

MONTGOMERY
INDEPENDENT SCHOOL DISTRICT

STUDENT CODE OF CONDUCT

APPROVED BY THE MONTGOMERY ISD BOARD OF TRUSTEES
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STUDENT CODE OF CONDUCT

Accessibility

If you have difficulty accessing the information in this document because of disability, please contact Kerri Clark, Executive Director of Specialized Learning at kerri.clark@misd.org.

Purpose

The Student Code of Conduct (“Code”) 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, out-of-school suspension, placement in a disciplinary alternative education program (DAEP), placement in a juvenile justice alternative education program (JJAEP), or expulsion from school.

This Student Code of Conduct has been adopted by the Montgomery ISD’s 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. It remains in effect during summer school and at all school-related events and activities outside the school year until an updated version adopted by the board becomes effective for the next school year.

In accordance with state law, the Code shall be posted at each school campus or shall be available for review at the office of the campus principal. Additionally, the Code shall be available at the office of the campus behavior coordinator and posted on the district’s website. Parents shall be notified of any conduct violation that may result in a student being suspended, placed in a DAEP or JJAEP, expelled, or taken into custody by a law enforcement officer under Chapter 37 of the Education Code.

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 shall 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.

Please note: The Montgomery ISD Board Policy is available on the Montgomery ISD website (www.misd.org).

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 or a school-sponsored or school-related activity on District transportation;
2. While the student is in attendance at any school-related activity, regardless of time or location;
3. For any school-related misconduct, regardless of time or location;
4. When retaliation against a school employee, board member, or volunteer occurs or is threatened, regardless of time or location;
5. When a student engages in cyberbullying, as provided by Education Code 37.0832;
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 Texas Education Code 37.006 or 37.0081; or
10. When the student is required to register as a sex offender.

Campus Behavior Coordinator

As required by law, a person at each campus must be designated to serve as the campus behavior coordinator (CBC). The designated person may be the principal of the campus or any other campus administrator selected by the principal. The campus behavior coordinator is primarily responsible for maintaining student discipline. The district shall post on its website and in the Student Handbook, for each campus, the email address and telephone number of the person serving as CBC. Contact information may be found at www.misd.org.

Threat Assessment and Safe and Supportive School Team

The CBC or other appropriate administrator will work closely with the campus threat assessment and safe and supportive school team to implement the district's threat assessment policy and procedures, as required by law, and shall take appropriate disciplinary action in accordance with the Code of Conduct.

Searches

District officials may conduct searches of students, their belongings, and their vehicles in accordance with state and federal law and district policy. Searches of students shall be conducted in a reasonable and nondiscriminatory manner. Refer to the district's policies at FNF(LEGAL) and FNF(LOCAL) for more information regarding investigations and searches.

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

Desks, lockers, district-provided technology, and similar items are the property of the district and are provided for student use as a matter of convenience. District property is subject to search or inspection at any time without notice.

Reporting Crimes

The principal or CBC and other school administrators as appropriate 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.

Security Personnel

To ensure sufficient security and protection of students, staff, and property, the board employs school resource officers (SROs). In accordance with law, the board has coordinated with the CBC and other district employees to ensure appropriate law enforcement duties are assigned to these persons. Provisions addressing the various types of security personnel can be found in policy CKE(LOCAL).

The law enforcement duties of school resource officers are:

1. Protect the safety and welfare of any person in the jurisdiction of the District and protect the property of the District.
2. Enforce all laws, including municipal ordinances, county ordinances, and state laws, and investigate violations of law as needed. In doing so, District police officers may serve search warrants in connection with District-related investigations in compliance with the Texas Code of Criminal Procedure.
3. Arrest suspects consistent with state and federal statutory and constitutional standards governing arrests, including arrests without warrant, for offenses that occur in the officer's presence or under the other rules set out in the Texas Code of Criminal Procedure.
4. Coordinate and cooperate with commissioned officers of all other law enforcement agencies in the enforcement of this policy as necessary.
5. Enforce District policies on District property, in school zones, at bus stops, or at District functions.
6. Investigate violations of District policy, rules, and regulations as requested by the Superintendent and participate in administrative hearings concerning the alleged violations.
7. Carry weapons as directed by the chief of police and approved by the Superintendent.
8. Carry out all other duties as directed by the chief of police or Superintendent.

'Parent' Defined

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

Participating in Graduation Activities

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

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

Students eligible for speaking roles at graduation shall be notified by the campus principal. Notwithstanding any other eligibility requirements, in order to be considered as an eligible student to fill a speaking role, a student shall not have engaged in any misconduct in violation of the District's Code, resulting in an out-of-school suspension or removal to a DAEP/JJAEP the two semesters immediately preceding graduation.

See DAEP/Expulsion – Restrictions concerning placement on pages 12 and 18, for information regarding a student assigned to DAEP/JJAEP and participation in graduation.

Unauthorized Persons

In accordance with Education Code 37.105, a school administrator, school resource officer (SRO), or district police officer shall have the authority to refuse entry or eject a person from district property if the person refuses to leave peaceably on request and:

1. The person poses a substantial risk of harm to any person; or
2. The person behaves in a manner that is inappropriate for a school setting, and the person persists in the behavior after being given a verbal warning that the behavior is inappropriate and may result in refusal of entry or ejection.

Appeals regarding refusal of entry or ejection from district property may be filed in accordance with policies FNG(LOCAL) or GF(LOCAL), as appropriate. However, the timelines for the district's grievance procedures shall be adjusted as necessary to permit the person to address the board in person within 90 days, unless the complaint is resolved before a board hearing.

Standards for Student Conduct

Each student is expected to:

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

General Conduct Violations

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

Students shall not:

Disregard for Authority

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

Mistreatment of Others

- Use profanity or vulgar language or make obscene gestures.
- Fight or scuffle. (For assault see DAEP Placement and Expulsion)
- Threaten a District student, employee or volunteer, including off school property if the conduct causes a substantial disruption to the educational environment.
- Engage in bullying, cyberbullying, harassment, or making hit lists. (See glossary for all four terms)
- Release or threaten to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- Engage in conduct that constitutes sexual or gender-based harassment or sexual abuse, whether by word, gesture, or any other conduct, including requests for sexual favors directed toward another person, including a District student, employee, board member, or volunteer.
- Engage in conduct that constitutes dating violence. (See glossary.)
- Engage in inappropriate or indecent exposure of private body parts.
- Take and/or forward inappropriate pictures of their classmates, such as pictures of their classmates engaging in sex acts, using their cell phones or using District computers and equipment. (See glossary)
- Participate in hazing. (See glossary)
- Cause an individual to act through the use of or threat of force (coercion).
- Commit extortion or blackmail (obtaining money or an object of value from an unwilling person).
- Engage in inappropriate verbal, physical, or sexual conduct directed toward another person, including a District student, employee, or volunteer.
- Record the voice or image of another without the prior consent of the individuals being recorded or in any way that disrupts the educational environment or invades the privacy of others.
- Verbal abuse, derogatory or offensive remarks addressed to others, name-calling, making ethnic, racial, or religious slurs.

