

## 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 Round Rock 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. 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**

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

The District has disciplinary authority over a student:

1. During the regular school day and while the student is going to and from school on District transportation;
2. During lunch periods in which a student is allowed to leave campus;
3. While the student is in attendance at any school-related activity, regardless of time or location;
4. For any school-related misconduct, regardless of time or location;
5. When retaliation against a school employee or volunteer occurs or is threatened, regardless of time or location;
6. When criminal mischief is committed on or off school property or at a school-related event;
7. For certain offenses committed within 300 feet of school property as measured from any point on the school's real property boundary line;
8. For certain offenses committed while on school property or while attending a school-sponsored or school-related activity of another District in Texas;
9. When the student commits a felony, as provided by Education Code 37.006 or 37.0081; and
10. 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.

Lockers and desks are subject to blanket searches or inspections by District administrators.

### **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.

### **Revoking Transfers**

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

## Standards for Student Conduct

Each student is expected to:

1. Demonstrate courtesy, even when others do not.
2. Behave in a responsible manner, always exercising self-discipline.
3. Attend all classes, regularly and on time.
4. Prepare for each class; take appropriate materials and assignments to class.
5. Meet District and campus standards of grooming and dress.
6. Obey all campus and classroom rules.
7. Respect the rights and privileges of students, teachers, and other District staff and volunteers.
8. Respect the property of others, including District property and facilities.
9. Cooperate with and assist the school staff in maintaining safety, order, and discipline.
10. 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 serious offenses. In the subsequent sections on Suspension, DAEP Placement, Placement and/or Expulsion for Certain Serious Offenses, and Expulsion, severe offenses that require or permit specific consequences are listed. Any offense, however, may be serious enough to result in Removal from the Regular Educational Setting as detailed in that section.

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

Students shall not:

1. Fail to comply with directives given by school personnel (insubordination).
2. Leave school grounds or school-sponsored events without permission.
3. Disobey rules for conduct on school buses.
4. Refuse to accept discipline management techniques assigned by a teacher or principal.

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

Students shall not:

1. Use profanity or vulgar language or make obscene gestures.
2. Fight or scuffle. (For assault see DAEP Placement and Expulsion)
3. Threaten a District student, employee, or volunteer, including off school property if the conduct causes a substantial disruption to the educational environment.
4. Engage in bullying, harassment, or making hit lists. (See glossary for all three terms)
5. Engage in conduct that constitutes sexual harassment or sexual abuse, whether by word, gesture, or any other conduct, directed toward another person, including a District student, employee, or volunteer.
6. 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.
7. Engage in inappropriate or indecent exposure of private body parts.
8. Participate in hazing. (See glossary)
9. Cause an individual to act through the use of or threat of force (coercion).
10. Commit extortion or blackmail (obtaining money or an object of value from an unwilling person).
11. Engage in inappropriate verbal, physical, or sexual conduct directed toward another person, including a District student, employee, or volunteer.
12. 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:

1. Damage or vandalize property owned by others. (For felony criminal mischief see DAEP Placement or Expulsion)
2. Deface or damage school property—including textbooks, lockers, furniture, and other equipment—with graffiti or by other means.
3. Steal from students, staff, or the school.
4. 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:

1. Fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;
2. A razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
3. A “look-alike” weapon;
4. An air gun or BB gun;
5. Ammunition;
6. A stun gun;

7. A pocket knife or a knife with a blade less than 3 inches;
8. Mace or pepper spray;
9. Pornographic material;
10. Tobacco products;
11. Matches or a lighter;
12. A laser pointer for other than an approved use; or
13. 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***

Students shall not display, turn on, or use a cellular telephone or other telecommunications device on school property during the school day.

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

Students shall not:

1. 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)
2. Possess, use, give, or sell paraphernalia related to any prohibited substance. (See glossary for "paraphernalia")
3. Possess or sell look-alike drugs or attempt to pass items off as drugs or contraband.
4. 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")
5. Abuse over-the-counter drugs. (See glossary for "abuse")
6. 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")
7. Have or take prescription drugs or over-the-counter drugs at school other than as provided by District policy.

