

Student Discipline 2023-2024 School Year



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Introductions

29 Years as a
Teacher in
Public School

Mary Scott

5 Years of
Chapter 37,
and Student
Discipline

30+ Years in
Education

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New from the 88th Session

- **HB 3928** – [Texas Education Code \(TEC\), §37.006\(p\)](#): On the placement of a student in a district alternative education program (DAEP), the school district **must** provide information to the student's parent/guardian regarding the process for requesting a full individual and initial evaluation of the student for purposes of special education services under [TEC, §29.004](#). This information must also be included in the student's required personalized transition plan under [TEC, §37.023](#), when returning to the regular education setting from DAEP or a Juvenile Justice Alternative Education Program (JJAEP).

- **HB 567** - [TEC, §25.902](#): Prohibits any school district's student dress or grooming policy, including a student dress or grooming policy for any extracurricular activity, from discriminating against a hair texture or protective hairstyle commonly or historically associated with race. A protective hairstyle includes braids, locks, and twists.
- **HB 3** - [TEC, §25.002\(a\)\(2\)](#): If a parent/guardian enrolls a child into a public school, the parent/guardian **or the school district** in which the child most recently attended school **must** furnish to the school district a copy of the child's records from the school the child's most recently attended a copy of the child's disciplinary record and any threat assessment involving the child's behavior conducted under [TEC, §37.115](#).

- **HB 114** – [TEC, §37.006\(a\)\(2\)\(C-1\),\(C-2\), \(D\)](#), Subject to the requirements of [TEC, §37.009\(a\)](#), a student **must** be removed from class and placed in a **DAEP**, if the student is observed on or within 300 feet of school property, or while attending a school-sponsored or school-related activity on or off school property:
 - (C-1) possessing, using, being under the influence, selling, giving, or delivering to another person marijuana or tetrahydrocannabinol (THC); **(DISCIPLINARY-ACTION-REASON-CODE 62)**
 - (C-2) possessing, using, selling, giving, or delivering to another person an e-cigarette; **(DISCIPLINARY-ACTION-REASON-CODE 63)**
 - (D) possessing, using, selling, giving, being under the influence, or delivering to another person an alcoholic beverage, or while under the influence of an alcoholic beverage commits a serious act or offense. **(DISCIPLINARY-ACTION-REASON-CODE 05 and 37)**
- *A felony alcohol offense under [TEC, §37.007\(a\)\(3\)](#) has been removed.

HB 114 – [TEC, §37.009\(a-1\)](#):

(a-1) If a DAEP is at capacity at the time a campus behavior coordinator is deciding placement for a student who engaged in conduct described under [TEC, §37.006\(a\)\(2\)\(C-1\), \(C-2\), \(D\), or \(E\)](#), the student **must** be:

- (1) placed in in-school suspension (ISS); and
- (2) if a position becomes available in the DAEP before the expiration of the period of the placement, the student **must** be returned to the DAEP for the remainder of the period.

Note: Applicable offenses for placement in ISS if DAEP is at capacity are DISCIPLINARY-ACTION-REASON-CODE 05, 06, 37, 62, and 63.

DIFFERENCE-LENGTH-REASON-CODE '11' Term Modified By District – Disciplinary Alternative Education Program Capacity will be used.

New from the 88th Session

HB 114 – [TEC, §37.009\(a-2\)](#):

(a-2) If a DAEP is at capacity at the time a campus behavior coordinator is deciding placement for a student who engaged in conduct described under [TEC, §37.007](#), that constitutes violent conduct, a student who has been placed in the program for conduct described under [TEC, §37.006\(a\)\(2\)\(C-1\), \(C-2\), \(D\), or \(E\)](#):

- (1) **may be** removed from the program and placed in (ISS) to make a position in the program available for the student who engaged in violent conduct; and
- (2) if removed from the program under Subdivision (1) and a position in the DAEP becomes available before the expiration of the period of the placement, the student **must** be returned to the DAEP for the remainder of the period.

Note: Only students attending DAEP for DISCIPLINARY-ACTION-REASON-CODE 05, 06, 37, 62, and 63 can be moved to ISS under (a-2).

Student Code of Conduct

Defined: The student code of conduct is the basis for a school district to outline and enforce expected student behavior. It states how and why students are disciplined to ensure expectations and actions are applied in an equitable and fair manner regardless of race, gender, ethnicity, economic disadvantaged status, or special education status.

Notes: The board of trustees must approve any change to the student code of conduct.

Open-enrollment charter schools' code of conduct is addressed in a separate section.

State Requirements: [TEC, §37.001](#)

The student code of conduct must specify and include:

- Circumstances in which a student may be removed from a regular classroom setting, campus, DAEP, or vehicle owned or operated by the district;
- Conditions that authorize or require an administrator to assign a suspension ([TEC, §37.005](#)), DAEP placement ([TEC, §37.006](#)), or an expulsion ([TEC, §37.007](#));
- Guidelines for setting the length of term for a suspension, DAEP placement, or expulsion.

State Requirements (continued):

- The following six items will be considered when deciding on a discipline action for any student:
 1. Was the student's behavior committed in **self-defense**?
 2. Was there a **clear intent or lack of intent** at the time of the student's behavior?
 3. What is the student's **disciplinary history**?
 4. Does the student have an **identified disability** that would substantially impair the student's capacity to appreciate the wrongfulness of the student's conduct?

Best Practice: Outline due process procedures, including procedures for disciplining students with disabilities, in the student code of conduct

State Requirements (continued):

5. Is the student in the conservatorship of the Department of Family and Protective Services? (**Foster-Care Student**)
6. Is the student's status "**homeless**"? (The definition of "homeless children and youths" is found in [42 U.S.C. §11434a](#), McKinney Vento Act. See Texas Student Data System (TSDS) data element [E1082](#) Homeless Status Code.)