Property Offenses

- Damage or vandalize property owned by others. (For felony criminal mischief see DAEP Placement or Expulsion)
- Deface or damage school property—including textbooks, technology and electronic resources, lockers, furniture, and other equipment—with graffiti or by other means.
- Steal from students, staff, or the school.
- Commit or assist in a robbery or theft even if it does not constitute a felony according to the Texas Penal Code. (For felony robbery, aggravated robbery, and theft see DAEP Placement and Expulsion)
- Enter, without authorization, district facilities that are not open for operations.

Possession of Prohibited Items

- Possess or use:
 - fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;

- a razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
- A “look-alike” weapon that is intended to be used as a weapon or could reasonably be perceived as a weapon;
- an air gun or BB gun;
- archery equipment;
- ammunition;
- *A location-restricted knife ;
- A hand instrument designed to cut or stab another by being thrown;
- *A firearm;
- A firearm silencer or suppressor;
- a stun gun;
- Knuckles;
- a pocketknife or any other small knife;
- martial arts objects including but not limited to the following: shurikan (throwing stars), nunchakus (“nun-chucks”), tonfa (wooden weapon), staff, baton (short stick), bolo (long cord with weights at end), etc.;
- mace or pepper spray;
- pornographic material;
- tobacco products; cigarettes; e-cigarettes; and any component, part, of accessory for an e-cigarette device; (**Note: HB 114 now requires a mandatory placement in a DAEP for offenses related to e-cigarette devices.**)
- matches or a lighter;
- a laser pointer for other than an approved use; or
- Any articles not generally considered weapons, including school supplies, when the principal or designee determines that a danger exists.

*For weapons and firearms, see DAEP Placement and Expulsion. In many circumstances, possession of these items is punishable by mandatory expulsion under federal or state law.

Possession of Telecommunications or Other Electronic Devices

- Use a telecommunications device, including a cellular telephone, or other electronic device in violation of district and campus rules.
- Possession and/or distribution of pornographic materials. Possess visual material on a cell phone that depicts a child younger than 18 years of age at the time the image was made engaging in sexual conduct. (See glossary)
- Possess audio headsets, radio, electronic games, or similar electronic devices without permission.

Illegal, Prescription, and Over-the-Counter Drugs

- Possess, use, give, or sell alcohol or an illegal drug. (Also, see DAEP Placement and Expulsion for mandatory and permissive consequences under state law.)
- Possess or sell seeds or pieces of marijuana or marijuana substitute in less than a usable amount.
- Possess, use, give, or sell paraphernalia related to any prohibited substance. (See glossary for “paraphernalia”)
- Possess, use, abuse, or sell look-alike drugs or attempt to pass items off as drugs or contraband.
- Abuse the student’s own prescription drug, give a prescription drug to another student, or possess or be under the influence of another person’s prescription drug on school property or at a school-related event.
- Have or take prescription drugs or over-the-counter drugs at school other than as provided by District policy.
- Abuse over-the-counter drugs. (See glossary for “abuse.”)
- Be under the influence of prescription or over-the-counter drugs that cause impairment of the physical or mental faculties (see glossary for “under the influence”)

Technology

- Sending, possessing, delivering, or posting electronic messages or images that are abusive, obscene, sexually oriented, harassing, threatening, intimidating, illegal, or that cause a material or substantial disruption at school or infringes on the rights of another student at school, including cyberbullying (see *definitions*) and “sexting”;

- Using any device to copy or capture an image or the content of any District materials (such as tests or exams) without permission of a teacher or administrator;
- Making, participating in the making of, transmitting to another via an electronic device, or posting to the Internet a digital video or audio recording of an actual or simulated act that involves a crime or conduct prohibited by the SCC (Students who are not involved in the prohibited conduct will not be disciplined under this provision so long as they report the incident to a school employee, turn over the recording to a school employee as soon as possible after the incident, and do not provide a copy of the recording to anyone other than the law enforcement or school employees.);
- Using any device or technology that permits recording the voice or image of another in any way that disrupts the educational environment, invades the privacy of others, or without the prior consent of the individual being recorded;
- Using any device or technology to take, disseminate, transfer, circulate, exhibit, present, or share audio, images, video, or photos that reveal private parts of the body that are normally covered by clothing (also known as “sexting”);
- Release or threaten of release intimate visual material of a minor or a student who is 18 years of age or older without the student’s consent;
- Using the name, persona, or image of a student, District employee, or volunteer to create a web page or post one or more messages on a website without the other person’s consent for purposes of harassing, intimidating, embarrassing, or threatening another;
- Using email, website, or electronic devices to engage in or encourage illegal conduct, violations of the SCC, or to threaten school safety;
- Attempting to or successfully accessing or circumventing passwords or other security-related information of the District, officials, volunteers, employees, or other students by any means;
- Copying, downloading, reproducing, distributing, retransmitting, redisplaying, or modifying items from the District’s website; or
- Engaging in any of the above forms of technological misconduct outside of school when such conduct causes a material or substantial disruption at school as determined by school officials.

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

Safety Transgressions

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

Miscellaneous Offenses

- Violate dress and grooming standards as communicated in the student handbook.
- Engage in academic dishonesty, which includes cheating or copying the work of another student, plagiarism, and unauthorized communication between students during an examination.
- Gamble.
- Falsify records, passes, or other school-related documents.
- Engage in actions or demonstrations that substantially disrupt or materially interfere with school activities.

- Truancy, i.e. skipping school or cutting class without the parent’s knowledge or permission.
- Violate extracurricular standards of behavior.
- Call 911 when no emergency exists.
- 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, including restorative discipline practices. Discipline shall be based on 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.

Students with Disabilities

The discipline of students with disabilities is subject to applicable state and federal law in addition to the Code of Conduct. To the extent any conflict exists, the district shall comply with federal law. For more information regarding discipline of students with disabilities, see policy FOF(LEGAL).