#### ***Misuse of Computers and the Internet***

Students shall not:

1. Violate computer use policies, rules.
2. 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.
3. 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.
4. Use the Internet or other electronic communications to threaten, harass, damage, or embarrass District students, employees, or volunteers, including off school property if the conduct causes a disruption to the educational environment.
5. Send or post electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, including off school property if the conduct causes a substantial disruption to the educational environment.
6. Use e-mail or Web sites at school to encourage illegal behavior or threaten school safety.

#### ***Safety Transgressions***

Students shall not:

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

#### ***Miscellaneous Offenses***

Students shall not:

1. Violate dress and grooming standards as communicated in the student handbook.
2. Cheat or copy the work of another.
3. Gamble.
4. Falsify records, passes, or other school-related documents.
5. Engage in actions or demonstrations that substantially disrupt or materially interfere with school activities.
6. 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.

## 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. 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:

1. Verbal correction, oral or written.
2. Cooling-off time or "time-out."
3. Seating changes within the classroom.
4. Temporary confiscation of items that disrupt the educational process.
5. Rewards or demerits.
6. Behavioral contracts.
7. Counseling by teachers, counselors, or administrative personnel.
8. Parent-teacher conferences.
9. Grade reductions for cheating, plagiarism, and as otherwise permitted by policy.
10. Detention.
11. Sending the student to the office or other assigned area, or to in-school suspension.
12. Assignment of school duties such as cleaning or picking up litter.
13. Withdrawal of privileges, such as participation in extracurricular activities, eligibility for seeking and holding honorary offices, or membership in school-sponsored clubs and organizations.
14. Penalties identified in individual student organizations' extracurricular standards of behavior.
15. Withdrawal or restriction of bus privileges.
16. School-assessed and school-administered probation.
17. Out-of-school suspension, as specified in the Suspension section of this Code.
18. Placement in a DAEP.
19. Placement and/or expulsion in an alternative educational setting, as specified in the Placement and/or Expulsion for Certain Serious Offenses section of this Code.
20. Expulsion, as specified in the Expulsion section of this Code.
21. Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the District.
22. Other strategies and consequences as determined by school officials.

### **Notification**

The principal or appropriate administrator will notify a student's parent by phone or in writing of any violation that may result in a suspension, placement in a DAEP, or expulsion. Notification will be made within three school days after the administrator becomes aware of the violation.

### **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) with the exception of DAEP placements and expulsions. Appeals regarding DAEP placement are addressed in Board Policy FOC (Local). The expulsion process is found in Board Policy FOD. A copy of the policies may be obtained from the principal's office or the central administration office or through Policy On Line at the following address: [www.roundrockisd.org](http://www.roundrockisd.org)

Consequences will not be deferred pending the outcome of a complaint or expulsion hearing, or a DAEP appeal.

## 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.

### ***Formal Removal***

A teacher or administrator **may** remove a student from class for a behavior that violates this Code to maintain effective discipline in the classroom. 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:

1. Another appropriate classroom
2. In-school suspension
3. Out-of-school suspension
4. 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 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.

### ***Process***

State law allows a student to be suspended 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 suspension will be determined by the appropriate administrator, but will not exceed three school days.

During the suspension the student is prohibited from going on school property and may not participate in any school-sponsored or school-related extracurricular and co-curricular activities.

## Disciplinary Alternative Education Program (DAEP) Placement

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.

### **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:

1. 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)
2. Involvement in criminal street gang activity. (See glossary)
3. Criminal mischief, not punishable as a felony.

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:

1. Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school. (See glossary)
2. 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:
  - a. Engages in conduct punishable as a felony.
  - b. Commits an assault (see glossary) under Texas Penal Code 22.01(a)(1).
  - c. 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")
  - d. 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.)
  - e. Behaves in a manner that contains the elements of an offense relating to abusable volatile chemicals.
  - f. Behaves in a manner that contains the elements of the offense of public lewdness or indecent exposure.
3. Engages in expellable conduct and is between six and nine years of age.
4. Commits a federal firearms violation and is younger than six years of age.
5. 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.)
6. 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:
  - a. The student receives deferred prosecution (see glossary),
  - b. A court or jury finds that the student has engaged in delinquent conduct (see glossary), or
  - c. 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.

### **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 administrator.

### **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.

### **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.

### **Length of Placement**

The duration of a student's placement in a DAEP will be determined by the campus administrator.