State Requirements (continued):

- Appropriate grade-level methods, including options, for managing students, disciplining students, and preventing and intervening in student discipline problems;
- Prohibition of bullying, cyberbullying, and making hit lists, along with the requirements for enforcing these prohibited behaviors;
- Procedures for notification to a student's parent/guardian of a violation of the student code of conduct that results in a suspension, a DAEP placement, or an expulsion; and
- Stipulations for refusal of entry or ejection from district property for people who are considered non-students and the appeal process under [TEC, §37.105\(h\)](#).

What Disciplinary Actions Do We Report to TEA?

Non-Reportable Disciplinary Actions	TEA Reportable Disciplinary Actions
Relocation/Reassignment to Another Appropriate Classroom	All Suspensions
Timeout Periods in Classrooms	DAEP Placements (discretionary, mandatory)
Detentions (before school, lunch, recess, after school)	All Expulsions (discretionary, mandatory, without educational placement, DAEP, JJAEP)
Referrals to the Campus Behavior Coordinator or Administrator	

Suspensions Under [TEC, §37.005](#):

- ISS (placement on campus – counted present in attendance);
- Out-of-School Suspension (OSS) (not in school – counted absent not in attendance);
- Temporary assignment while scheduling a DAEP placement or expulsion;
- Opportunity to complete course work missed because of the suspension (includes at least one option for receiving the course work that does not require the use of the internet); and
- Must not exceed three days (includes ISS and OSS) ([TEC, §37.005\(b\)](#))

Suspensions (continued):

OSS:

- Not authorized for students below grade three or experiencing homelessness unless the student engages in certain conducts outlined in [TEC, §37.005\(c\)\(1\)-\(3\)](#):
 - 1) weapons under §§ [46.02](#) or [46.05](#), Penal Code;
 - 2) a violent offense under §§ [22.01](#), [22.011](#), [22.02](#), or [22.021](#), Penal Code; or
 - 3) selling, giving, possession, delivering, using, or under the influence of drugs or alcohol.

DAEP Placement [TEC, §37.006](#):

- Mandatory and discretionary removals must comply with Chapter 37 and the number of days assigned to DAEP must comply with the student code of conduct;
- Students must be enabled to perform academically at grade level;
- Entitled educational services and the opportunity to complete course work without interrupting the student's graduation plan must be provided; and
- A student who is younger than six years of age must not be placed in a DAEP (TEC, §37.006(I)).

Expulsion Types:

- **Expulsion without Academic Placement:** A student is expelled without educational services.
- **Expulsion with Placement in a DAEP:** A student is expelled to an on-campus or off-campus DAEP with educational services provided through the DAEP.
- **Expulsion with Placement JJAEP:** A student is expelled to JJAEP with educational services provided through the JJAEP. This is in accordance with a Memorandum of Understanding (MOU) between each JJAEP participating school district and the county JJAEP.

**Responsibilities
Best Practices**

Campus Behavior Coordinator ([TEC, §37.0012](#)):

Each campus must have a designated campus behavior coordinator to maintain student behavior and implement the student code of conduct. Regardless of how the campus behavior coordinator is assigned (grade level, building, alphabet), the district website must include the name, an email, and a contact phone number of each campus behavior coordinator.

Best Practice: Each campus should have the campus behavior coordinator's contact information easily accessible on its campus website.

Primary Duties of the Campus Behavior Coordinator:

- Ensure the student code of conduct is followed by all students and enforced consistently by appropriate staff;
- Promptly notify the parent/guardian of the student being placed in a disciplinary setting;
- Carry out the due process for each incident resulting in a student being removed from a regular education setting and placed in a disciplinary setting;
- Schedule a disciplinary conference for a DAEP placement no later than the third class day after the day on which a student is removed from class; and

Responsibilities and Suggested Best Practices

Primary Duties of the Campus Behavior Coordinator (continued):

- Provide a transition plan for each student returning to the regular classroom from an alternative placement within five days of the return.

Transition Plan:

- Must include recommendations for the best educational placement for the student from a variety of people associated with the district or campus.
- Must include information regarding the process for requesting a full individual and initial evaluation of the student for purposes of special education services ([HB 3928](#))
- May include resources for assistance in academics, counseling, behavior management, and access to available mental health services.

Note: Sample form is under Resources and Materials on the [TEA Student Discipline Webpage](#).

Bullying Prevention Policies and Procedures ([TEC, §37.0832](#)):

The board of trustees of each school district must adopt a bullying prevention policy, including any necessary procedures that:

- Prohibits the bullying of a student;
- Prevents and mediates bullying incidents between students that:
 - interfere with a student's educational opportunities; or
 - substantially disrupt the orderly operation of a classroom, school, or school-sponsored or school-related activities;
- Prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;

Bullying Prevention Policies and Procedures (continued):

- Establishes a procedure for providing notice of an incident of bullying to:
 - a parent/guardian of the alleged victim on or before the third business day after the date the incident is reported; and
 - a parent/guardian of the alleged bully within a reasonable amount of time after the incident;
- Establishes the actions a student should take to obtain assistance and intervention in response to bullying;
- Sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;

IV. Responsibilities and Suggested Best Practices

Bullying Prevention Policies and Procedures (continued):

- Establishes procedures for reporting an incident of bullying, including procedures for a student to anonymously report an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;
- Prohibits the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, based on that student's use of reasonable self-defense in response to the bullying;
- Requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (IDEA) ([20 U.S.C. §1400 et seq.](#)); and

Bullying Prevention Policies and Procedures (continued):

- Complies with the [minimum standards](#) adopted by the agency under [TEC, §37.0832\(c-1\)](#).

