse, whether by word, gesture, or any other conduct, directed toward another person, including a district student, employee, or volunteer.
- Engage in conduct that constitutes dating violence, including the intentional use of physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person with whom the student has or has had a dating relationship.
- Engage in inappropriate or indecent exposure of private body parts.
- Participate in hazing. (See glossary)
- Cause an individual to act through the use of or threat of force (coercion).
- Commit extortion or blackmail (obtaining money or an object of value from an unwilling person).
- Engage in inappropriate verbal, physical, or sexual conduct directed toward another person, including a district student, employee, or volunteer.
- Record the voice or image of another without the prior consent of the individuals being recorded or in any way that disrupts the educational environment or invades the privacy of others.

### ***Property Offenses***

Students shall not:

- Damage or vandalize property owned by others. (For felony criminal mischief see DAEP Placement or Expulsion)
- Deface or damage school property—including textbooks, lockers, furniture, and other equipment—with graffiti or by other means.
- Steal from students, staff, or the school.
- Commit or assist in a robbery or theft even if it does not constitute a felony according to the Texas Penal Code. (For felony robbery and theft see DAEP Placement and Expulsion)

## ***Possession of Prohibited Items***

Students shall not:

- Possess or use:
  - fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;
  - a razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
  - a “look-alike” weapon;
  - an air gun or BB gun;
  - ammunition;
  - a stun gun;
  - a switchblade knife, pocket knife or any other small knife;
  - mace or pepper spray;
  - pornographic material;
  - tobacco products;
  - matches or a lighter;
  - a laser pointer for other than an approved use; or
  - any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists. (For weapons and firearms see DAEP Placement and Expulsion)

## ***Possession of Telecommunications Devices and Other Electronic Devices***

Students shall not:

- Display, turn on, or use a cellular telephone on school property during the school day. Items displayed, turned on, or used on school property during the school day will be confiscated from the student. A fee of \$15 dollars will be assessed for each occurrence in grades 6–12.
- A student shall obtain prior approval before using personal electronic devices, excluding cell phones, for on-campus instructional purposes. The student shall also acknowledge receipt and understanding of applicable regulations for each campus and shall sign the appropriate user agreements.
- The complete SISD Acceptable Use Policy is located in the school district’s policy CQ [Local] and CQ [Exhibit] on the district’s website or by request to the principal or superintendent’s office.

## ***Illegal, Prescription, Over-the-Counter Drugs and Alcohol***

Students shall not:

- Possess or sell seeds or pieces of marijuana in less than a usable amount. (For illegal drugs, alcohol, and inhalants see DAEP Placement and Expulsion)
- Possess, use, give, or sell paraphernalia related to any prohibited substance. (See glossary for “paraphernalia”)
- Possess 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. (See glossary for “abuse”)
- Abuse over-the-counter drugs. (See glossary for “abuse”)
- Be under the influence of prescription or over-the-counter drugs that cause impairment of the physical or mental faculties. (See glossary for “under the influence”)
- Have or take prescription drugs, over-the-counter drugs, illegal drugs or alcohol at school other than as provided by district policy.

## ***Misuse of Technology Resources and the Internet***

Students shall not:

- Violate computer use policies, rules, or agreements signed by the student or the student’s parent regarding use of technology resources.
- Attempt to access or circumvent passwords or other security-related information of the district, students, or employees or upload or create computer viruses, including off school property if the conduct causes a substantial disruption to the educational environment.
- Attempt to alter, destroy, or disable district computer equipment, district data, the data of others, or other networks connected to the district’s system, including off school property if the conduct causes a substantial disruption to the educational environment.
- Use the Internet or other electronic communications to threaten district students, employees, or volunteers, including off school property if the conduct causes a substantial disruption to the educational environment.
- Send, post or possess electronic messages that are abusive, obscene, sexually oriented, bullying, threatening, harassing, damaging to another’s reputation, or illegal, including cyber bullying or “sexting” and including off school property if the conduct causes a substantial disruption to the educational environment.
- Use e-mail or Web sites to engage in or encourage illegal behavior or threaten school safety, including off school property if the conduct causes a substantial disruption to the educational environment.

## ***Safety Transgressions***

Students shall not:

- Possess published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety.
- Engage in verbal (oral or written) exchanges that threaten the safety of another student, a school employee, or school property.
- Make false accusations or perpetrate hoaxes regarding school safety.
- Engage in any conduct that school officials might reasonably believe will substantially disrupt the school program or incite violence.
- Throw objects that can cause bodily injury or property damage.
- Discharge a fire extinguisher without valid cause.

## ***Miscellaneous Offenses***

Students shall not:

- Violate dress and grooming standards as communicated in the student handbook.
- Cheat or copy the work of another.
- Gamble.
- Falsify records, passes, or other school-related documents.
- Engage in actions or demonstrations that substantially disrupt or materially interfere with school activities.
- Repeatedly violate other communicated campus or classroom standards of conduct.

The district may impose campus or classroom rules in addition to those found in the Code. These rules may be posted in classrooms or given to the student and may or may not constitute violations of the Code.

## ***Student Conduct on the School Bus***

The Goal of the Smithville ISD Transportation is to provide a safe, orderly service to the students we transport.

At Smithville ISD we feel that proper conduct by all students is required in order to achieve the safest bus riding conditions possible. All bus riders will behave in such a manner as to provide for safe operation of the bus.

## ***Removal from the School Bus***

A bus driver may refer a student to the principal's office to maintain effective discipline on the bus. The principal must employ additional discipline management techniques, as appropriate, which can include restricting or revoking a student's bus riding 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 management techniques fail to improve student behavior or when specific misconduct warrants immediate removal, the principal may restrict or revoke a student's transportation privileges, in accordance with state law.

### **Rules:**

1. Seats are assigned by the driver to aid in the case of an emergency. Changing seats without permission of the driver is a violation of bus conduct rules.
2. Students must remain seated at all times for safety reasons. Students are not considered seated when they are not facing the front or if they are sitting on anything, including their legs, books, backpacks, etc.
3. Normal student conversation with students next to each other is permitted, but any loud noise which may distract the driver and create an unsafe condition is not permitted.
4. All students will remain quiet when the bus is approaching and crossing the railroad tracks.
5. Arms, hands, and other parts of the body, as well as any hand-held items, are to be kept inside the bus at all times.
6. Students are not allowed to throw or shoot objects inside or out of the bus.
7. Keep hands, feet and all body parts to oneself. No fighting or horse-play inside the bus.
8. No profane language, obscene gestures, sexual harassment, or bullying is allowed.
9. Respect the driver. No verbal threats or physical contact with a school bus driver.
10. All Smithville I.S.D. Code of Conduct rules will apply.
11. Students will be responsible for all items they bring on the bus.
12. Students are not allowed to mark, cut, scratch, or dismantle any part of the bus or its contents. The person responsible for vandalism will pay repair costs.
13. Students must keep books, backpacks, packages, coats, and all other personal items out of the aisle. If an item is too large to hold safely in a student's lap, then it must be secured safely in an empty seat.
14. Students will not take or handle emergency equipment inside the bus unless instructed by the bus driver in an emergency.
15. No parents or non-school personnel are allowed on the school bus without school authorization.