In accordance with the Education Code, a student who receives special education services may not be disciplined for conduct meeting the definition of bullying, cyberbullying, harassment, or making hit lists (see glossary) until an Admission, Review, and Dismissal (ARD) committee meeting has been held to review the conduct. In deciding whether to order out-of-school 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, in combination, or as part of progressive interventions for behavior prohibited by the Code of Conduct or by campus or classroom rules:

- Verbal (oral or written) correction.
- Cooling-off time or a brief “time-out” period, in accordance with law.
- Seating changes within the classroom or vehicles owned or operated by the district.
- Temporary confiscation of items that disrupt the educational process.
- Rewards or demerits.
- Behavioral contracts.
- Counseling by teachers, school counselors, or administrative personnel.
- Parent-teacher conferences.
- Behavior coaching.
- Anger management classes.
- Mediation (victim-offender).
- Classroom circles.
- Grade reductions for cheating, plagiarism, and as otherwise permitted by policy.
- Detention, including outside regular school hours.
- Sending the student to the office or other assigned area, or to in-school suspension.
- Assignment of school duties such as cleaning or picking up litter.
- Withdrawal of privileges, such as participation in extracurricular activities, eligibility for seeking and holding honorary offices, or membership in school-sponsored clubs and organizations.
- Penalties identified in individual student organizations’ extracurricular standards of behavior.
- Restriction or revocation of district transportation privileges.
- School-assessed and school-administered probation.
- Out-of-school suspension, as specified in the Out-of-School Suspension section of this Code.
- Placement in a DAEP, as specified in the DAEP section of this Code.

Prohibited Aversive Techniques

- 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.
- Expulsion, as specified in the Expulsion section of this Code.
- Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the District.
- Other strategies and consequences as determined by school officials.

Aversive techniques are prohibited for use with students and are defined as techniques or interventions intended to reduce the reoccurrence of a behavior by intentionally inflicting significant physical or emotional discomfort or pain. Aversive techniques include:

- Using techniques designed or likely to cause physical pain as permitted by district policy. [See policy FO(LOCAL).]
- Using techniques designed or likely to cause physical pain by electric shock or any procedure involving pressure points or joint locks.
- Directed release of noxious, toxic, or unpleasant spray, mist, or substance near a student's face.
- Denying adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility.
- Ridiculing or demeaning a student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse.
- Employing a device, material, or object that immobilizes all four of a student's extremities, including prone or supine floor restraint.
- Impairing the student's breathing, including applying pressure to the student's torso or neck or placing something in, on, or over the student's mouth or nose or covering the student's face.
- Restricting the student's circulation.
- Securing the student to a stationary object while the student is standing or sitting.
- Inhibiting, reducing, or hindering the student's ability to communicate.
- Using chemical restraints.
- Using time-out in a manner that prevents the student from being able to be involved in and progress appropriately in the required curriculum or any applicable individualized education program (IEP) goals, including isolating the student by the use of physical barriers.
- Depriving the student of one or more of the student's senses, unless the technique does not cause the student discomfort or complies with the student's IEP or behavior intervention plan (BIP).

Notification

The campus behavior coordinator (CBC) or appropriate campus administrator shall promptly notify a student's parent by phone or in person of any violation that may result in in-school or out-of-school suspension, placement in a DAEP, placement in a JJAEP, or expulsion. The campus behavior coordinator or appropriate campus administrator shall also notify a student's parent if the student is taken into custody by a law enforcement officer under the disciplinary provisions of the Education Code. A good faith effort shall be made on the day the action was taken to provide to the student for delivery to the student's parent written notification of the disciplinary action. If the parent has not been reached by telephone or in person by 5:00 p.m. of the first business day after the day the disciplinary action was taken, the CBC shall send written notification by U.S. Mail. If the campus behavior coordinator is not able to provide notice to the parent, the principal or designee shall provide the notice. Before the principal or appropriate administrator assigns a student under 18 to detention outside regular school hours, notice shall be given to the student's parent to inform him or her of the reason for the detention and permit arrangements for necessary transportation.

Appeals

Questions from parents regarding disciplinary measures should be addressed to the teacher, campus administration, or CBC, as appropriate. Appeals or complaints regarding the use of specific discipline management techniques should be addressed in accordance with policy FNG(LOCAL). A copy of the policy may be obtained from the principal's office, the CBC's office, or the Montgomery ISD website, www.misd.org.

The district shall not delay a disciplinary consequence while a student or parent pursues a grievance. In the instance of a student who is accused of conduct that meets the definition of sexual harassment as defined by Title IX, the district will comply with applicable federal law, including the Title IX formal complaint process. See Policies FFH(LEGAL) and (LOCAL).

Removal from the School Bus

A bus driver may refer a student to the principal's office, the CBC's office, or the appropriate campus administrator's office to maintain effective discipline on the bus. The principal, CBC, or appropriate campus administrator must employ additional discipline management techniques, as appropriate, which can include restricting or revoking a student's bus riding privileges.

Since the district's primary responsibility in transporting students in district vehicles is to do so as safely as possible, the operator of the vehicle must focus on driving and not have his or her attention distracted by student misbehavior. Therefore, when appropriate disciplinary management techniques fail to improve student behavior or when specific misconduct warrants immediate removal, campus administration may restrict or revoke a student's transportation privileges, in accordance with law.

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 campus administrator's office as a discipline management technique. The administration shall employ alternative discipline management techniques, including progressive interventions. A teacher or administrator may remove a student from class for a behavior that violates this Code to maintain effective discipline in the classroom.

Formal Removal

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

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

Within three school days of the formal removal, the CBC or appropriate campus administrator will schedule a conference with the student's parent, the student, the teacher who removed the student from class, and any other appropriate administrator.

At the conference, the CBC or appropriate campus administrator will inform the student of the alleged misconduct and the proposed consequences. The student shall have an opportunity to respond to the allegations.

When a student is removed from the regular classroom by a teacher and a conference is pending, the CBC or other campus administrator may place the student in:

- Another appropriate classroom;
- In-school suspension (ISS);
- Out-of-school suspension; or
- DAEP.

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 shall be followed.

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 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.

Out of School Suspension (Suspension)

Misconduct

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

The district shall not use out-of-school suspension for students in grade 2 or below unless the conduct meets the requirements established in law.