Notes: Adopted bullying prevention policies and procedures must be included in student and employee handbooks annually (as well as the district improvement plan (DIP), where applicable, under [TEC, §11.252](#)). Also, the procedure for reporting bullying must be posted on the LEA's Internet website to the extent practicable.

Corporal Punishment ([TEC, §37.0011](#)):

- The board of trustees may adopt a policy allowing corporal punishment as a method of student discipline.
- In order to prohibit the use of corporal punishment as a method of student discipline for their child, a student's parent/guardian must submit a written, signed statement each school year to the board of trustees in a manner established by the board.
- Conversely, a student's parent/guardian may withdraw the prohibition by submitting a written, signed revocation statement to the board at any time during the school year.

Best Practice: Ensure these procedures are outlined in the student code of conduct.

DAEP:

Each district's DAEP must be ready for operation during the entire school year. A district may not have a student assigned to the DAEP each school day, but the DAEP must be ready for operation for any placements or expulsions that might occur. Mandatory and discretionary removals to DAEP must comply with TEC, Chapter 37, and the student code of conduct.

Note: Upon the placement of a student in a DAEP, the student's parent/guardian must be given information regarding the process for requesting a full individual and initial evaluation of the student for purposes of special education services under [TEC, §29.004](#). (HB 3928)

Requirements for DAEP according to TEC, Chapter 37, and Texas Administrative Code (TAC):

- Setting must be somewhere other than a regular classroom setting and separate from students who are not in DAEP (except for summer programs);
- Location can be on or off a school campus. Generally, an off-campus facility is located on district property;
- Elementary students must be separated from secondary students;
- Procedures for enrolling and exiting DAEP must be established, including expectations and an individual plan for the student's success while in DAEP;

Requirements for DAEP according to TEC, Chapter 37, and TAC (continued):

- A pre- and post-assessment of academic growth in math and reading must be given to students placed in DAEP for a period of 90 school days or longer according to [19 TAC, Chapter 103, Health and Safety, Subchapter CC, §103.1203](#). This is in addition to the state standardized tests given each year;
- A school district may share a DAEP with one or more school districts;

Best Practice: Ensure an MOU is in place if a DAEP is shared.

Requirements for DAEP according to TEC, Chapter 37, and TAC (continued):

- The student-to-teacher ratio is no more than 15:1. There must be one certified teacher for every 15 students enrolled in DAEP;
- Students are eligible for average daily attendance (must follow student attendance accounting rules in the Student Attendance Accounting Handbook);
- Schools must allocate same funds for students in DAEP as a regular classroom;
- Districts must provide other school districts with placement orders of students who unenroll and enroll in a new district before a DAEP term is complete;

Requirements for DAEP according to TEC, Chapter 37, and TAC (continued):

- Each district must annually include in the DIP and each Campus Improvement Plan, the performance of the DAEP student group;
- Curriculum must focus on English language arts, math, science, history, and self-discipline. A school is required to provide a student in DAEP courses necessary to fulfill the student's high school graduation program before the next school year. This can be offered through correspondence courses, distant learning, or summer school;
- Upon entering the DAEP, a student's parent/guardian must be notified in writing of the different methods the district will use to provide to the student the ability to complete course work required for the student's graduation plan. The notification must also state there is no cost to the parent/guardian;

Requirements for DAEP according to TEC, Chapter 37, and TAC (continued):

- Educational and behavioral needs must be met while a student is in DAEP;
- Districts may provide transportation to a different campus, guidance center, or community-based service to provide required education services for a student;
- Districts must cooperate with government agencies and community organizations that provide services to school districts and DAEPs; and
- Upon completion of a student's DAEP term, a transition plan transitioning the student back to the regular classroom must be provided.

Requirements for DAEP according to TEC, Chapter 37, and TAC (continued):

Transition Plan from DAEP Back to Regular Campus:

- Establish a timeline for the student's transition from DAEP to the regular campus;
- Provide written notice to parents/guardians and the school administrator of the returning date of the student; and
- Provide the administrator of the home campus an assessment of the student's academic growth while attending DAEP.

Note: This is different from the transition plan under [TEC, §37.023](#), when a student returns to the regular education setting implemented by the campus behavior coordinator.

Requirements for DAEP according to TEC, Chapter 37, and TAC (continued):

All DAEP staff must participate in training programs on:

- Education;
- Behavior management; and
- Safety procedures that focus on positive and proactive behavior management strategies.

Responsibilities and Suggested Best Practices

Requirements for DAEP according to TEC, Chapter 37, and TAC (continued):

All DAEP staff must participate in training programs on:

- Education;
- Behavior management; and
- Safety procedures that focus on positive and proactive behavior management strategies.

These training programs must also target prevention and intervention that include:

- Training on the education and discipline of students with disabilities who receive special education services;
- Social skills and problem-solving skills instruction that address diversity, dating violence, anger management, and conflict resolution teaching students how to interact with teachers, family, peers, authority figures, and the general public; and
- Annual training on established procedures for reporting abuse, neglect, or exploitation of students.

JJAEP:

JJAEP is an academic program for students who have been expelled from school. According to [TEC, §37.011\(a\)](#), only a disciplinary alternative education program operated under the authority of a county juvenile board is considered a JJAEP.

The juvenile board of a county with a population greater than 125,000 is required to develop a JJAEP, subject to the approval of the Texas Juvenile Justice Department (TJJD). However, the juvenile board of a county with a population of 125,000 or less can develop a JJAEP.