The duration of a student's placement will be determined on a case-by-case basis. DAEP placement will 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.

### **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 administrator must determine that:

1. The student's presence in the regular classroom or campus presents a danger of physical harm to the student or others, or
2. The student has engaged in serious or persistent misbehavior (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.

### **Appeals**

Questions or complaints from parents regarding disciplinary measures should be addressed to the campus administration, in accordance with policy FOC(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.roundrockisd.org](http://www.roundrockisd.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's designee. The board's designee is the superintendent's designated hearing officer.

**Restrictions during Placement**

State law prohibits a student placed in a DAEP for reasons specified in state law from attending or participating in school-sponsored or school-related extracurricular activities.

The District will provide transportation to students in a DAEP.

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 whether the student will be allowed to participate in the graduation ceremony and related graduation activities will be determined by the home campus high school principal.

**Placement Review**

A student placed in a DAEP will be provided a review of his or her status, including academic status, by the campus administrator at intervals not to exceed 120 days. In the case of a high school student, the student's progress toward graduation and the student's graduation plan 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.

**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 the DAEP in an open-enrollment charter school or 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.

### **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 JJAEP 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 JJAEP for at least one semester.

If the student is not under any form of court supervision, the placement may be in DAEP or JJAEP 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 JJAEP 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:

1. Have received deferred prosecution for conduct defined as a Title 5 felony offense;
  2. Have been found by a court or jury to have engaged in delinquent conduct for conduct defined as a Title 5 felony offense;
  3. Have been charged with engaging in conduct defined as a Title 5 felony offense;
  4. Have been referred to a juvenile court for allegedly engaging in delinquent conduct for conduct defined as a Title 5 felony offense;
- or

5. 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 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.

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

#### **Any Location**

A student **may** be expelled for:

1. Engaging in the following, no matter where it takes place:
  - a. Conduct that contains the elements of assault under Penal Code 22.01(a)(1) in retaliation against a school employee or volunteer.
  - b. Criminal mischief, if punishable as a felony.
2. Engaging in conduct that contains the elements of one of the following offenses against another student, without regard to where the conduct occurs:
  - a. Aggravated assault.
  - b. Sexual assault.
  - c. Aggravated sexual assault.
  - d. Murder.
  - e. Capital murder.
  - f. Criminal attempt to commit murder or capital murder.
  - g. Aggravated robbery.
3. 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:

1. 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 punishable as a felony.
2. 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 punishable as a felony.
3. Engaging in conduct that contains the elements of an offense relating to abusable volatile chemicals.
4. Engaging in conduct that contains the elements of assault under Section 22.01(a)(1) against an employee or a volunteer.
5. 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:

1. Aggravated assault, sexual assault, or aggravated sexual assault.
2. Arson.
3. Murder, capital murder, or criminal attempt to commit murder or capital murder.
4. Indecency with a child, aggravated kidnapping, manslaughter, criminally negligent homicide, or aggravated robbery.
5. Continuous sexual abuse of a young child or children.
6. Felony drug- or alcohol-related offense.
7. Use, exhibition, or possession of a firearm (as defined by state law), an illegal 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**

Engaging in serious offenses or persistent misbehavior (see glossary) that violates the District's Code, while placed in a DAEP.

### **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 a firearm, as defined by federal law. "Firearm" under federal law includes:

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.
4. Any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.

### **Texas Penal Code**

1. Using, exhibiting, or possessing the following, as defined by the Texas Penal Code:
  - a. A firearm (any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use).
  - b. An illegal knife or a prohibited knife as defined by the District. (see Glossary)
  - c. 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.
  - d. A prohibited weapon, such as an explosive weapon, a machine gun, a short-barrel firearm, a firearm silencer, a switchblade knife, knuckles, armor-piercing ammunition, a chemical dispensing device, or a zip gun. (See glossary)
2. Behaving in a manner that contains elements of the following offenses under the Texas Penal Code:
  - a. Aggravated assault, sexual assault, or aggravated sexual assault.
  - b. Arson. (See glossary)
  - c. Murder, capital murder, or criminal attempt to commit murder or capital murder.
  - d. Indecency with a child.
  - e. Aggravated kidnapping.
  - f. Aggravated robbery.
  - g. Manslaughter.
  - h. Criminally negligent homicide.
  - i. Continuous sexual abuse of a young child or children.
  - j. 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.
3. 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:

1. Another appropriate classroom
2. In-school suspension
3. Out-of-school suspension
4. 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 or superintendent's designee 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 five 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. 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 hearing officer 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 JJAEP 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.