A student below grade 3 or a student who is homeless shall not be placed in out-of-school suspension unless, while on school property or while attending a school-sponsored or school-related activity on or off school property, the student engages in:

- Conduct that contains the elements of a weapons offense, as provided in Penal Code Section 46.02 or 46.05;
- Conduct that contains the elements of assault, sexual assault, aggravated assault, or aggravated sexual assault, as provided by the Penal Code; or
- Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of marijuana, an alcoholic beverage, or a controlled substance or dangerous drug as defined by federal or state law.

The district shall use a positive behavior program as a disciplinary alternative for students below grade 3 who commit general conduct violations instead of suspension or placement in a DAEP. The program shall meet the requirements of law.

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 CBC or appropriate campus administrator who shall advise the student of the alleged misconduct. The student shall have the opportunity to respond to the allegation before the administrator makes a decision.

The CBC shall determine the number of days of a student's suspension, not to exceed three school days.

In deciding whether to order out-of-school suspension, the campus administration shall take into consideration:

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct,
3. The student's disciplinary history,
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or
6. A student's status as homeless.

Suspended students are not allowed to participate or attend any school-sponsored or school-related extracurricular and co-curricular activities.

Coursework During Suspension

The district shall ensure a student receives access to coursework for foundation curriculum courses while the student is placed in in-school or out-of-school suspension, including at least one method of receiving this coursework that does not require the use of the internet.

A student removed from the regular classroom to ISS or another setting, other than a DAEP, will have an opportunity to complete before the beginning of the next school year each course the student was enrolled in at the time of removal from the regular classroom. The district may provide the opportunity by any method available, including a correspondence course, another distance learning option, or summer school. The district will not charge the student for any method of completion provided by the district.

Speaking at Graduation

In order to be considered as an eligible student speaker at graduation ceremonies, a student shall not have engaged in any misconduct in violation of the District's Code, resulting in an out-of-school suspension during his or her last two semesters.

Disciplinary Alternative Education Program (DAEP) Placement

The District operates a Disciplinary Alternative Education Program (DAEP) for students who have committed certain serious offenses. The DAEP:

1. Is in a setting other than the student's regular classroom; and
2. Separates students in the DAEP from students in the regular program.

An elementary school student may not be placed in a DAEP with a student who is not an elementary school student.

For purposes of DAEP, elementary classification shall be Kindergarten-Grade 5 and secondary classification shall be Grades 6-12.

Summer programs provided by the District shall serve students assigned to a DAEP in conjunction with other students. Days attended in summer programs do not count towards DAEP assigned days.

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

7. Self-defense (see glossary),
8. Intent or lack of intent at the time the student engaged in the conduct,
9. The student's disciplinary history,
10. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
11. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or
12. A student's status as homeless.

Discretionary Placement: Misconduct That May Result in DAEP Placement

A student may be placed in a DAEP if the student commits any of the following offenses on or while attending a school-sponsored or school-related activity on or off school property:

- Possession of a knife.
- Vandalism.
- Robbery or theft.
- Extortion, coercion, or blackmail.
- Aggressive, disruptive action or group demonstration that substantially disrupts or materially interferes with school activities.
- Profanity, vulgar language, or obscene gestures directed toward teachers or other school employees.
- Fighting, committing physical abuse, or threatening physical abuse.
- Sexual harassment of a District student, employee, or volunteer.
- Falsification of records, passes, or other school-related materials.
- Possession or distribution of pornographic materials.
- Leaving school grounds without permission.
- Making or assisting in making threats, including threats against individuals or groups.
- Refusal to accept discipline management techniques proposed by the teacher and principal.
- Possessing or selling look-alike drugs and contraband including drug paraphernalia.
- Possessing look-alike weapons.
- Possession or use of smoke bombs or stink bombs.
- Persistent pattern of violations of school rules after other disciplinary consequences have been tried.
- Inappropriate use of any device capable of recording or capturing images.

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:

- Engaging in bullying that encourages a student to commit or attempt to commit suicide.

- Inciting violence against a student through group bullying.
- Releasing or threatening to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- Criminal mischief not punishable as a felony.
- Assault (no bodily injury) with threat of imminent bodily injury. Texas Penal Code §22.01(a)(2)
- Assault by offensive or provocative physical contact. Texas Penal Code §22.01 (a)(3)
- Misconduct which includes elements of 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.)

Gang-related activity, including but not limited to dress code violations, possession of paraphernalia, graffiti or symbols, tattoos and identifying language or hand signals for the purpose of demonstrating membership of affiliation in any gang, participation as a member of pledge, soliciting another person to become a pledge or member of a gang will be subject to at least the following specific consequences.

- **Level One First Offense** – behavior contract and conference between parent/guardian, administrator, and law enforcement official.
- **Level Two Second Offense** – 45 school days in DAEP. Students who engage in misconduct, which includes elements of gang activity in conjunction with another violation of the Montgomery ISD Student Code of Conduct, will be subjected to the second level consequences delineated. The determination will be based on the severity of the misconduct and the law.

Gang-free zones – Certain criminal offenses, including those involving organized criminal activity such as gang-related crimes, will be enhanced to the next highest category of offense if they are committed in a gang-free zone. For purposes of the District, a gang-free zone includes a school bus and a location in, on, or within 1000 feet of any District-owned or leased property or campus playground.

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

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

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

According to state law, or MISD Board Policy placement in a DAEP is required for the following offenses if the student:

- Commits the following offenses on school property or within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:
 - Engages in conduct punishable as a felony.
 - Commits an assault (see glossary) under Texas Penal Code 22.01(a)(1).
 - Possesses, uses, or is under the influence of marijuana or marijuana substitute, a controlled substance, or a dangerous drug in an amount not constituting a felony offense. A student with a valid prescription for low-THC cannabis as authorized by Chapter 487 of the Health and Safety Code does not violate this provision. (School-related felony drug offenses are addressed in the Expulsion section.) (See glossary for "under the influence.")
 - 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.)
 - Sells, gives, or delivers to another person or possesses or uses an e-cigarette or similar vape device.
 - Promoting and/or possessing intimate visual materials of child younger than 18 years of age. (See glossary)

- Behaves in a manner that contains the elements of an offense relating to abusable volatile chemicals.
 - Behaves in a manner that contains the elements of the offense of public lewdness or indecent exposure.
 - Engages in conduct that contains the elements of an offense of harassment against an employee under Penal Code 42.07(a)(1), (2), (3), or (7).
- Engages in expellable conduct and is between six to nine years of age.
 - Commits a federal firearms violation and is younger than six years of age.
 - Engages in conduct that contains the elements of the offense of retaliation against any school employee or volunteer on or off school property. (Committing retaliation in combination with another expellable offense is addressed in the Expulsion section of this Code.)
 - Engages in conduct punishable as aggravated robbery or a felony listed under Title 5 (see **glossary**) of the Penal Code when the conduct occurs off school property and not at a school-sponsored or school-related event and:
 1. The student receives deferred prosecution (see glossary),
 2. A court or jury finds that the student has engaged in delinquent conduct (see glossary), or
 3. The superintendent or designee has a reasonable belief (see glossary) that the student engaged in the conduct.