Note: Requirements differ under TEC, §37.011, depending on the population size of the county. Further information regarding JJAEPs can be found in TEC, §37.011, and on [TJJD's JJAEP webpage](#).

Students with Disabilities: Section 504 and Special Education

- Special education services shall be provided to eligible students in accordance with all applicable federal law and regulations, state statutes, rules of the State Board of Education and commissioner of education, and IDEA.
- Students with disabilities are not prohibited from a placement in a disciplinary alternative education setting. If a student with a disability is placed in an alternative education setting, the student must continue to receive educational services to enable the child to continue to participate in the general education curriculum and to progress toward meeting the goals of the student's individualized education plan (IEP) or Section 504 plan.
- A student served in special education must not be placed in an alternative setting for more than 10 days (consecutively or concurrently) without a change of placement Admissions, Review, and Dismissal (ARD) meeting.

- A student with a disability must have a manifestation determination review (MDR) to determine whether the behavior was due to the student's disability prior to assigning a discipline action that would impact Free, Appropriate, Public Education (FAPE).
- If the conduct is determined to be a result of the student's disability, the appropriate committee must meet to review and possibly modify the student's current IEP or 504 plan to address any behavior concerns.
- If the conduct is determined not to be a result of the student's disability, the student may be given a discipline action that a student without a disability would receive.

- A parent/guardian must be notified on the date a decision is made to make a removal that constitutes a change of placement of a child with a disability due to a student code of conduct violation.
- If a student who receives special education services is subject to an emergency placement or expulsion, the emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply to a student without a disability.
- A parent/guardian has the right to appeal a decision made by an MDR or ARD committee.

If a school district takes a disciplinary action regarding a student with a disability who receives special education services that constitutes a change in placement under federal law, the district must:

- Not later than the 10th school day after the change in placement:
 - Seek consent from the student's parent/guardian to conduct a functional behavioral assessment of the student, if a functional behavioral assessment has never been conducted on the student or the student's most recent functional behavioral assessment is more than one year old; and
 - Review any previously conducted functional behavioral assessment of the student and any behavior improvement plan or behavioral intervention plan developed for the student based on that assessment.

- As necessary, the district must:
 - Develop a behavior improvement plan or behavioral intervention plan for the student if the student does not have a plan; or
 - Revise the student's behavior improvement plan or behavioral intervention plan, for the student if the student has a plan.

Note: For questions regarding students with disabilities, please contact the Texas Special Education Information Center (spedtex.org). This is a resource to inform and support parents, teachers, and anyone committed to the success of children with disabilities.

Parents

Guardians

Students

Rights

Parent/Guardian/Student Rights:

- Immediate written notice of disciplinary removals and placements;
- How classwork will be given to the student while placed out of the regular classroom;
- Disciplinary conference for a DAEP placement scheduled not later than the third class day after the day on which a student is removed from class;
- Participate in a proceeding before the board/board's designee, per district policy, if the student's placement in DAEP extends beyond 60 days or end of the next grading period, whichever is earlier; and
- Periodic review (not to exceed 120-day intervals) by the board's designee of the student's status, including academic status, and chance to advocate for the student's return to the regular classroom or campus.

Parent/Guardian/Student Rights (continued):

DAEP Placement Conference:

- A conference with the appropriate due process must be held with the student, the student's parent/guardian, and the teacher removing the student from the classroom, if there is one;
- The student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal;
- The parent/guardian/student should be given information on the right to appeal and the process, if the student code of conduct supports appeals for DAEP placements; and
- The board or the board's designee must deliver to the student and the parent/guardian a copy of the order placing the student in a DAEP.

Parent/Guardian/Student Rights (continued):

Expulsion Hearing:

- The expulsion hearing must be held with the appropriate due process;
- The student must not return to the classroom while waiting for the expulsion hearing; and
- A written invitation to the hearing must be given to the student, the student's parent/guardian, and another adult, at the student's discretion, who can provide guidance for the student.

Note: The district must hold the expulsion hearing regardless of parent/guardian attendance.

Parent/Guardian/Student Rights (continued):

Expulsion Appeals:

Parents/Guardians/Students can appeal the campus behavior coordinator's decision to expel.

The two steps to the appeal process for an expulsion are:

1. The board of trustees; if the parent/guardian/student is not satisfied, then
2. Trial *de novo* to the district court of the county in which the administrative office is located.

Charter Schools

Open-enrollment charter schools are subject to fewer requirements related to student discipline.

[TEC, §12.131\(a\)](#), requires the governing body of an open-enrollment charter school to adopt a code of conduct for its district or each campus. The governing body's final decision with respect to actions taken under the code of conduct cannot be appealed.

The student code of conduct must:

- Establish standards for behavior;
- Outline generally the types of prohibited behaviors and their possible consequences; and
- Outline the school's due process procedures with respect to expulsion.

Open-enrollment charter schools:

- May develop and implement a positive behavior program under [TEC, §37.0013](#), that provides a disciplinary alternative for suspension to a student below grade three.
- May not assign OSS for students experiencing homelessness unless the student engages in certain conducts outlined in [TEC, §37.005\(c\)\(1\)-\(3\)](#) ([TEC, §37.005\(d\)](#)).
- Must expel a student who brings a firearm to school ([TEC, §37.007\(e\)](#)).
- Must provide current disciplinary orders, if there are any, to a receiving school district of a student who withdraws from an open-enrollment charter school ([TEC, §37.022](#)).

Open-enrollment charter schools (continued):

- Must hold a DAEP placement conference or expulsion hearing, as applicable, when placing a student in a DAEP or expelling a student.
- Must provide a transition plan, under [TEC, §37.023](#), for each student returning to the regular classroom from an alternative placement within five days of the return.