## Transfers

### ***Victims of Bullying and Campus Assignments***

Students who have been a victim of bullying may request a transfer to another school or another classroom. The District does not provide transportation. The Board of Trustees has designated the campus administrator to verify if a student is the victim of bullying. The administrator may consider past behavior when identifying a bully. The determination by the campus administrator may not be appealed.

### ***Victims of Criminal Acts in the District***

A student or parent may request a transfer to another campus if the student becomes a victim at school of one of the following offenses:

1. Attempted murder,
2. Indecency with a child,
3. Aggravated kidnapping,
4. Assault or aggravated assault on student,
5. Sexual assault or aggravated sexual assault against student.

## Disciplinary Procedures for Students with Disabilities

### ***Authority of School Personnel***

School personnel may remove a child with a disability who violates the Student Code of Conduct from his/her current educational placement to an appropriate interim alternative setting for not more than 10 school days to the extent such alternatives are applied to children without disabilities. The person making the final determination regarding short-term disciplinary action will have any relevant records pertaining to the student, including the Behavior Intervention Plan (BIP).

If school personnel seek to order a change of placement that exceeds 10 school days, and the behavior in question is determined not to be a manifestation of the child's disability, the same disciplinary procedures applicable to children without a disability may be applied to the child in the same manner and the same duration of time, although it may be provided in an interim alternative setting. Exceptions apply to students who violate the student code of conduct in relation to weapons, drugs and serious bodily injury (see special circumstances #3 below).

### ***Services***

A child with a disability who is removed from the child's current placement (irrespective of whether the behavior is determined to be a manifestation of the child's disability) shall continue to receive educational services, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out the child's IEP. The child must receive, as appropriate, a functional behavioral assessment and behavioral intervention services and accommodations that are designed to address the behavior violation so that it does not recur.

### ***Manifestation Determination and Removals to Disciplinary Alternative Education Programs (DAEP)***

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of the Student Code of Conduct, the parent and relevant members of the ARD committee must meet to review all relevant information, including testing data, reports supplied by the parents, observations of the child and the current individual educational plan (IEP) to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability, or
2. If the conduct in question was the direct result of the District's failure to implement the IEP.

If either of these is determined to be applicable to the child, the conduct in question is determined to be a manifestation of the child's disability.

If the parent and relevant members of the ARD Committee determine that the conduct is a manifestation of the disability, the ARD committee shall:

1. Conduct a Functional Behavior Assessment (FBA) and implement a Behavior Intervention Plan (if a behavior intervention plan is not already in place);
2. Review the behavior intervention plan if one already exists, and modify it as necessary to address the behavior; and
3. Unless the conduct involved drugs, weapons, or serious bodily injury (see below), return the child to the placement from which the child was removed, unless the parent and the District agree to a change of placement as part of the modification of the behavior intervention plan.

School personnel may remove a child with a disability who violates the Student Code of Conduct from his/her current educational placement for more than 10 school days provided the conduct is not a manifestation of the student's disability, and the relevant disciplinary procedures would be applied to children without disabilities in the same manner and for the same duration.

The placement in the DAEP of a student with a disability who receives special education services for longer than 10 school days may be made only by a duly constituted Admission, Review, and Dismissal (ARD) Committee.

### ***Special Circumstances***

School personnel may remove a child with a disability to an interim alternative educational setting (including the DAEP) for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's behavior in cases where a child:

1. Carries or possesses a weapon at school, on school premises, or at a school function;
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function; or
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function. [Serious bodily injury is defined in 18 U.S.C. §1365(h)(3) as "bodily injury which involves (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty."]

The appropriate interim alternative education setting, which may include the District's DAEP, is determined by the student's Admission, Review, and Dismissal (ARD) Committee. A child with a disability who is removed for disciplinary reasons must continue to receive a free appropriate public education.