Sexual Assault and Campus Assignments

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

Process

Removals to a DAEP will be made by the appropriate campus administrator after consulting the CBC.

Conference

When a student is removed from class for a DAEP offense, the CBC or appropriate campus 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 CBC or an appropriate campus administrator will inform the student, orally or in writing, of the reasons for the removal and will give the student an explanation of the basis for the removal and an opportunity to respond to the reasons for the removal.

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

Consideration of Mitigating Factors

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

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct,
3. The student's disciplinary history,
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or
6. A student's status as homeless.

Placement Order

After the conference, if the student is placed in the DAEP, the campus behavior coordinator shall write a placement order. A copy of the DAEP placement order and information for the parent or person standing in parental relation to the student regarding the process for requesting a full individual and initial evaluation of the student for purposes of special education services shall be sent to the student and the student's parent.

Not later than the second business day after the conference, the campus principal 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 of Conduct, the placement order will give notice of the inconsistency.

If a DAEP is at capacity at the time the CBC is deciding placement for conduct related to marijuana, THC, an e-cigarette, alcohol, or an abusable volatile chemical, the student shall be placed in ISS then transferred to a DAEP for the remainder of the period if space becomes available before the expiration of the period of the placement.

If a DAEP is at capacity at the time the CBC is deciding placement for a student who engaged in violent conduct, a student placed in a DAEP for conduct related to marijuana, THC, an e-cigarette, alcohol, or an abusable volatile chemical may be placed in ISS to make a position in the DAEP available for the student who engaged in violent conduct. If a position becomes available in a DAEP before the expiration of the period of the placement for the student removed, the student shall be returned to a DAEP for the remainder of the period.

Coursework Notice

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

Length of Placement

The campus behavior coordinator shall determine the duration of a student's placement in a DAEP. The duration of a student's placement shall be determined case by case based on the seriousness of the offense, the student's age and grade level, the frequency of misconduct, the student's attitude, and statutory requirements.

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

DISCRETIONARY DAEP PLACEMENTS:

The length of discretionary (MAY PLACE) DAEP assignments will be determined by the campus behavior coordinator, however, the duration of any assignment to DAEP will be no less than fifteen (15) school days.

MANDATORY DAEP PLACEMENTS:

- First offense for Sells, gives, or delivers to another person or possesses or uses an e-cigarette or similar vape device – minimum of 15 days
- First offense of alcohol possession or under the influence - minimum of 30 days
- Second offense of alcohol possession or under the influence - not to exceed 90 days
- Sells, gives, or delivers alcohol – not to exceed 90 days
- Any other consequence involving mandatory offenses will range from 15 days DAEP to 90 days DAEP.

Consequences will be assigned based on the offense committed, location (in the building/facility or in the vehicle), use or threaten to use, possession on the person, in the locker, purse, or other types of bag including backpacks, athletic bags, etc. or sells, distributes, or attempts to sell.

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

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 the student is a threat to the safety of other students or to district employees.

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 in a DAEP 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 behavior coordinator or the board's designee must determine that:

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

Exceeds 60 days

For placement in a DAEP to extend beyond 60 days or the end of the next grading period, whichever is sooner, a student’s parent will be given notice and the opportunity to participate in a proceeding before the board or the board’s designee.

Restrictions during Placement

The district does not permit a student who is placed in a DAEP to participate in any school-sponsored or school-related extracurricular or co-curricular activity, including seeking or holding honorary positions and/or membership in school-sponsored clubs and organizations.

Transportation for DAEP

Bus ridership privileges **will be suspended** for students, grades 7 through 12, placed in the DAEP, except for a student’s first placement in the DAEP for behavior that does not involve physical abuse of another individual or possession of a deadly weapon. Any disciplinary incident during the first DAEP assignment or any second assignment to the DAEP will result in loss of transportation services during the term of the placement. A student with a disability who has transportation designated as a related service in the student’s IEP, under federal law will not be affected.

Graduating Seniors in DAEP/Participation and Speaking at Graduation

When a student commits an offense and receives assignment to the DAEP during the senior year, the District **may allow** that student to participate in graduation ceremonies, provided that all prerequisites for graduation are met, and provided that the student has successfully completed all of the days that the student was placed in the DAEP. If the student in question has not completed his or her days in the DAEP for any reason, such as withdrawal or transfer to another school District, the student may not be allowed to participate in graduation ceremonies. Any decision concerning participation in graduation ceremonies will be made by the high school principal.

In order to be considered as an eligible student speaker at graduation ceremonies, a student shall not have engaged in any serious misconduct in violation of the District’s Code, resulting in removal to a DAEP during his or her last two semesters.

Placement Review

A student placed in a DAEP will be provided a review of his or her status, including academic status, by the campus behavior coordinator or the board’s designee at intervals not to exceed 120 days. In the case of a high school student, the student’s progress toward graduation and the student’s graduation plan 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. The student may not be returned to the classroom of a teacher who removed the student without that teacher’s consent.

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 campus behavior coordinator or appropriate campus administrator may enter an additional disciplinary order as a result of those proceedings.

Notice of Criminal Proceedings

When a student is placed in a DAEP for certain offenses, the office of the prosecuting attorney shall notify the district if:

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

A newly enrolled student with a DAEP placement from a district in another state shall be placed as any other newly enrolled student if the behavior committed is a reason for DAEP placement in the receiving district.

If the student was placed in a DAEP by a school district in another state for a period that exceeds one year, this district, by state law, 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

When an emergency placement is necessary because the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with classroom or school operations, the student shall be given oral notice of the reason for the action. Not later than the tenth day after the date of the placement, the student shall be given the appropriate conference required for assignment to a DAEP.