16. Only those students who live on a route are allowed on the bus. All others MUST have prior written approval from their designated campus office.
17. No spitting in the bus or out of the bus window.
18. No spraying of ANY deodorant, body spray, cologne, hairspray or any other aerosol products on the bus.

### ***Consequences for Violation of School Bus Rules***

Bus drivers will give verbal warnings on most infractions with the exception of fighting and all prohibited items.

The bus driver will report violations to the campus assistant principal using the Transportation Disciplinary Referral.

**First Offense:** Bus driver will issue the student a written warning of possible suspension from bus privilege should further offenses occur. Parent and principal will sign.

**Second Offense:** Student will spend time in ISS or other appropriate school detention. The principal will notify parent by telephone that the student will be suspended from the bus if a third offense occurs.

**Third Offense:** Student **shall** be suspended from bus privileges for 1-3 days.\*\*

**Fourth Offense:** Student **shall** be suspended from bus privileges for 3-5 days.

**Fifth Offense:** Student **shall** be suspended from bus privileges for 5-10 days.

**Sixth Offense:** Student **shall** be suspended from bus privileges for the remainder of the semester. Consistent failure to follow bus safety will require a parent conference with the administration and bus driver present.

**Major Offense:** Any offense considered by the principal to be a major offense may result in immediate removal of bus privileges.

**Suspension:** Any student suspended from bus service for an offense will not be allowed to ride another bus for transportation to and from school during the suspension period. Parents will be responsible for providing transportation to and/from school during the period of bus suspension.

**\*\*After a 3<sup>rd</sup> Offense, Smithville High School students may be removed from the bus at the principal's discretion for the remainder of the semester.**

**School bus transportation is a privilege, not a right.**

## **Discipline Management Techniques**

Discipline will be designed to improve conduct and to encourage students to adhere to their responsibilities as members of the school community. Disciplinary action will draw on the professional judgment of teachers and administrators and on a range of discipline management techniques, including restorative discipline practices. Discipline will be correlated to the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, the student's attitude, the effect of the misconduct on the school environment, and statutory requirements.

Because of these factors, discipline for a particular offense (unless otherwise specified by law) may bring into consideration varying techniques and responses.

### ***Students with Disabilities***

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

In accordance with the Education Code, a student who is enrolled in a special education program may not be disciplined for conduct meeting the definition of bullying, harassment, or making hit lists (see glossary) until an ARD committee meeting has been held to review the conduct.

In deciding whether to order suspension, DAEP placement, or expulsion, the district will take into consideration a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.

### ***Techniques***

The following discipline management techniques may be used—alone or in combination—for behavior prohibited by the Student Code of Conduct or by campus or classroom rules:

- Verbal correction, oral or written.
- Cooling-off time or “time-out.”
- Seating changes within the classroom.
- Temporary confiscation of items that disrupt the educational process.
- Rewards or demerits.
- Behavioral contracts.
- Counseling by teachers, counselors, or administrative personnel.
- Parent-teacher conferences.
- Grade reductions for cheating, plagiarism, and as otherwise permitted by policy.
- Detention, including outside regular school hours.
- Sending the student to the office or other assigned area, or to in-school suspension.

- Assignment of school duties such as cleaning or picking up litter.
- Withdrawal of privileges, such as participation in extracurricular activities, eligibility for seeking and holding honorary offices, or membership in school-sponsored clubs and organizations.
- Penalties identified in individual student organizations' extracurricular standards of behavior.
- Withdrawal or restriction of bus privileges.
- School-assessed and school-administered probation.
- Restitution for vandalism or destruction of property.
- Participation in the Smithville Community Garden mentorship program in conjunction with the City of Smithville and the Smithville Community Gardens.
- Corporal punishment. Parents and/or guardians must inform the district in writing if they do not want this technique utilized with their child. Administrator and parent must mutually agree to the use of corporal punishment before this disciplinary technique is administered.
- Out-of-school suspension, as specified in the Suspension section of this Code.
- Placement in a DAEP, as specified in the DAEP section of this Code.
- Expulsion in an alternative educational setting, as specified in the Expulsion for Certain Offenses section of this Code.
- Expulsion, as specified in the Expulsion section of this Code.
- Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the district.
- Other strategies and consequences as determined by school officials.

### ***Notification***

The campus behavior coordinator (principal or assistant principal) shall promptly notify a student's parents by phone or in person of any violation that may result in in-school or out-of-school suspension, placement in a DAEP, placement in a JJAEP, or expulsion. The campus behavior coordinator shall also notify a student's parent if the student is taken into custody by a law enforcement officer under the disciplinary provisions of the Education Code. A good faith effort shall be made on the day the action was taken to provide to the student for delivery to the student's parent written notification of the disciplinary action. If the parent has not been reached by telephone or in person by 5:00 p.m. of the first business day after the day the disciplinary action was taken, the campus behavior coordinator shall send written notification by U.S. Mail. If the campus behavior coordinator is not able to provide notice to the parent, the principal or designee shall provide notice.

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

### ***Appeals***

Parental questions or complaints regarding disciplinary measures should be addressed to the teacher or campus administration, as appropriate, and in accordance with policy FNG(LOCAL). A copy of the policy may be obtained from the principal's office or the central administration office or through Policy On Line at the following address: [www.smithvilleisd.org](http://www.smithvilleisd.org)

Consequences will not be deferred pending the outcome of a grievance.

### **Removal from the Regular Educational Setting**

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

#### ***Routine Referral***

A routine referral occurs when a teacher sends a student to the principal's office as a discipline management technique. The principal may then employ additional techniques. A teacher or administrator **may** remove a student from class for a behavior that violates this Code to maintain effective discipline in the classroom.