Notes: An open-enrollment charter school cannot expel a student for a reason not authorized by [TEC, §37.007](#), or specified in the school's code of conduct as conduct that can result in expulsion.

Under TEC, §12.104, certain sections from TEC, Chapter 37, apply to charters:

- Discipline management practices or behavior management techniques under [TEC, §37.0021](#);
- Bullying prevention policies and procedures under [TEC, §37.0832](#);
- The right to place a student who has engaged in certain bullying behavior in a DAEP or to expel the student under [TEC, §37.0052](#);
- The right to report to local law enforcement certain conduct constituting assault or harassment under [TEC, §37.0151](#); and
- The right for an employee to report a crime witnessed at the school to any peace officer with authority to investigate the crime under [TEC, §37.148](#).

Data Reporting
Disciplinary Actions
Disciplinary Reasons
and
Behavior Locations



TEC authorizes, often by behavior location, both mandatory (shall/must) and discretionary (may/can) discipline actions for certain student behavior.

TSDS enables LEAs to report to TEA required data for certain discipline incidents resulting in a student being removed from the classroom.

Reported codes are defined in the Texas Education Data Standards (TEDS):

- [DISCIPLINARY-ACTION-CODE](#) - Code Table C164;
- [BEHAVIOR-LOCATION-CODE](#) – Code Table C190; and
- [DISCIPLINARY-ACTION-REASON-CODE](#) – Code Table C165.

Note: Questions regarding required student discipline data reporting should be submitted via TSDS Incident Management System (AKA...TIMS Ticket)

Disciplinary Actions (C164):

- Expulsion (01 - 04, 09, 11, 12)
- OSS (05, 25)
- ISS (06, 26)
- DAEP Placement (07, 08, 10)
- Continuation (08 – 12, 15)
- Court Order (13 - 14)
- Mandatory Disciplinary Action Not Taken (27 – 28)
- Special Education Hearing Officer Determination (50 - 61)

Behavior Locations (C190):

- Not Applicable (00)
- On Campus (01)
- Off Campus, but within 300 feet of campus property line (02)
- Off Campus, at a school sponsored or school related activity (03)
- Off Campus, and further than 300 feet from the campus boundary (Student was not in attendance at a school sponsored or school related activity) (04)
- On campus of another Texas school district, or while in attendance at a school sponsored or school related activity of another Texas school district other than the student's enrolled district (05)

01: Permanent Removal by a Teacher from Class – [TEC, §37.002\(c\)](#)

Students can be removed/disciplined for interfering with a teacher's communication in the classroom or with the ability for others to learn.

Location: 01

Action: Discretionary DAEP

Note: Expulsion is not allowed under reason code 01.

02: Conduct Punishable as a Felony – [TEC, §37.006 \(a\)\(2\)A](#), [TEC, §37.006\(d\)](#), [TEC, §37.0081](#)

Students must be removed/disciplined if they take part in conduct punishable as a felony not more specifically defined in TEDS C165.

Location: 01, 02, 03, 04, 05

Action: Mandatory DAEP

Discretionary DAEP

(determined by behavior location code)

05: Alcoholic Beverage – [TEC, §37.006\(a\)\(2\)\(D\)](#), [TEC, §37.007\(b\)\(2\)\(A\)](#)

Students must be removed/disciplined if they possess, sell, use, or are under the influence of an alcoholic beverage. ([Alcoholic Beverage Code §1.04](#))

Location: 01, 02, 03

Action: Mandatory DAEP

Discretionary Expulsion

Note: If a DAEP is at capacity, the student must be placed in ISS, if a position becomes available in DAEP before the expiration of the period of the placement, must be transferred to the DAEP for the remainder of the period or may be placed in ISS to make room for a student needing placement in DAEP for an offense involving violent conduct. (**HB 114**)

DIFFERENCE-LENGTH-REASON-CODE '11' Term Modified By District-Disciplinary Alternative Education Program Capacity is used.

06: Abusable Volatile Chemical – [TEC, §37.006\(a\)\(2\)\(E\)](#), [TEC, §37.007\(b\)\(2\)\(B\)](#)

Students must be removed/disciplined if they inhale, ingest, apply, use, possess, or deliver an abusable volatile chemical (glue, aerosol, paint, etc.). ([Health and Safety Code, §485.001](#))

Location: 01, 02, 03

Action: Mandatory DAEP

Discretionary Expulsion

Note: If a DAEP is at capacity, the student must be placed in ISS and if a position becomes available in DAEP before the expiration of the period of the placement, must be transferred to the DAEP for the remainder of the period or may be placed in ISS to make room for a student needing placement in DAEP for an offense involving violent conduct. (**HB 114**)

DIFFERENCE-LENGTH-REASON-CODE '11' Term Modified By District-Disciplinary Alternative Education Program Capacity is used.

07: Public Lewdness or Indecent Exposure – [TEC, §37.006\(a\)\(2\)\(F\)](#)

Students must be removed/disciplined if they engage in a sexual act, perceived sexual act, or exposure of their anus or genitals in public or in a non-public place and offends or alarms anyone present. ([Penal Code §21.07](#) - Public Lewdness and [Penal Code §21.08](#) – Indecent Exposure)

Location: 01, 02, 03

Action: Mandatory DAEP

Note: Incidents involving public lewdness or indecent exposure while in DAEP should be reported with reason code 59.

08: Retaliation Against School Employee – [TEC, §37.006\(b\)](#), [TEC, §37.007\(d\)](#)

Students must be removed/disciplined if they intentionally or knowingly harm or threaten to harm a school employee or volunteer by an unlawful act or post information on a publicly accessible website, to cause harm or threat of harm, of a school employee or member of a school employee's family or household.