### ***Notice of Parent Rights and Procedural Safeguards***

Not later than the date on which the decision to take disciplinary action amounting to a change of placement is made, the District must provide the parents with notice of the recommended disciplinary action and of all procedural safeguards accorded to students with disabilities.

### ***Appeals***

The parent of a child with a disability who disagrees with any decision regarding placement, the manifestation determination, or the District, and believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may request a hearing. A hearing officer may order a change in placement and may return a child with a disability to the educational placement from which he/she was removed; or order a change in placement to an appropriate interim alternative educational placement, for not more than 45 school days, if the hearing officer determines that maintaining the child's current educational placement is substantially likely to result in injury to the child or to others.

### ***Placement During Appeals***

When a hearing is requested relating to discipline, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or the expiration of the disciplinary consequence, whichever occurs first, unless the parent and the District agree otherwise.

The State shall arrange for an expedited due process hearing, which shall occur within 20 school days of the date the due process hearing is requested and shall result in a determination within 10 school days after the due process hearing.

### ***Suspension***

A succession of three-day suspensions may trigger the need for an ARD Committee review in order to assure compliance. A three-day suspension is not a change of placement and does not require action by the ARD Committee.

### ***Expulsion (including emergency expulsion)***

An expulsion of no more than ten school days is not a "change of placement" and thus does not require any preliminary action by an ARD Committee.

If the student with disabilities is to be expelled for a period constituting a change of placement, a parent and relevant members of the ARD Committee must determine that the student's expellable conduct was not a manifestation of the student's disability. The parent and relevant members of the ARD Committee must review all relevant information, including testing data, reports supplied by the parents, observations of the child and a review of the current IEP and placement and may conclude that the behavior is a manifestation of the student's disability only if:

1. The conduct in question was caused by, or had a direct and substantial relationship to, the child's disability.
2. The conduct in question was the direct result of the District's failure to implement the IEP.

If the parent and relevant members of the ARD Committee determine the misconduct is a manifestation of the child's disability, the student may not be expelled. If no such manifestation is found, the disabled student may be expelled following a due process expulsion hearing.

Educational services may not cease for an expelled student with disabilities. A free appropriate public education (FAPE) is available to all children with disabilities residing in the State between the ages of three and 21, inclusive, **including children with disabilities who have been expelled from school**. If the student is expelled and the behavior is not a manifestation of the disability, services must be provided to the extent necessary to enable the child to appropriately progress in the general curriculum and to enable the child to appropriately advance toward achieving the goals in the child's IEP. The ARD Committee determines the extent to which services are provided.

## **Protections for Students Not Identified for Special Education and Related Services**

A child who has not yet been determined to be eligible for special education services and who has engaged in behavior that violates the student code of conduct, may assert any of the protections provided for students eligible for special education if the District had knowledge that the child was a child with a disability before that behavior occurred.

The District would be determined to have knowledge that a child is a child with a disability if, before the behavior that resulted in disciplinary action occurred:

1. the parent expressed concern in writing to supervisory or administrative personnel or a teacher of the child that the child is in need of special education and related services;
2. the parent requested an evaluation for special education; or
3. the teacher of the child expressed specific concerns about a pattern of behavior demonstrated by the child to the director of special education or other supervisory personnel of the District.

The District shall not be deemed to have knowledge that a child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused special education services or if the child has been determined not to be a child with a disability.

If the District does not have knowledge that the child is a child with a disability prior to taking disciplinary action, the District may proceed with regular disciplinary action consistent with disciplinary measures applied to children without disabilities.

If a request is made for an evaluation of a child while the child is subject to disciplinary measures, the evaluation must be conducted in an expedited manner. If the child is determined to be a child with a disability, the District must provide special education and related services. However, pending the results of the evaluation, the child must remain in the educational placement determined by the District.

### ***Referrals to Law Enforcement Authorities***

Nothing in federal law prohibits the District from reporting a crime committed by a student with a disability to appropriate law enforcement authorities or to prevent the State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability. If the District reports a crime committed by a special education student at school, it must attempt to obtain parental consent for special education and discipline records to be forwarded to the appropriate law enforcement authorities for their review. If the parents refuse to consent, and no other exception to the parental consent requirement applies, the District may not forward the records to law enforcement authorities. If, however, the parent consents to such disclosure, the District must arrange for such records to be provided to the law enforcement authorities within 10 business days after the parental consent for the disclosure is obtained.