#### ***Formal Removal***

A teacher **may** also initiate a formal removal from class if:

1. The student's behavior has been documented by the teacher as repeatedly interfering with the teacher's ability to teach his or her class or with the student's classmates' ability to learn; or
2. The behavior is so unruly, disruptive, or abusive that the teacher cannot teach, and the students in the classroom cannot learn.

A teacher or administrator **must** remove a student from class if the student engages in behavior that under the Education Code requires or permits the student to be placed in a DAEP or expelled. When removing for those reasons, the procedures in the subsequent sections on DAEP or expulsion will be followed. Otherwise, within three school days of the formal removal, the appropriate administrator will schedule a conference with the student's parent; the student; the teacher, in the case of removal by a teacher; and any other administrator.

At the conference, the appropriate administrator will inform the student of the misconduct for which he or she is charged and the consequences. The administrator will give the student an opportunity to give his or her version of the incident.

When a student is removed from the regular classroom by a teacher and a conference is pending, the principal may place the student in:

- Another appropriate classroom
- In-school suspension
- Out-of-school suspension
- DAEP

### ***Returning Student to Classroom***

When a student has been formally removed from class by a teacher for conduct against the teacher containing the elements of assault, aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, or criminal attempt to commit murder or 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.

## **Suspension**

### ***Misconduct***

Students may be suspended for any behavior listed in the Code as a general conduct violation, DAEP offense, or expellable offense.

In deciding whether to order out of school suspension, the district will take into consideration:

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct, and
3. The student's disciplinary history.
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.

### ***Process(Out of School)***

State law allows a student to be suspended out of school for no more than three school days per behavior violation, with no limit on the number of times a student may be suspended in a semester or school year.

Before being suspended a student will have an informal conference with the appropriate administrator, who shall advise the student of the conduct of which he or she is accused. The student will be given the opportunity to explain his or her version of the incident before the administrator's decision is made.

The number of days of a student's out of school suspension will be determined by the appropriate administrator, but will not exceed three consecutive school days.

The appropriate administrator will determine any restrictions on participation in school-sponsored or school-related extracurricular and co-curricular activities.

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

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.

A student who is expelled for an offense that otherwise would have resulted in a DAEP placement does not have to be placed in DAEP in addition to the expulsion.

In deciding whether to order placement in a DAEP, the district will take into consideration:

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct, and
3. The student's disciplinary history.
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.

For purposes of DAEP, elementary classification shall be kindergarten–grade 5 and secondary classification shall be grades 6–12.

Summer programs provided by the district shall serve students assigned to a DAEP separately from those students who are not assigned to the program.

### ***Discretionary Placement: Misconduct That May Result in DAEP Placement***

A student **may** be placed in a DAEP for behaviors prohibited in the General Conduct Violations section of this Code.

#### **Misconduct Identified in State Law**

In accordance with state law, a student **may** be placed in a DAEP for any one of the following offenses:

- Involvement in a public school fraternity, sorority, or secret society, including participating as a member or pledge, or soliciting another person to become a pledge or member of a public school fraternity, sorority, secret society, or gang. (See glossary)
- Involvement in criminal street gang activity. (See glossary)
- Any criminal mischief, including a felony.

- Assault (no bodily injury) with threat of imminent bodily injury.
- Assault by offensive or provocative physical contact.

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 those listed as offenses involving injury to a person in Title 5 (see glossary) of the Texas 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 appropriate administrator **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.

### ***Mandatory Placement: Misconduct That Requires DAEP Placement***

A student **must** be placed in a DAEP if the student:

- Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school. (See glossary)
- Commits the following offenses on school property or within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:
  - Engages in conduct punishable as a felony.
  - Commits an assault (see glossary) under Texas Penal Code 22.01(a)(1).
  - Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of marijuana, a controlled substance, or a dangerous drug in an amount not constituting a felony offense. (School-related felony drug offenses are addressed in the Expulsion section.) (See glossary for "under the influence")
  - Sells, gives, or delivers to another person an alcoholic beverage; commits a serious act or offense while under the influence of alcohol; or possesses, uses, or is under the influence of alcohol, if the conduct is not punishable as a felony offense. (School-related felony alcohol offenses are addressed in the Expulsion section.)
  - Behaves in a manner that contains the elements of an offense relating to abusable volatile chemicals.
  - Behaves in a manner that contains the elements of the offense of public lewdness or indecent exposure.
- Engages in expellable conduct and is between six and nine years of age.

- Vandalizing, marking, or tagging property of the school using paint or indelible ink regardless of the property damage value.
- Commits a federal firearms violation and is younger than six years of age.
- Engages in conduct that contains the elements of the offense of retaliation against any school employee or volunteer on or off school property. (Committing retaliation in combination with another expellable offense is addressed in the Expulsion section of this Code.)
- Engages in conduct punishable as a felony listed under Title 5 (see glossary) of the Texas Penal Code when the conduct occurs off school property and not at a school-sponsored or school-related event and:
  1. The student receives deferred prosecution (see glossary),
  2. A court or jury finds that the student has engaged in delinquent conduct (see glossary), or
  3. The superintendent or designee has a reasonable belief (see glossary) that the student engaged in the conduct.

### ***Sexual Assault and Campus Assignments***

If a student has been convicted of continuous sexual abuse of a young child or children 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 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 will be transferred to a DAEP.

### ***Emergencies***

In an emergency, the principal or the principal's designee may order the immediate placement of a student in a DAEP for any reason for which placement in a DAEP may be made on a non-emergency basis.

### ***Process***

Removals to a DAEP will be made by the campus behavior coordinator or the campus principal.

### ***Conference***

When a student is removed from class for a DAEP offense, the appropriate administrator will schedule a conference within three school days with the student's parent, the student, and the teacher, in the case of a teacher removal.

At the conference, the appropriate administrator will inform the student, orally or in writing, of the reasons for the removal and will give the student an explanation of the basis for the removal and an opportunity to respond to the reasons for the removal.

Following valid attempts to require attendance, the district may hold the conference and make a placement decision regardless of whether the student or the student's parents attend the conference.

### **Consideration of Mitigating Factors**

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

1. Self-defense (see glossary),
2. Intent of lack of intent at the time the student engaged in the conduct,
3. The student's disciplinary history, or
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.

### **Placement Order**

After the conference, if the student is placed in the DAEP, the appropriate administrator will write a placement order. A copy of the DAEP placement order will be sent to the student and the student's parent.

Not later than the second business day after the conference, the board's designee will deliver to the juvenile court a copy of the placement order and all information required by Section 52.04 of the Family Code.

If the student is placed in the DAEP and the length of placement is inconsistent with the guidelines included in this Code, the placement order will give notice of the inconsistency.