Transition Services

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

Appeal of a DAEP Placement

The student or the student's parent or guardian may appeal the campus administration's DAEP placement decision. The request for appeal must be in writing and must be received by the Superintendent or Superintendent's Designee within 5 calendar days of the date of the campus DAEP order. The Superintendent or Superintendent's Designee will schedule a conference with the student and parent to be held within 10 calendar days, after which a written decision will be issued.

At the appeal conference, before the Superintendent or Superintendent's Designee, the student is entitled to an adult representative or legal counsel who can provide guidance to the student and who is not an employee of the District. At this conference, the Superintendent or Superintendent's Designee will listen to both the student and campus administration, as well as review other pertinent information regarding the matter as he sees fit. Within seven (7) calendar days of hearing the appeal, the Superintendent or Superintendent's Designee will communicate his written conclusion to the parent and the campus administration.

For DAEP placements assigned for 45 school days or less, the Superintendent's or Superintendent's Designee's decision will be final and non-appealable.

For DAEP placements assigned for more than 45 school days, the parent may appeal the Superintendent's decision to the District Board of Trustees. The request for appeal must be in writing and be received by the Superintendent within seven (7) calendar days of the date of the Superintendent's written appeal decision. The appeal will be heard at a board meeting within 30 days of the receipt of the written request to appeal the Superintendent's decision. At the meeting, the Board will review a record of the DAEP placement appeal conference and will provide the parent and/or student, or representative with an opportunity to make a presentation to the Board. The administration will also be asked to speak. No new evidence, including witnesses or documents will be heard or considered. The Board may set reasonable time limits for oral presentations. Any decision by the Board is final and may not be appealed.

Questions or complaints from parents regarding disciplinary measures should be addressed to the campus administration in accordance with policy FNG(LOCAL). A copy of this policy is available at the Montgomery ISD website, www.misd.org.

The district shall not delay disciplinary consequences pending the outcome of an appeal. The decision to place a student in a DAEP cannot be appealed beyond the board.

Placement and/or Expulsion for Certain Offenses

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

Registered Sex Offenders

Upon receiving notification in accordance with state law that a student is currently required to register as a sex offender, the district 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 interest 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 CBC makes certain findings and the following circumstances exist in relation to aggravated robbery or a felony offense under Title 5 (see glossary) of the Penal Code. The student must have:

- Received deferred prosecution for conduct defined as aggravated robbery or a Title 5 felony offense;
- Been found by a court or jury to have engaged in delinquent conduct for conduct defined as aggravated robbery or a Title 5 felony offense;
- Been charged with engaging in conduct defined as aggravated robbery or a Title 5 felony offense;
- Been referred to a juvenile court for allegedly engaging in delinquent conduct for conduct defined as aggravated robbery or a Title 5 felony offense;
- Received probation or deferred adjudication or have been arrested for, charged with, or convicted of aggravated robbery or a Title 5 felony offense; or
- The superintendent or designee has a reasonable belief (see glossary) that the student engaged in the conduct.

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.

Placement Review

A student placed in a DAEP or JJAEP under these circumstances is entitled to a review of his or her status, including academic status, by the CBC or board's designee at intervals not to exceed 120 days. In the case of a high school student, the student's progress toward graduation and the student's graduation plan shall also be reviewed. At the review, the student or the student's parent shall have the opportunity to present arguments for the student's return to the regular classroom or campus.

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

Expulsion from school and school services is the most severe consequence provided under this Code and available under the law. Expulsion is reserved for the most intolerable student behavior. In deciding whether to order expulsion, regardless of whether the action is mandatory or discretionary, the CBC shall take into consideration:

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct,
3. The student's disciplinary history,
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or
6. A student's status as homeless.

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

Some of the following types of misconduct may result in mandatory placement in a DAEP, whether or not a student is expelled. (See DAEP Placement)

At Any Location

A student may be expelled for:

- Engaging in bullying that encourages a student to commit or attempt to commit suicide.
- Inciting violence against a student through group bullying.
- Releasing or threatening to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- Possessing look-alike weapons, including BB guns and pellet guns.
- Conduct that contains the elements of assault under Penal Code 22.01(a)(1) in retaliation against a school employee or volunteer.
- Criminal mischief, if punishable as a felony.
- Engaging in conduct that contains the elements of one of the following offenses against another student:
 - Aggravated assault.
 - Sexual assault.
 - Aggravated sexual assault.

- Murder.
- Capital Murder.
- Criminal attempt to commit murder or capital murder.
- Aggravated robbery.

**Mandatory Expulsion:
Misconduct That Will
Result in Expulsion**

At Any Location

A student will be expelled for committing any of the following offenses:

- Breach of computer security.
- Engaging in conduct that contains the elements of the offense of **False Alarm** as defined in the Texas Penal Code or report or a terroristic threat involving a public school. (See glossary.)

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

A student will be expelled for 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:

- Felony criminal mischief.
- Sells, gives, or delivers or attempts to sell, give, or deliver to another person marijuana or marijuana substitute, dangerous drugs or controlled substances.
- Promoting and/or possessing intimate visual material of classmates younger than 18 years of age engaging in sexual conduct. (See glossary)
- Engages in conduct that contains the elements of assault under Section 22.01(a)(1) against an employee or volunteer.
- Engaging in deadly conduct. (See glossary.)
- Engages in documented serious misbehavior that violates the District's Code, despite documented behavioral interventions while placed in the DAEP. For purposes of discretionary expulsion from a DAEP, serious misbehavior means:
 1. Deliberate violent behavior that poses a direct threat to the health or safety of others;
 2. Extortion, meaning the gaining of money or other property by force or threat;
 3. Conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
 4. Conduct that constitutes the offense of:
 - a. Public lewdness under Penal Code 21.07;
 - b. Indecent exposure under Penal Code 21.08;
 - c. Criminal mischief under Penal Code 28.03;
 - d. Hazing under Education Code 37.152; or
 - e. Harassment under Penal Code 42.07(a)(1), of a student or district employee.

Federal Law

- Bringing to school or possessing at school, including any setting that is under the district's control or supervision for the purpose of a school activity, a firearm, as defined by federal law. "Firearm" under federal law includes:
 - 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.
 - The frame or receiver of any such weapon.
 - Any firearm muffler or firearm weapon.
 - Any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.

Note: Mandatory expulsion under federal Gun Free Schools Act does not apply to a firearm that is lawfully stored inside a locked vehicle, or to firearms used in activities approved and authorized by the district when the district has adopted appropriate safeguards to ensure student safety.