Location: 01, 02, 03, 04

Action: Mandatory DAEP

 Discretionary Expulsion

09: Based on Conduct Occurring Off Campus and While the Student is not in Attendance at a School-Sponsored or School-Related Activity for Felony Offenses in Title 5, Penal Code –[TEC, §37.006\(c\)](#), [TEC, §37.007\(b\)\(4\)](#), [TEC, §37.0081](#)

Students must be removed/disciplined if they engage in behavior defined as a felony under Title 5 of the Penal Code. A Title 5 felony is a crime against a person.

Location: 04

Action: Mandatory DAEP

Discretionary Expulsion

Note: An expulsion action based on TEC, §37.0081, requires placement into either a DAEP or JJAEP.

10: Based on Conduct Occurring Off Campus and While the Student is not in Attendance at a School-Sponsored or School-Related Activity for Felony Offenses not in Title 5, Penal Code – [TEC, §37.006\(d\)](#), [TEC, §37.007\(b\)\(4\)](#)

Students may be removed/disciplined if they engage in a Non-Title 5 felony behavior. A Non-Title 5 felony is a crime against property.

Location: 04

Action: Discretionary DAEP

Discretionary Expulsion (Aggravated Robbery)

Note: An expulsion action based on [TEC, §37.0081](#), requires placement into either a DAEP or JJAEP.

11: Brought a Firearm to School TEC, §37.007(e), or Unlawful Carrying of a Handgun under Penal Code 46.02 – TEC, §37.007(a)(1), TEC, §37.007(b)(3)(A)-(B), TEC, §37.007(e), TEC, §37.007(i)

Students must be removed/disciplined for bringing a firearm on a school property. (18 U.S.C., §921 – firearm)

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

12: Unlawful Carrying of a Location-Restricted Knife under Penal Code 46.02 – (knife blade longer than 5.5 inches) TEC, §37.007(a)(1), TEC, §37.007(b)(3)(A), TEC, §37.007(i)

Students must be removed/disciplined for bringing a location-restricted knife on a school property.

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

14: Conduct Containing the Elements of an Offense Relating to Prohibited Weapons under [Penal Code 46.05](#) – [TEC, §37.007\(a\)\(1\)](#), [TEC, §37.007\(b\)\(3\)\(A\)](#), [TEC, §37.007\(i\)](#)

Students must be removed/disciplined if they possess, manufacture, transport, repair, or sell a prohibited weapon (explosive weapon, machine gun, short-barrel firearm, armor-piercing ammunition, chemical dispensing device, zip gun, tire deflation device, or an improvised explosive device) on a school property.

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

16: Arson – [TEC, §37.007\(a\)\(2\)\(B\)](#), [TEC, §37.007\(b\)\(3\)\(A\)](#), [TEC, §37.007\(i\)](#)

Students must be removed/disciplined if they start a fire with the intent of destroying or damaging something.

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

17: Murder, Capital Murder, or Criminal Attempt to Commit Murder or Capital Murder – TEC, §37.007(a)(2)(C), TEC, §37.007(b)(3)(A), TEC, §37.007(i), TEC, §37.007(b)(4)

Students must be removed/disciplined if they commit or attempt to commit murder or capital murder.

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

18: Indecency with a Child – [TEC, §37.007\(a\)\(2\)\(D\)](#), [TEC, §37.007\(b\)\(3\)\(A\)](#), [TEC, §37.007\(i\)](#)

Students must be removed/disciplined if they intend to of participate, participate with, or cause someone under the age 17 to participate in sexual contact, arousal of, or gratification of a person by showing the anus or genitals or making the person under age 17 show the anus or genitals.

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

19: Aggravated Kidnapping – TEC, §37.007(a)(2)(E), TEC, §37.007(b)(3)(A), TEC, §37.007(i)

Students must be removed/disciplined for abducting a person with intent to hold the person for ransom, use as a shield or hostage, participate or help commit a felony, inflict bodily injury, abuse sexually, terrorize, or interfere with a governmental or political function.

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

21: Violation of Student Code of Conduct not included under [TEC, §37.006](#), [TEC, §37.007](#), [TEC, §37.002\(c\)](#)

Students can be removed/disciplined if they participate in any behavior that is supported by the student code of conduct and not specified in any other statute of Chapter 37.

Location: 00

Action: Discretionary DAEP

Note: Expulsion is not allowed under reason code 21.
Court ordered JJAEP should be reported with a DISCIPLINARY-ACTION-REASON-CODE '21'.

22: Criminal Mischief (Felony Violation) – [TEC, §37.007\(f\)](#)

Students can be removed/disciplined if they intentionally damage, destroy, or tamper with school property.

Location: 00

Action: Discretionary Expulsion

Note: Districts must refer students to the authorized officer of the juvenile court for criminal mischief regardless of the disciplinary action taken.

23: Emergency Placement/Expulsion – [TEC, §37.019](#)

Students can be placed in DAEP or expelled immediately for behaviors which, under reasonable belief, are safety threats to others or so extreme they interfere with the teacher's ability to communicate to students.

Location: 00

Action: Discretionary DAEP

Discretionary Expulsion – (if conduct is an expellable offense)

Note: A formal placement hearing must be held within 10 days of this removal.

26: Terroristic Threat – [TEC, §37.006\(a\)\(1\)](#), [TEC, §37.007\(b\)\(1\)](#)

Students must be removed/disciplined if they threaten to commit an act of violence to any person or property.