### ***Change of Placement***

A change of placement is the removal of a student from his/her educational placement for more than ten consecutive days or for a series of removals that constitute a "pattern" because they accumulate more than ten school days in a school year. Factors to be considered in a pattern of removals include the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another.

## **Disciplinary Procedures for Section 504 Students**

### ***Authority of School Personnel***

School personnel may remove a child with a disability who violates the Student Code of Conduct from his/her current educational placement to an appropriate interim alternative setting for not more than 10 school days to the extent such alternatives are applied to children without disabilities. The person making the final determination regarding short-term disciplinary action will have any relevant records pertaining to the student, including the Behavior Intervention Plan (BIP).

If school personnel seek to order a change of placement that exceeds 10 school days, and the behavior in question is determined not to be a manifestation of the child's disability, the same disciplinary procedures applicable to children without a disability may be applied to the child in the same manner and the same duration of time, although it may be provided in an interim alternative setting. Exceptions apply to students who violate the student code of conduct in relation to weapons, drugs and serious bodily injury (see special circumstances #3 below).

### **Services**

A child with a disability who is removed from the child's current placement (irrespective of whether the behavior is determined to be a manifestation of the child's disability) shall continue to receive educational services, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out the child's accommodation plan. The child must receive, as appropriate, a functional behavioral assessment and behavioral intervention services and accommodations that are designed to address the behavior violation so that it does not recur.

### **Manifestation Determination and Removals to Disciplinary Alternative Education Programs (DAEP)**

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of the Student Code of Conduct, the parent and relevant members of the 504 committee must meet to review all relevant information, including testing data, reports supplied by the parents, observations of the child and the current Accommodation plan and placement to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability, or
2. If the conduct in question was the direct result of the District's failure to implement the Accommodation plan and placement.

If either of these is determined to be applicable to the child, the conduct in question is determined to be a manifestation of the child's disability.

If the parent and relevant members of the 504 Committee determine that the conduct is a manifestation of the disability, the 504 committee shall:

1. Conduct a Functional Behavior Assessment (FBA) and implement a Behavior Intervention Plan (if a behavior intervention plan is not already in place);
2. Review the behavior intervention plan if one already exists, and modify it as necessary to address the behavior; and
3. Unless the conduct involved drugs, weapons, or serious bodily injury (see below), return the child to the placement from which the child was removed, unless the parent and the District agree to a change of placement as part of the modification of the behavior intervention plan.

School personnel may remove a child with a disability who violates the Student Code of Conduct from his/her current educational placement for more than 10 school days provided the conduct is not a manifestation of the student's disability, and the relevant disciplinary procedures would be applied to children without disabilities in the same manner and for the same duration.

The placement in the DAEP of a student with a disability who receives 504 accommodations for longer than 10 school days may be made only by a duly constituted 504 Committee.

### **Special Circumstances**

School personnel may remove a child with a disability to an interim alternative educational setting (including the DAEP) for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's behavior in cases where a child:

1. Carries or possesses a weapon at school, on school premises, or at a school function;
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function; or
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function. [Serious bodily injury is defined in 18 U.S.C. §1365(h)(3) as "bodily injury which involves (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty."]

The appropriate interim alternative education setting, which may include the District's DAEP, is determined by the student's 504 Committee. A child with a disability who is removed for disciplinary reasons must continue to receive a free appropriate public education.

### **Notice of Parent Rights and Procedural Safeguards**

Not later than the date on which the decision to take disciplinary action amounting to a change of placement is made, the District must provide the parents with notice of the recommended disciplinary action and of all procedural safeguards accorded to students with disabilities.

### **Appeals**

The parent of a child with a disability who disagrees with any decision regarding placement, the manifestation determination, or the District, and believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may request a hearing. A hearing officer may order a change in placement and may return a child with a disability to the educational placement from which he/she was removed; or order a change in placement to an appropriate interim alternative educational placement, for not more than 45 school days, if the hearing officer determines that maintaining the child's current educational placement is substantially likely to result in injury to the child or to others.