### **Coursework Notice**

The parent of guardian of a student placed in DAEP shall be given written notice of the student's opportunity to complete a foundation curriculum course in which the student was enrolled at the time of removal and which is required for graduation, at no cost to the student. The notice shall include information regarding all methods available for completing the coursework.

### ***Length of Placement***

The duration of a student's placement in a DAEP will be determined by the campus behavior coordinator or principal by following the district length of placement guidelines. (see Glossary)

The duration of a student's placement shall be determined on a case-by-case basis. DAEP placement shall be correlated to the seriousness of the offense, the student's age and grade level, the frequency of misconduct, the student's attitude, and statutory requirements.

The maximum period of DAEP placement shall be one calendar year except as provided below.

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

#### Exceeds One Year

Placement in a DAEP may exceed one year when a review by the district determines that:

1. The student is a threat to the safety of other students or to district employees, or
2. Extended placement is in the best interest of the student.

The statutory limitations on the length of a DAEP placement do not apply to a placement resulting from the board's decision to place a student who engaged in the sexual assault of another student so that the students are not assigned to the same campus.

#### Exceeds School Year

Students who commit offenses requiring placement in a DAEP at the end of one school year may be required to continue that placement at the start of the next school year to complete the assigned term of placement.

For placement in a DAEP to extend beyond the end of the school year, the campus administration and the Superintendent's designee 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 (see glossary) that violates the district's Code.

#### Exceeds 60 Days

For placement in a DAEP to extend beyond 60 days or the end of the next grading period, whichever is sooner, a student's parent will be given notice and the opportunity to participate in a proceeding before the board or the board's designee. Grading period is defined as the end of the 1<sup>st</sup> semester or the end of the school year.

### **Appeals**

Questions or complaints from parents regarding disciplinary measures should be addressed to the campus administration, in accordance with policy FNG(LOCAL). A copy of this policy may be obtained from the principal's office or the central administration office or through Policy On Line at the following address: [www.smithvilleisd.org](http://www.smithvilleisd.org).

Disciplinary consequences will not be deferred pending the outcome of an appeal. The decision to place a student in a DAEP cannot be appealed beyond the board.

## ***Placement Review***

A student placed in a DAEP will be provided a review of his or her status, including academic status, by the campus administration and the Superintendent's designee at intervals not to exceed 120 days. There will be a placement review at the end of each semester or 120 days. For more detailed explanation, refer to the DAEP Handbook. In the case of a high school student, the student's progress toward graduation and the student's graduation plan will also be reviewed. At the review, the student or the student's parent will be given the opportunity to present arguments for the student's return to the regular classroom or campus.

## ***Restrictions during Placement***

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.

A student placed in a DAEP will not be provided transportation unless he or she is a student with a disability who has transportation designated as a related service in the student's IEP.

For seniors who are eligible to graduate and are assigned to a DAEP at the time of graduation, the last day of placement in the program will be the last instructional day, and the student will be allowed to participate in the graduation ceremony and related graduation activities unless otherwise specified in the DAEP placement order.

## ***Additional Misconduct***

If during the term of placement in a DAEP the student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted, and the appropriate administrator may enter an additional disciplinary order as a result of those proceedings.

## ***Notice of Criminal Proceedings***

The office of the prosecuting attorney will notify the district if a student was placed in a DAEP for certain offenses including any felony, unlawful restraint, indecent exposure, assault, deadly conduct, terroristic threats, organized crime, certain drug offenses, or possession of a weapon, and:

1. Prosecution of a student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication (see glossary), or deferred prosecution will be initiated; or
2. The court or jury found a student not guilty, or made a finding that the student did not engage in delinquent conduct or conduct indicating a need for supervision, and the case was dismissed with prejudice.

If a student was placed in a DAEP for such conduct, on receiving the notice from the prosecutor, the superintendent or designee will review the student's placement and

schedule a review with the student's parent not later than the third day after the superintendent or designee receives notice from the prosecutor. The student may not be returned to the regular classroom pending the review.

After reviewing the notice and receiving information from the student's parent, the superintendent or designee may continue the student's placement if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

The student or the student's parent may appeal the superintendent's decision to the board. The student may not be returned to the regular classroom pending the appeal. In the case of an appeal, the board will, at the next scheduled meeting, review the notice from the prosecutor and receive information from the student, the student's parent, and the superintendent or designee, and confirm or reverse the decision of the superintendent or designee. The board will make a record of the proceedings.

If the board confirms the decision of the superintendent or designee, the student and the student's parent may appeal to the Commissioner of Education. The student may not be returned to the regular classroom pending the appeal.

### ***Withdrawal during Process***

When a student violates the district's Code in a way that requires or permits the student to be placed in a DAEP and the student withdraws from the district before a placement order is completed, the district may complete the proceedings and issue a placement order. If the student then reenrolls in the district during the same or a subsequent school year, the district may enforce the order at that time, less any period of the placement that has been served by the student during enrollment in another district. If the appropriate administrator or the board fails to issue a placement order after the student withdraws, the next district in which the student enrolls may complete the proceedings and issue a placement order.

### ***Newly Enrolled Students***

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

A newly enrolled student with a DAEP placement from a district in another state will 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, will 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 student.

## ***Emergency Placement Procedure***

When an emergency placement occurs, the student will be given oral notice of the reason for the action. Not later than the tenth day after the date of the placement, the student will be given the appropriate conference required for assignment to a DAEP.

### **Placement and/or Expulsion for Certain Serious Offenses**

This section includes two categories of serious offenses for which the Education Code provides unique procedures and specific consequences.

## ***Behavior Contract***

Upon return from the DAEP a behavior contract will be instituted outlining behavior expectations for returning students. Violation of this contract may result in immediate return to the DAEP.

## **Placement and/or Expulsion for Certain Offenses**

This section includes two categories of offenses for which the Education Code provides unique procedures and specific consequences.

## ***Registered Sex Offenders***

Upon receiving notification in accordance with state law that a student is currently required to register as a sex offender, the administration must remove the student from the regular classroom and determine appropriate placement unless the court orders BCAS placement.

If the student is under any form of court supervision, including probation, community supervision, or parole, the placement will be in either DAEP or BCAS for at least one semester.

If the student is not under any form of court supervision, the placement may be in DAEP or BCAS for one semester or the placement may be in a regular classroom. The placement may not be in the 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.