Penal Code

- Unlawfully carrying on or about the "student's" person the following, in the manner prohibited by Penal Code 46.02:
 - A handgun, defined by state law as any firearm designed, made, or adapted to be used with one hand. Note: A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs at an approved target range facility that is not located on a school campus, while participating in or preparing for a school-sponsored, shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department, or a shooting sports sanctioning organization working with the department. [See policy FNCG(LLEGAL).]

- A location-restricted knife, as defined by state law. (see glossary)
- Possessing, manufacturing, transporting, repairing, or selling a prohibited weapon, as defined in state law. (See glossary)
- Behaving in a manner that contains elements of the following offenses under the Texas Penal Code:
 - Aggravated assault, sexual assault, or aggravated sexual assault.
 - Arson. (See glossary)
 - Murder, capital murder, or criminal attempt to commit murder or capital murder.
 - Indecency with a child.
 - Aggravated kidnapping.
 - Aggravated robbery.
 - Manslaughter.
 - Criminally negligent homicide.
 - Continuous sexual abuse of a young child or disabled individual.
 - Behavior punishable as a felony that involves selling, giving, or delivering to another person, or possessing, using, or being under the influence of a controlled substance, a dangerous drug, or alcohol; or committing a serious act or offense while under the influence of alcohol.
 - Engaging in retaliation against a school employee or volunteer combined with one of the above-listed mandatory expulsion offenses.

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 removed from class or placed in a DAEP unless the student commits a federal firearm offense.

Expulsion Process

If a student is believed to have committed an expellable offense, the CBC will request that the Superintendent schedule an expulsion hearing within a reasonable time.

Until a hearing can be held, the CBC or other campus administrator may place the student in:

- Another appropriate classroom;
- In-school suspension;
- Out-of-school suspension; or
- DAEP.

Hearing Waiver

At the campus level, parents and students will have an opportunity to waive their right to the above-mentioned hearing.

Hearing

The Board of Trustees delegates to the District Discipline Committee, which consists of the Superintendent or a designee, one campus administrator and one other certified campus professional, authority to conduct hearings and expel students.

Before a student is expelled, the student will have an opportunity for a due process hearing that will include the following:

1. At least three days prior written notice of the charges and the proposed sanctions including a written request to the student's parent or guardian to attend the expulsion hearing. The notice will also include the date, time, and location of the hearing and the names of adult witnesses who will present evidence at the hearing;
2. Right to a full and fair hearing before a District Discipline Committee consisting of the Superintendent or a designee, one campus administrator, and one other certified campus professional;
3. Opportunity to testify and to present evidence and witnesses in his or her defense; and
4. Opportunity to examine the evidence presented by the campus administration and to question the witnesses called by the district at the hearing.

A record of this hearing will be made.

Representative

At the hearing, the student is entitled to an adult representative or legal counsel who can provide guidance to the student and who is not an employee of the District. The District may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends, provided the District makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing.

Evidence

In an expulsion hearing, the District may rely on hearsay evidence of campus administrators who investigate disciplinary infractions. This means that the campus administration may present evidence or statements taken from students without revealing the identity of the student. The decision will be based exclusively on the evidence presented at the hearing.

Expulsion Order

Before ordering the expulsion, the board or CBC shall take into consideration:

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct,
3. The student's disciplinary history,
4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
5. A student's status in the conservatorship of the Department of Family and Protective Services (foster care), or
6. A student's status as homeless.

If the student is expelled, the board or its designee shall deliver to the student and the student's parent a copy of the order expelling the student.

Not later than the second business day after the hearing, the Superintendent shall 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.

Review of Expulsion

A decision by a District Discipline Committee to expel a student may be appealed to the MISD Board of Trustees. The request for appeal must be in writing and must be received by the Superintendent within 7 days of the date of the order of expulsion. At the appeal hearing, the Board will review a record of the District Discipline Committee expulsion hearing and will provide the parent and/or student, or representative with an opportunity to make a presentation to the Board. The administration may also be asked to speak. No new evidence, including witnesses or documents, will be admitted. The Board may set reasonable time limitations for presentations.

The student is expelled pending appeal. Appeal of a final District expulsion decision will be to the state judicial system.

Length of Expulsion

The length of an expulsion shall be based on the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, the student's attitude, and statutory requirements.

An Expulsion Order ranges from 30 days to 180 days JJAEP.

Consequences for expellable offenses will be assigned based on the offense committed, location (in the building/facility or in the vehicle), use or threaten to use, possession on the person, in the locker, purse, or other type of bag including backpacks, athletic bags, etc., or sells, distributes or attempts to sell.

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 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.

Graduating Seniors and Expulsion

When a student commits an expellable offense and receives assignment to the County JJAEP during the senior year, the District **may allow** that student to participate in graduation ceremonies, provided that all prerequisites for graduation are met, and provided that the student has successfully completed all the days that the student was placed in the JJAEP and has returned to the high school. If the student in question has not completed his or her days in the JJAEP for any reason, such as withdrawal or transfer to another school district, the student **will not** be allowed to participate in graduation ceremonies. Any decision concerning participation in graduation ceremonies will be made by the high school principal.

In order to be considered as an eligible student speaker at graduation ceremonies, a student shall not have engaged in any serious misconduct in violation of the District's Code, resulting in removal to the JJAEP during his or her last two semesters.

Withdrawal during Process	<p>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.</p> <p>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.</p> <p>If the CBC 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.</p>
Additional Misconduct	<p>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 CBC or the Board may issue an additional disciplinary order as a result of those proceedings.</p>
Restrictions during Expulsion	<p>Expelled students are prohibited from being on school grounds or attending school-sponsored or school-related activities during the period of expulsion.</p> <p>No District academic credit will be earned for work missed during the period of expulsion unless the student is enrolled in a Juvenile Justice Alternative Education Program or another District-approved program.</p>
Newly Enrolled Students	<p>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.</p> <p>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:</p> <ol style="list-style-type: none"> 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. <p>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:</p> <ol style="list-style-type: none"> 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	<p>When an emergency expulsion is necessary to protect persons or property from imminent harm, 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.</p>
DAEP Placement of Expelled Students	<p>The District may choose to 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.</p>
Transition Services	<p>In accordance with law and district procedures, campus staff shall provide transition services for a student returning to the regular classroom from placement in an alternative education program, including a DAEP or JJAEP. See policies FOCA(LLEGAL) and FODA(LLEGAL) for more information.</p>

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.