### **Placement During Appeals**

When a hearing is requested relating to discipline, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or the expiration of the disciplinary consequence, whichever occurs first, unless the parent and the District agree otherwise.

The State shall arrange for an expedited due process hearing, which shall occur within 20 school days of the date the due process hearing is requested and shall result in a determination within 10 school days after the due process hearing.

### **Suspension**

A succession of three-day suspensions may trigger the need for a 504 Committee review in order to assure compliance. A three-day suspension is not a change of placement and does not require action by the 504 Committee.

### **Expulsion (including emergency expulsion)**

An expulsion of no more than ten school days is not a "change of placement" and thus does not require any preliminary action by a 504 Committee.

If the student with disabilities is to be expelled for a period constituting a change of placement, a parent and relevant members of the 504 Committee must determine that the student's expellable conduct was not a manifestation of the student's disability. The parent and relevant members of the 504 Committee must review all relevant information, including testing data, reports supplied by the parents, observations of the child and a review of the current Accommodation Plan and placement and may conclude that the behavior is a manifestation of the student's disability only if:

1. The conduct in question was caused by, or had a direct and substantial relationship to, the child's disability.
2. The conduct in question was the direct result of the District's failure to implement the Accommodation Plan and placement.

If the parent and relevant members of the 504 Committee determine the misconduct is a manifestation of the child's disability, the student may not be expelled. If no such manifestation is found, the disabled student may be expelled following a due process expulsion hearing.

Educational services may not cease for an expelled student with disabilities. A free appropriate public education (FAPE) is available to all children with disabilities residing in the State between the ages of three and 21, inclusive, **including children with disabilities who have been expelled from school**. If the student is expelled and the behavior is not a manifestation of the disability, services must be provided to the extent necessary to enable the child to appropriately progress in the general curriculum and to enable the child to appropriately advance toward achieving the goals in the child's Accommodation Plan. The 504 Committee determines the extent to which services are provided.

### **Referrals to Law Enforcement Authorities**

Nothing in federal law prohibits the District from reporting a crime committed by a student with a disability to appropriate law enforcement authorities or to prevent the State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability. If the District reports a crime committed by a special education student at school, it must attempt to obtain parental consent for special education and discipline records to be forwarded to the appropriate law enforcement authorities for their review. If the parents refuse to consent, and no other exception to the parental consent requirement applies, the District may not forward the records to law enforcement authorities. If, however, the parent consents to such disclosure, the District must arrange for such records to be provided to the law enforcement authorities within 10 business days after the parental consent for the disclosure is obtained.

### **Change of Placement**

A change of placement is the removal of a student from his/her educational placement for more than ten consecutive days or for a series of removals that constitute a "pattern" because they accumulate more than ten school days in a school year. Factors to be considered in a pattern of removals include the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another.

## 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:
  - a. Knowing that it is within the limits of an incorporated city or town,
  - b. Knowing that it is insured against damage or destruction,
  - c. Knowing that it is subject to a mortgage or other security interest,
  - d. Knowing that it is located on property belonging to another,
  - e. Knowing that it has located within it property belonging to another, or
  - f. 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** is written or oral expression or physical conduct that a school District's board of trustees or the board's designee determines:

1. To 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. To be sufficiently severe, persistent, or pervasive to create an intimidating, threatening, or abusive educational environment for a student.

**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 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.

**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.

**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.

**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.

**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 Knife** is defined by RRISD local policy as a knife with a blade greater than three inches.

**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.

**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 offenses** include but are not limited to:

1. Murder.
2. Vandalism.
3. Robbery or theft.
4. Extortion, coercion, or blackmail.
5. Actions or demonstrations that substantially disrupt or materially interfere with school activities.
6. Hazing.
7. Insubordination.
8. Profanity, vulgar language, or obscene gestures.
9. Fighting, committing physical abuse, or threatening physical abuse.
10. Possession or distribution of pornographic materials.
11. Leaving school grounds without permission.
12. Sexual harassment of a student or District employee.
13. Possession of or conspiracy to possess any explosive or explosive device.
14. Falsification of records, passes, or other school-related documents.
15. 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.

**Switchblade** is any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or by the force of gravity or centrifugal force.

**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).

**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.