Location: 01, 02, 03, 04, 05

Action: Mandatory DAEP

Discretionary Expulsion

27: Assault under Penal Code §22.01(a)(1) Against a School District Employee or Volunteer – TEC, §37.006(a)(2)(B), TEC, §37.007(b)(2)(C)

Students must be removed/disciplined if they intentionally cause bodily injury to any school employee or volunteer.

Location: 01, 02, 03

Action: Mandatory DAEP

Discretionary Expulsion

28: Assault under [Penal Code §22.01\(a\)\(1\)](#) Against Someone Other than a School District Employee or Volunteer – [TEC, §37.006\(a\)\(2\)\(B\)](#)

Students must be removed/disciplined if they intentionally cause bodily injury to a student or non-school staff.

Location: 01, 02, 03

Action: Mandatory DAEP

Note: Expulsion is not allowed with basic assault with bodily injury.

29: Aggravated Assault under [Penal Code §22.02](#) Against a School District Employee or Volunteer – [TEC, §37.007\(d\)](#), [TEC, §37.007\(i\)](#)

Students must be removed/disciplined if they cause serious bodily injury or exhibit a deadly weapon during the assault of a school employee or volunteer.

Location: 01, 02, 03, 04, 05

Action: Mandatory Expulsion

30: Aggravated Assault under [Penal Code §22.02](#) Against Someone other than a School District Employee or Volunteer – [TEC, §37.007\(a\)\(2\)\(A\)](#), [TEC, §37.007\(b\)\(3\)\(A\)](#), [TEC, §37.007\(i\)](#)

Students must be removed/disciplined if they cause serious bodily injury or exhibit a deadly weapon during the assault to a person other than a school employee.

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

31: Sexual Assault under [Penal Code §22.011](#) or Aggravated Sexual Assault under [§22.021](#) Against a School District Employee or Volunteer – [TEC, §37.007\(d\)](#), [TEC, §37.007\(i\)](#)

Students must be removed/disciplined for sexual assault if they intentionally or knowingly engage in behaviors alone or with another person that causes penetration of an anus, sexual organ, or mouth without consent of a school employee or volunteer; or

For aggravated sexual assault if they intentionally or knowingly engage in the above sexual assault behaviors alone or with another person that causes fear of or threatens serious bodily injury, death, or kidnapping.

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

32: Sexual Assault under Penal Code §22.011 or Aggravated Sexual Assault under §22.021 Against Someone other than a School District Employee or Volunteer – TEC, §37.007(a)(2)(A), TEC, §37.007(b)(3)(A), TEC, §37.007(i)

Students must be removed/disciplined for sexual assault if they intentionally or knowingly engage in behaviors alone or with another person that causes penetration of an anus, sexual organ, or mouth without consent of a person other than a school employee or volunteer; or

For aggravated sexual assault if they intentionally or knowingly engage in the above sexual assault behaviors alone or with another person that causes fear of or threatens serious bodily injury, death, or kidnapping.

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

35: False Alarm/False Report – [TEC, §37.006\(a\)\(1\)](#), [TEC, §37.007\(b\)\(1\)](#)

Students must be removed/disciplined if they falsely and intentionally initiate, communicate, or circulate a report of a bomb, fire, offense, or an emergency that would cause fear or a first-responder to react or interrupt the occupation of a building.

Location: 01, 02, 03, 04, 05

Action: Mandatory DAEP

Discretionary Expulsion

(determined by behavior location)

36: Felony Controlled Substance Violation – [TEC, §37.007\(a\)\(3\)](#),
[TEC, §37.007\(b\)\(2\)\(A\)](#), [TEC, §37.007\(i\)](#)

Students must be removed/disciplined if they possess, sell, use, or are under the influence of a controlled substance, or a dangerous drug on a felony level excluding marihuana/THC.

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

Note: Must be a felony level for BEHAVIOR-LOCATION-CODE 05.

37: Alcoholic Beverage – [TEC, §37.006\(a\)\(2\)\(D\)](#), [TEC, §37.007\(b\)\(2\)\(A\)](#)

Students must be removed/disciplined if they possess, sell, use, or are under the influence of an alcoholic beverage. ([Alcoholic Beverage Code §1.04](#))

Location: 01, 02, 03

Action: Mandatory DAEP

Discretionary Expulsion

Note: If a DAEP is at capacity, the student must be placed in ISS, if a position becomes available in DAEP before the expiration of the period of the placement, must be transferred to the DAEP for the remainder of the period or may be placed in ISS to make room for a student needing placement in DAEP for an offense involving violent conduct. (**HB 114**)

DIFFERENCE-LENGTH-REASON-CODE '11' Term Modified By District-Disciplinary Alternative Education Program Capacity is used.

41: Fighting/Mutual Combat – [TEC, §37.001](#)

Students can be removed/disciplined if they choose to mutually participate in physical combat using blows or force to overcome another. This must involve two or more persons.

Location: 00

Action: Discretionary DAEP

Note: Expulsion is not allowed under reason code 41. It is possible to report only one student per incident.

46: Aggravated Robbery – TEC, §37.006(c)-(d), TEC, §37.007(a)(2)(F), §37.007(a)(2)(F), TEC, §37.007(b)(3)(A), TEC, §37.007(i), TEC, §37.0081

Students must be removed/disciplined if they participate in robbery and cause serious bodily injury, use a weapon, or causes or threatens bodily injury or death.

Location: 01, 02, 03, 04, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

47: Manslaughter – [TEC, §37.007\(a\)\(2\)\(G\)](#), [TEC, §37.007\(i\)](#), [TEC, §37.0081](#)

Students must be removed/disciplined if they recklessly cause the death of a person.