Aggravated robbery is defined in part by Penal Code §29.03(a) when a person commits robbery and:

1. Causes serious bodily injury to another;
2. Uses or exhibits a deadly weapon; or
3. Causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the other person is:
 - a. 65 years of age or older, or
 - b. A disabled person.

Armor-piercing ammunition is defined by Penal Code 46.01 as handgun ammunition used in pistols and revolvers and designed primarily for the purpose of penetrating metal or body armor.

Arson is defined in part by Penal Code 28.02 as is:

1. A crime that involves starting a fire or causing an explosion with intent to destroy or damage:
 - a. Any vegetation, fence, or structure on open-space land; or
 - b. Any building, habitation, or vehicle:
 - i. Knowing that it is within the limits of an incorporated city or town,
 - ii. Knowing that it is insured against damage or destruction,
 - iii. Knowing that it is subject to a mortgage or other security interest,
 - iv. Knowing that it is located on property belonging to another,
 - v. Knowing that it has located within it property belonging to another, or
 - vi. 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.
1. A crime that involves recklessly starting a fire or causing an explosion while manufacturing or attempting to manufacture a controlled substance and the fire or explosion damages any building, habitation, or vehicle; or
2. A crime that involves intentionally starting a fire or causing an explosion and in so doing:
 - a. Recklessly damages or destroys a building belonging to another, or
 - b. Recklessly causes another person to suffer bodily injury or death.

Assault is defined in part by Penal Code §22.01(a)(1) as intentionally, knowingly, or recklessly causing bodily injury to another; §22.01(a)(2) as intentionally or knowingly threatening another with imminent bodily injury; and §22.01(a)(3) as intentionally or knowingly causing physical contact with another that can reasonably be regarded as offensive or provocative.

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

Bullying is defined in Section 37.0832 of the Education Code as a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that:

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

Bullying includes cyberbullying. (See below) This state law on bullying prevention applies to:

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

Chemical dispensing device is defined by Penal Code 46.01 as a device designed, made, or adapted for the purpose of dispensing a substance capable 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 defined by Penal Code 46.01 as an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death. A blackjack, nightstick, mace, and tomahawk are in the same category.

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

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

Cyberbullying: Bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.

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

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

Deadly conduct under Penal Code 22.05 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.

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

Explosive weapon is defined by Penal Code 46.01 as 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 under Penal Code 42.06 occurs when a person knowingly initiates, communicates, or circulates a report of a present, past, or future bombing, fire, offense, or other emergency that he or she knows is false or baseless and that would ordinarily:

1. Cause action by an official or volunteer agency organized to deal with emergencies;
2. Place a person in fear of imminent serious bodily injury; or
3. Prevent or interrupt the occupation of a building, room, or place of assembly.

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

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

Such term does not include an antique firearm.

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

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

Harassment includes:

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

Hazing is defined by Section 37.151 of the Education Code as an intentional, knowing, or reckless act, on or off campus, by one person alone or acting with others, directed against a student for the purpose of pledging, initiation into, affiliation with, holding office in, or maintaining membership in a student organization if the act meets the elements in Education Code 37.151, including:

1. Any type of physical brutality;

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

Hit list is defined in Section 37.001(b)(3) of the Education Code as 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.

Improvised explosive device is defined by Penal Code 46.01 as a completed and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components.

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

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

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

Location-restricted knife is defined by Penal Code 46.01 as a knife with a blade over five and one-half inches.

Look-alike weapon means an item that resembles a weapon but is not intended to be used to cause serious bodily injury.

Machine gun as defined by Penal Code 46.01 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; telecommunications or electronic devices; or any school property used by the student, including but not limited to a locker or desk.

Prohibited weapon under Penal Code 46.05(a) means:

1. The following items unless registered with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the U.S. Department of Justice:
 - a. An explosive weapon;
 - b. A machine gun;
 - c. A short-barrel firearm;
2. Armor-piercing ammunition;
3. A chemical dispensing device;
4. A zip gun;
5. A tire deflation device;

6. An improvised explosive device; or

Public Lewdness is defined by Penal Code 21.07 as an offense that occurs when a person knowingly engages in an act of sexual intercourse, deviate sexual intercourse, or sexual contact in a public place or, if not in a public place, is reckless about whether another is present who will be offended or alarmed by the act.

Public school fraternity, sorority, secret society, or gang 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 exempt from this definition.

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

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

Serious misbehavior means:

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

Serious or persistent misbehavior includes but is not limited to:

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

Sexting: The electronic transfer of a sexually suggestive or sexually explicit photo, video, or message by using a telecommunications or electronic device.

Sexual Conduct includes not only sex acts but the lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola. Texas Penal Code §43.25(2)

Short-barrel firearm is defined by Penal Code 46.01 as 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.

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

Terroristic threat is defined by Penal Code 22.07 as a threat of violence to any person or property with intent to:

1. Cause a reaction of any type by an official or volunteer agency organized to deal with emergencies;
2. Place any person in fear of imminent serious bodily injury;

3. Prevent or interrupt the occupation or use of a building; room, place of assembly, or place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place;
4. Cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;
5. Place the public or a substantial group of the public in fear of serious bodily injury; or
6. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state (including the District).

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

Title 5 Felonies are those crimes listed in Title 5 of the Penal Code that typically involve injury to a person and may include:

- Murder, manslaughter, or homicide under Sections 19.02, – .05
- Kidnapping under Section 20.03
- Trafficking of persons under Section 20A.02
- Smuggling or continuous smuggling of persons under Sections 20.05 – .06
- Assault under Section 22.01
- Aggravated assault under Section 22.02
- Sexual assault under Section 22.011
- Aggravated sexual assault under Section 22.021
- Unlawful restraint under Section 20.02
- Continuous sexual abuse of a young child or disabled individual under Section 21.02
- Bestiality under Section 21.09
- Improper relationship between educator and student under Section 21.12
- Voyeurism under Section 21.17
- Indecency with a child under Section 21.11
- Invasive visual recording under Section 21.15
- Disclosure or promotion of intimate visual material under Section 21.16
- Sexual coercion under Section 21.18
- Injury to a child, an elderly person, or a disabled person of any age under Section 22.04
- Abandoning or endangering a child under Section 22.041
- Deadly conduct under Section 22.05
- Terroristic threat under Section 22.07
- Aiding a person to commit suicide under Section 22.08; and
- Tampering with a consumer product under Section 22.09.

[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 defined by Penal Code 46.01 as 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.