## **Review Committee**

At the end of the first semester of a student's placement in an alternative educational setting and before the beginning of each school year for which the student remains in an alternative placement, the district shall convene a committee, in accordance with state law, to review the student's placement. The committee will recommend whether the student should return to the regular classroom or remain in the placement. Absent a special finding, the board or its designee must follow the committee's recommendation.

The placement review of a student with a disability who receives special education services must be made by the ARD committee.

### **Newly Enrolled Student**

If a student enrolls in the district during a mandatory placement as a registered sex offender, the district may count any time already spent by the student in a placement or may require an additional semester in an alternative placement without conducting a review of the placement.

### **Appeal**

A student or the student's parent may appeal the placement by requesting a conference between the board or its designee, the student, and the student's parent. The conference is limited to the factual question of whether the student is required to register as a sex offender. Any decision of the board or its designee under this section is final and may not be appealed.

### ***Certain Felonies***

Regardless of whether placement or expulsion is required or permitted by one of the reasons in the DAEP Placement or Expulsion sections, in accordance with Education Code 37.0081, a student **may** be expelled and placed in either DAEP or BCAS if the board or its designee makes certain findings and the following circumstances exist in relation to a felony offense under Title 5 (see glossary) of the Texas Penal Code. The student must:

- Have received deferred prosecution for conduct defined as a Title 5 felony offense;
- Have been found by a court or jury to have engaged in delinquent conduct for conduct defined as a Title 5 felony offense;
- Have been charged with engaging in conduct defined as a Title 5 felony offense;
- Have been referred to a juvenile court for allegedly engaging in delinquent conduct for conduct defined as a Title 5 felony offense; or
- Have received probation or deferred adjudication or have been arrested for, charged with, or convicted of a Title 5 felony offense.

The district may expel the student and order placement under these circumstances regardless of:

1. The date on which the student's conduct occurred,
2. The location at which the conduct occurred,
3. Whether the conduct occurred while the student was enrolled in the district, or
4. Whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

## **Hearing and Required Findings**

The student must first have a hearing before the board or its designee, who must determine that in addition to the circumstances above that allow for the expulsion, the student's presence in the regular classroom:

1. Threatens the safety of other students or teachers,
2. Will be detrimental to the educational process, or
3. Is not in the best interest of the district's students.

Any decision of the board or the board's designee under this section is final and may not be appealed.

## **Length of Placement**

The student is subject to the placement until:

1. The student graduates from high school,
2. The charges are dismissed or reduced to a misdemeanor offense, or
3. The student completes the term of the placement or is assigned to another program.

## **Newly Enrolled Students**

A student who enrolls in the district before completing a placement under this section from another school district must complete the term of the placement.

## **Expulsion**

In deciding whether to order expulsion, the district shall take into consideration:

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct, and
3. The student's disciplinary history, or
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.

## ***Discretionary Expulsion: Misconduct That May Result in Expulsion***

### **Any Location**

A student **may** be placed in a DAEP for behaviors prohibited in the General Conduct Violations section of this code.

A student **may** be expelled for:

- Engaging in the following, no matter where it takes place:
  - Conduct that contains the elements of assault under Penal Code 22.01(a)(1) in retaliation against a school employee or volunteer.

- Any criminal mischief, including a felony.
- Engaging in conduct that contains the elements of one of the following offenses against another student, without regard to where the conduct occurs:
  - Aggravated assault.
  - Sexual assault.
  - Aggravated sexual assault.
  - Murder.
  - Capital murder.
  - Criminal attempt to commit murder or capital murder.
  - Aggravated robbery.
  - Breach of computer security.
- Engaging in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school.

***At School, Within 300 Feet, or at School Event***

- Committing any of the following offenses on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:
  - Selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, or a dangerous drug, if the conduct is not punishable as a felony.
  - Selling, giving, or delivering to another person, or possessing, using, or being under the influence of alcohol; or committing a serious act or offense while under the influence of alcohol, if the conduct is not punishable as a felony.
  - Engaging in conduct that contains the elements of an offense relating to abusable volatile chemicals.
  - Engaging in conduct that contains the elements of assault under Section 22.01(a)(1) against an employee or a volunteer.
  - Engaging in deadly conduct. (See glossary)

***Within 300 Feet of School***

- Engaging in the following conduct while within 300 feet of school property, as measured from any point on the school's real property boundary line:
  - Aggravated assault, sexual assault, or aggravated sexual assault.
  - Arson.
  - Murder, capital murder, or criminal attempt to commit murder or capital murder.

- Indecency with a child, aggravated kidnapping, manslaughter, criminally negligent homicide, or aggravated robbery.
- Continuous sexual abuse of a young child or children.
- Felony drug- or alcohol-related offense.
- Use, exhibition, or possession of a firearm (as defined by state law), a location restricted knife, a club, or prohibited weapon, or possession of a firearm (as defined by federal law).

### **Property of Another District**

- Committing any offense that is a state-mandated expellable offense if the offense is committed on the property of another district in Texas or while the student is attending a school-sponsored or school-related activity of a school in another district in Texas.

### **While in DAEP**

A student **may** be expelled for engaging in documented serious misbehavior that violates the district's Code, despite documented behavioral interventions while placed in a DAEP. For purposes of discretionary expulsion from a DAEP, serious misbehavior means:

1. Deliberate violent behavior that poses a direct threat to the health or safety of others;
2. Extortion, meaning the gaining of money or other property by force or threat;
3. Conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
4. Conduct that constitutes the offense of:
  - a. Public lewdness under Section 21.07, Penal Code;
  - b. Indecent exposure under Section 21.08; Penal Code;
  - c. Criminal mischief under Section 28.03, Penal Code;
  - d. Personal hazing under Section 37.152; or
  - e. Harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

### ***Mandatory Expulsion: Misconduct That Requires Expulsion***

A student **must** be expelled for any of the following offenses that occur on school property or while attending a school-sponsored or school-related activity on or off school property:

#### **Federal Law**

- Bringing to school or possessing at school, including any setting that is under the district's control or supervision for the purpose of a school activity, a firearm, as defined by federal law. (See glossary)

## Texas Penal Code

- Using, exhibiting, or possessing the following, as defined by the Texas Penal Code:
  - A handgun, defined by state law as any firearm designed, made, or adapted to be used with one hand. (See glossary.) Note: A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs at an approved target range facility that is not located on a school campus, while participating in or preparing for a school-sponsored, shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department, or a shooting sports sanctioning organization working within the department. [See policy FNCG (LEGAL).]
  - A location restricted knife, such as a knife with a cutting edged blade over 5½ inches; hand instrument, designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; or spear.