Location: 01, 02, 03, 04, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

48: Criminally Negligent Homicide – [TEC, §37.007\(a\)\(2\)\(H\)](#), [TEC, §37.007\(b\)\(3\)\(A\)](#), [TEC, §37.007\(i\)](#), [TEC, §37.0081](#)

Students must be removed/disciplined if they cause the death of a person by criminal negligence.

Location: 01, 02, 03, 04, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

49: Engages in Deadly Conduct – [TEC, §37.007\(b\)\(2\)\(D\)](#)

Students can be removed/disciplined if they recklessly participate in a conduct that puts another in imminent danger of serious bodily injury or knowingly discharges a firearm at an individual, habitat, building, or vehicle.

Location: 01, 02, 03

Action: Discretionary DAEP

Discretionary Expulsion

55: Student is Required to Register as a Sex Offender Under Court Supervision – [TEC, §37.304](#)

Students must be removed/disciplined if they are registered as a sex offender and under court supervision.

Location: 00

Action: Mandatory DAEP – at least one semester

Discretionary Expulsion – at least one semester

Note: Discretionary expulsion to the JJAEP is determined by the MOU.

56: Student is Required to Register as a Sex Offender and is not Under Court Supervision – [TEC, §37.305](#)

Students can be removed/disciplined if they are registered as sex offenders and are not under court supervision.

Location: 00

Action: Discretionary DAEP – up to one semester

Discretionary Expulsion – up to one semester

Note: Discretionary expulsion to JJAEP is determined by the MOU.

57: Continual Sexual Abuse of Young Child or Disabled Individual under §21.02, Penal Code – [TEC, §37.007\(a\)\(2\)\(I\)](#), [TEC, §37.007\(b\)\(3\)\(A\)](#), [TEC, §37.007\(i\)](#)

Students must be removed/disciplined if they participate in sexual abuse two or more times within a 30 day or more duration period.

Location: 01, 02, 03, 05

Action: Mandatory Expulsion

Discretionary Expulsion

(determined by behavior location)

58: Breach of Computer Security – [TEC, §37.007\(b\)\(5\)](#)

Students can be removed/disciplined if they breach or access a computer, a computer network, or computer system and knowingly alter, damage, or delete school district property or information.

Location: 01, 02, 03, 04, 05

Action: Discretionary Expulsion

59: Serious Misbehavior While Expelled To/Placed in a DAEP – [TEC, §37.007\(c\)](#)

Students can be removed/disciplined for deliberate violent behavior, extortion, coercion, public lewdness, indecent exposure, criminal mischief, personal hazing, or harassment while in DAEP.

Location: 01

Action: Discretionary Expulsion

Note: A student may be expelled if the student, while placed in a DAEP, engages in documented serious misbehavior while on the program campus despite documented behavioral interventions.

60: Harassment Against an Employee of a School District under Penal Code §42.07(a)(1), (2), (3), or (7) – TEC, §37.006(a)(2)(G)

Students must be removed/disciplined if they participate in harassing, threatening, conveying a false report, or sending repeated electronic communications to harass a school employee.

Location: 01, 02, 03

Action: Mandatory DAEP

61: Bullying – [TEC, §37.0052\(b\)](#)

Students can be removed/disciplined if they engage in bullying that encourages a student to attempt or commit suicide, cause violence against a student through group bullying, or releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without consent from the student.

Location: 00

Action: Discretionary DAEP
Discretionary Expulsion

Note: In TEC, §37.0052(b), “bullying” has the meaning assigned by [TEC, §37.0832](#).

Data Reporting

62: Marihuana/THC – [TEC, §37.00\(6\)\(C-1\)](#), [TEC, §37.007\(b\)\(2\)\(A\)](#)

Students must be removed/disciplined if they possess, sell, give, use, deliver, or are under the influence of marihuana or tetrahydrocannabinol (THC). Marihuana has the meaning under [§481.002,\(26\), Health and Safety Code](#).

Location: 01, 02, 03

Action: Mandatory DAEP

Discretionary Expulsion

Note: If a DAEP is at capacity, the student must be placed in ISS and if a position becomes available in DAEP before the expiration of the period of the placement, must be transferred to the DAEP for the remainder of the period or may be placed in ISS to make room for a student needing placement in DAEP for an offense involving violent conduct. (HB 114)

DIFFERENCE-LENGTH-REASON-CODE '11' Term Modified By District – Disciplinary Alternative Education Program Capacity is used.

Data Reporting

63: E-Cigarettes – [TEC, §37.00\(6\)\(C-2\)](#)

Students must be removed/disciplined if they possess, sell, give, delivered, or use an e-cigarette. E-Cigarettes are defined under [§161.081\(1-a\), Health and Safety Code](#).

Location: 01, 02, 03

Action: Mandatory DAEP

Note: If a DAEP is at capacity, the student must be placed in ISS and if a position becomes available in DAEP before the expiration of the period of the placement, must be transferred to the DAEP for the remainder of the period or may be placed in ISS to make room for a student needing placement in DAEP for an offense involving violent conduct. (HB 114)

DIFFERENCE-LENGTH-REASON-CODE '11' Term Modified By District – Disciplinary Alternative Education Program Capacity is used.

64: Other Controlled Substance – [TEC, §37.00\(6\)\(a\)\(2\)\(c\)](#), [TEC, §37.007\(b\)\(2\)\(A\)](#)

Students must be removed/disciplined if they possess, sell, give, use, deliver, or are under the influence of a controlled substance excluding marijuana or THC. Controlled substances have the meaning under [§481.002\(5\), Health and Safety Code](#).

Location: 01, 02, 03, 05

Action: Mandatory DAEP

Discretionary Expulsion

Note: Must be a felony level for BEHAVIOR-LOCATION-CODE 05.

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