- A club (see glossary) such as an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk.
- A prohibited weapon, such as an explosive weapon, a machine gun, a short-barrel firearm, a firearm silencer, knuckles, armor-piercing ammunition, a chemical dispensing device, or a zip gun. (See glossary)
- Behaving in a manner that contains elements of the following offenses under the Texas Penal Code:
  - Aggravated assault, sexual assault, or aggravated sexual assault.
  - Arson. (See glossary)
  - Murder, capital murder, or criminal attempt to commit murder or capital murder.
  - Indecency with a child.
  - Aggravated kidnapping.
  - Aggravated robbery.
  - Manslaughter.
  - Criminally negligent homicide.

- Continuous sexual abuse of a young child or children.
- Behavior punishable as a felony that involves selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, a dangerous drug, or alcohol; or committing a serious act or offense while under the influence of alcohol.
- Engaging in retaliation against a school employee or volunteer combined with one of the above-listed mandatory expulsion offenses, with the exception of a federal firearm offense, on or off school property or at a school-related activity.

### ***Under Age Ten***

When a student under the age of ten engages in behavior that is expellable behavior, the student will not be expelled, but will be placed in a DAEP. A student under age six will not be placed in a DAEP unless the student commits a federal firearm offense.

### ***Emergency***

In an emergency, the principal or the principal's designee **may** order the immediate expulsion of a student for any reason for which expulsion may be made on a non-emergency basis.

### ***Process***

If a student is believed to have committed an expellable offense, the principal or other appropriate administrator will schedule a hearing within a reasonable time. The student's parent will be invited in writing to attend the hearing.

Until a hearing can be held, the principal may place the student in:

- Another appropriate classroom
- In-school suspension
- Out-of-school suspension
- DAEP

### ***Hearing***

A student facing expulsion will be given a hearing with appropriate due process. The student is entitled to:

1. Representation by the student's parent or another adult who can provide guidance to the student and who is not an employee of the district,
2. An opportunity to testify and to present evidence and witnesses in the student's defense, and
3. An opportunity to question the district's witnesses.

After providing notice to the student and parent of the hearing, the district may hold the hearing regardless of whether the student or the student's parent attends.

The board of trustees delegates to the superintendent of schools, or designee, the authority to conduct hearings and expel students.

### **Board Review of Expulsion**

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

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

The board will 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 will make and communicate its decision orally at the conclusion of the presentation. Consequences will not be deferred pending the outcome of the hearing.

### **Expulsion Order**

After the due process hearing, if the student is expelled, the board or its designee will deliver to the student and the student's parent a copy of the order expelling the student.

Not later than the second business day after the hearing, the superintendent of schools will deliver to the juvenile court a copy of the expulsion order and the information required by Section 52.04 of the Family Code.

If the length of the expulsion is inconsistent with the guidelines included in the Student Code of Conduct, the expulsion order will give notice of the inconsistency.

### ***Length of Expulsion***

The length of an expulsion will be correlated to the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, the student's attitude, and statutory requirements.

The duration of a student's expulsion will be determined on a case-by-case basis. The maximum period of expulsion is one calendar year except as provided below.

An expulsion may not exceed one 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 student.

State and federal law require a student to be expelled from the regular classroom for a period of at least one calendar year for bringing a firearm, as defined by federal law, to school. However, the superintendent or other appropriate administrator may modify the length of the expulsion on a case-by-case basis.

Students who commit offenses that require expulsion at the end of one school year may be expelled into the next school year to complete the term of expulsion.

### ***Withdrawal during Process***

When a student has violated the district's Code in a way that requires or permits expulsion from the district and the student withdraws from the district before the expulsion hearing takes place, the district may conduct the hearing after sending written notice to the parent and student.

If the student then reenrolls in the district during the same or subsequent school year, the district may enforce the expulsion order at that time, less any expulsion period that has been served by the student during enrollment in another district.

If the appropriate administrator or the board fails to issue an expulsion order after the student withdraws, the next district in which the student enrolls may complete the proceedings.

### ***Additional Misconduct***

If during the expulsion, the student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted, and the appropriate administrator or the board may issue an additional disciplinary order as a result of those proceedings.

### ***Restrictions during Expulsion***

Expelled students are prohibited from being on school grounds or attending school-sponsored or school-related activities during the period of expulsion.

No district academic credit will be earned for work missed during the period of expulsion unless the student is enrolled in a BCAS or another district-approved program.

### ***Newly Enrolled Students***

The district will continue the expulsion of any newly enrolled student expelled from another district or an open-enrollment charter school until the period of the expulsion is completed.

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:

1. The out-of-state district provides the district with a copy of the expulsion order, and
2. 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 will reduce the period of the expulsion or DAEP placement so that the entire period does not exceed one year, unless after a review it is determined that:

1. The student is a threat to the safety of other students or district employees, or
2. Extended placement is in the best interest of the student.

### ***Emergency Expulsion Procedures***

When an emergency expulsion occurs, the student will be given verbal notice of the reason for the action. Within ten days after the date of the emergency expulsion, the student will be given appropriate due process required for a student facing expulsion.

### ***DAEP Placement of Expelled Students***

The district may provide educational services to any expelled student in a DAEP; however, educational services in the DAEP must be provided if the student is less than ten years of age.

## Glossary

The glossary provides legal definitions and locally established definitions and is intended to assist in understanding terms related to the Student Code of Conduct.

**Abuse** is improper or excessive use.

**Armor-piercing ammunition** is handgun ammunition used in pistols and revolvers and designed primarily for the purpose of penetrating metal or body armor.

**Arson** is a crime that involves starting a fire or causing an explosion with intent to destroy or damage:

1. Any vegetation, fence, or structure on open-space land; or
2. Any building, habitation, or vehicle:
  - f. Knowing that it is within the limits of an incorporated city or town,
  - g. Knowing that it is insured against damage or destruction,
  - h. Knowing that it is subject to a mortgage or other security interest,
  - i. Knowing that it is located on property belonging to another,
  - j. Knowing that it has located within it property belonging to another, or
  - k. When the person starting the fire is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.

**Assault** is defined in part by Texas Penal Code 22.01(a)(1) as intentionally, knowingly, or recklessly causing bodily injury to another.

**Bullying** occurs when a student or group of students engages in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the District and that:

1. Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or
2. Is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

This conduct is considered bullying if it:

1. Exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression or physical conduct; and
2. Interferes with a student's education or substantially disrupts the operation of a school.

**Chemical dispensing device** is a device designed, made, or adapted for the purpose of causing an adverse psychological or physiological effect on a human being. A small chemical dispenser sold commercially for personal protection is not in this category.

**Club** is an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death. A blackjack, mace, and tomahawk are in the same category.

**Criminal Mischief** is a crime against property; the willful damaging of the property of another. Punishable in a criminal court but may also be dealt with as a civil [tort](#). Such offenses may include throwing rocks through windows, spray painting graffiti, slashing car tires, or other acts of vandalism. A person is guilty of criminal mischief who, having no right to do so nor any reasonable basis for belief of having such a right, purposely or recklessly damages property of another.

Criminal mischief is a class B felony if the actor purposely causes or attempts to cause:

- (a) Pecuniary loss in excess of \$1,000; or
- (b) A substantial interruption or impairment of public communication, transportation, supply of water, gas or power or other public service; or
- (c) Discharge of a firearm at an occupied structure, as defined in RSA 635:1, III; or
- (d) Damage to private or public property, real or personal, when the actor knows that the property has historical, cultural, or sentimental value that cannot be restored by repair or replacement.

Criminal mischief is a class A misdemeanor if the actor purposely causes or attempts to cause pecuniary loss in excess of \$100 and not more than \$1,000. All other criminal mischief is a misdemeanor

**Criminal street gang** is three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.

**Cyberbullying** is the use of any electronic communication device to engage in bullying or intimidation.

**Dating violence** is the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person with whom the student has or has had a dating relationship, as defined by Section 71.0021 of the Family Code.

**Deadly conduct** occurs when a person recklessly engages in conduct that places another in imminent danger of serious bodily injury, such as knowingly discharging a firearm in the direction of an individual, habitation, building, or vehicle.

**Deferred adjudication** is an alternative to seeking a conviction in court that may be offered to a juvenile for delinquent conduct or conduct indicating a need for supervision.

**Deferred prosecution** may be offered to a juvenile as an alternative to seeking a conviction in court for delinquent conduct or conduct indicating a need for supervision.

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

**Discretionary** means that something is left to or regulated by a local decision maker.

**Explosive weapon** is 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** occurs when a person knowingly initiates, communicates, or circulates a report of a present, past, or future bombing, fire, offense, or other emergency that he or she knows is false or baseless and that would ordinarily:

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, or place of assembly.

**Firearm** is defined by federal law (18 U.S.C. 921 (a)) as:

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 weapon; or
4. Any destructive device, such as an explosive, incendiary or poison gas bomb, or grenade.

Such term does not include an antique firearm.

**Firearm silencer** means any device designed, made, or adapted to muffle the report of a firearm.

**Graffiti** are markings with aerosol paint or an indelible pen or marker on tangible property without the effective consent of the owner. The markings may include inscriptions, slogans, drawings, or paintings.

**Handgun** is defined by Texas Penal Code 46.01 (5) as any firearm that is designed, made, or adapted to be fired with one hand.

**Harassment** is:

1. Conduct that meets the definition established in district policies DIA(LOCAL) and FFH(LOCAL); or
2. Conduct that threatens to cause harm or bodily injury to another student, 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.

**Hazing** is an intentional 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 for the purpose of pledging, initiation into, affiliation with, holding office in, or maintaining membership in an organization.

**Hit list** is a list of people targeted to be harmed, using a firearm, a knife, or any other object to be used with intent to cause bodily harm.

**Knuckles** is any instrument consisting of finger rings or guards made of a hard substance and designed or adapted for inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles.

**Location Restricted Knife**, such as a knife with a cutting edged blade over 5½ inches; hand instrument, designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; or spear.

**Machine gun** is any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

**Mandatory** means that something is obligatory or required because of an authority.

**Paraphernalia** are devices that can be used for inhaling, ingesting, injecting, or otherwise introducing a controlled substance into a human body.

**Persistent misbehavior** is two or more violations of the Code in general or repeated occurrences of the same violation.

**Possession** means to have an item on one's person or in one's personal property, including but not limited to clothing, purse, or backpack; a private vehicle used for transportation to or from school or school-related activities, including but not limited to an automobile, truck, motorcycle, or bicycle; or any other school property used by the student, including but not limited to a locker or desk.

**Prohibited weapon** under Texas Penal Code 46.05 (a) means

1. An explosive weapon;
2. A machine gun;
3. A short-barrel firearm or firearm silencer, unless registered with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives or classified as a curio or relic by the U.S. Department of Justice;
4. Knuckles
5. Armor-piercing ammunition;
6. A chemical dispensing device;
7. A zip gun; or
8. A tire deflation device.

**Public school fraternity, sorority, secret society, or gang** means an organization composed wholly or in part of students that seeks to perpetuate itself by taking additional members from the students enrolled in school based on a decision of its membership rather than on the free choice of a qualified student. Educational organizations listed in Section 37.121(d) of the Education Code are excepted from this definition.

**Reasonable belief** is a determination made by the superintendent or designee using all available information, including the information furnished under Article 15.27 of the Code of Criminal Procedure.

**Restorative Discipline** is a philosophy and system-wide intervention that places relationships at the heart of the educational experience. The goal of Restorative

Discipline is to change the school climate rather than merely respond to student behavior. Using a variety of techniques, Restorative Discipline brings together the key players in an incident to learn what happened, listen to each person's perspective, discover the motivation for the harm, and work to identify appropriate and agreed upon actions by which the student who caused the harm takes responsibility and is accountable for the breach of trust.

**Self-defense** is 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** means:

1. Deliberate violent behavior that poses a direct threat to the health or safety of others;
2. Extortion, meaning the gaining of money or other property by force or threat;
3. Conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
4. Conduct that constitutes the offense of:
  - a. Public lewdness under Section 21.07, Penal Code;
  - b. Indecent exposure under Section 21.08; Penal Code;
  - c. Criminal mischief under Section 28.03, Penal Code;
  - d. Personal hazing under Section 37.152; or
  - e. Harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

**Serious or persistent misbehavior** includes but is not limited to:

- Behavior that is grounds for permissible expulsion or mandatory DAEP placement.
- Behavior identified by the district as grounds for discretionary DAEP placement.
- Actions or demonstrations that substantially disrupt or materially interfere with school activities.
- Refusal to attempt or complete school work as assigned.
- Insubordination.
- Profanity, vulgar language, or obscene gestures.
- Leaving school grounds without permission.
- Falsification of records, passes, or other school-related documents.
- Refusal to accept discipline assigned by the teacher or principal.

**Short-barrel firearm** is a rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches.

**Terroristic threat** is a threat of violence to any person or property with intent to:

1. Cause a reaction of any type 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, or 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 a branch or agency of the federal government, the state, or a political subdivision of the state (including the district).

**Tire deflation device** is defined in part by Section 46.01 of the Penal Code as a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle’s tires.

**Title 5 offenses** are those that involve injury to a person and include murder; kidnapping; assault; sexual assault; unlawful restraint; coercing, soliciting, or inducing gang membership if it causes bodily injury to a child; indecency with a child; injury to a child, an elderly person, or a disabled person; abandoning or endangering a child; deadly conduct; terroristic threat; aiding a person to commit suicide; and tampering with a consumer product. [See FOC(EXHIBIT)]

**Under the influence** means lacking the normal use of mental or physical faculties. Impairment of a person’s physical or mental faculties may be evidenced by a pattern of abnormal or erratic behavior, 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** means voluntarily introducing into one’s body, by any means, a prohibited substance.

**Zip gun** is a device or combination of devices, not originally a firearm, but adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.

***DAEP/Alternative Assignment Lengths***

- The following offenses may result in both a school and law enforcement consequence. The school administrator will determine if law enforcement agencies should be contacted in each of the following offenses/circumstances and citations and/or arrests may result.

<b>Mandatory Removal Offense</b>	<b>1<sup>st</sup> Offense</b>	<b>Subsequent Offenses</b>
Unlawful entry of a building	45 school days	90 school days (DAEP)

	(DAEP)	
Possession of Illegal Drugs Testable / Usable	90 school days (BCAS)	120 school days (BCAS)
Testable / Un-usable	60 school days (DAEP)	90 school days (DAEP)
Possession of alcohol	60 school days (DAEP)	90 school days (BCAS)
Use of illegal drugs (misdemeanor) Under the Influence	90 school days (DAEP)	120 school days (DAEP)
Use of alcohol Under the Influence	90 school days (DAEP)	120 school days (DAEP)
Delivery or sale of illegal drugs	90 school days (BCAS)	120 school days (BCAS)
Delivery or sale of alcohol	90 school days (BCAS)	120 school days (BCAS)
<b><i>Assault as per the elements of a Class A in the penal code</i></b> <i>(Refer to page 32)</i>	90 school days (DAEP)	120 school days (DAEP)
Using an abusable volatile chemical.	60 school days (DAEP)	90 school days (DAEP)
Criminal Mischief <i>(Refer to page 33)</i> Misdemeanor	45 school days (DAEP)	90 school days (DAEP)
Felony	90 school days (BCAS)	120 school days (BCAS)
Public lewdness	60 school days	90 school days (DAEP)

	(DAEP)	
Indecent exposure	60 school days (DAEP)	90 school days (DAEP)
Possession of drug paraphernalia	60 school days (DAEP)	90 school days (DAEP)
Retaliation against school employee Without Injury	90 school days (DAEP)	120 school days (DAEP)
With Injury	90 school days (BCAS)	120 school days (BCAS)
Making a terroristic threat: that meets the definition for Terroristic Threat refer to page 36	90 school days (DAEP)	120 school days (BCAS)
General persistent misconduct (Refer to page 37)	*30 school days (DAEP)	**90 school days (DAEP)
Serious misconduct	90 school days (DAEP)	120 school days (DAEP)



General Persistent Misconduct



\*A student may be placed in ISS or suspended from school for a total of 12 school days. These days may be accumulated in any combination. If the student surpasses 12 days, the student may be



\*\*After a student has served a DAEP placement for persistent misconduct a behavior contract will be instituted which will specify what behavior expectations will be for the student. Violations of the contract may

placed in the  
DAEP as listed above.

result in a 2<sup>nd</sup> DAEP  
placement.

**Title V Offenses**

<b>Mandatory Removal Offense</b>	<b>1<sup>st</sup> Offense</b>	<b>Second Offense</b>
<b>Uses, exhibits, or possesses: Firearm (on person or inside building)</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
<b>Firearm (outside building)</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
<b>Location restricted knife (on person or inside building)</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
	<b>45 school days (DAEP)</b>	<b>1 calendar year BCAS</b>
<b>Location restricted knife (outside building)</b>	<b>45 school days (DAEP)</b>	<b>1 calendar year BCAS</b>
<b>Club (on person or inside building)</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
	<b>45 school days (DAEP)</b>	<b>1 calendar year in BCAS</b>
<b>Club (outside building)</b>	<b>45 school days (DAEP)</b>	<b>1 calendar year in BCAS</b>
<b>Prohibited weapon (on person or inside building)</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
	<b>45 school days (DAEP)</b>	<b>1 calendar year in BCAS</b>
<b>Prohibited weapon (outside building)</b>	<b>45 school days (DAEP)</b>	<b>1 calendar year in BCAS</b>
<b>Prohibited weapon (on person or inside building)</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
	<b>45 school days (DAEP)</b>	<b>1 calendar year in BCAS</b>
<b>Prohibited weapon (outside building)</b>	<b>45 school days (DAEP)</b>	<b>1 calendar year in BCAS</b>
<b>Engages in conduct with elements of: Aggravated assault</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
<b>Sexual assault</b>	<b>1 calendar year in</b>	<b>1 calendar year in BCAS</b>

	<b>BCAS</b>	
<b>Aggravated sexual assault</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
<b>Title 5 (off campus)</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
<b>Arson</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
<b>Murder</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
<b>Indecency with a child</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
<b>Aggravated kidnapping</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
<b>Aggravated retaliation on school employee</b>	<b>1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>
<b>Serious misconduct in Smithville Alternative School (DAEP)</b>	<b>Up to 1 calendar year in BCAS</b>	<b>1 calendar year in BCAS</b>

## **Fighting / Disorderly Conduct**

<b>First Offense</b>	<b>Second Offense</b>	<b>Third Offense or More Offenses</b>
<b>5 days ISS - 30 Days DAEP</b>	<b>30 Days – 45 Days DAEP</b>	<b>90 Days DAEP</b>
<b>1 - 3 school day suspension</b>	<b>3 school day suspension</b>	<b>3 school day suspension</b>

## Tobacco

	Possession or use
<b>First Offense</b>	<b>1 - 3 school days (ISS)</b>
<b>Second Offense</b>	<b>3 - 5 school days (ISS)</b>
<b>Third Offense</b>	<b>30 school days (DAEP)</b>

**Tobacco Offenses include all tobacco products and any tobacco substitute or simulation product such as Vapor.**