

# La Porte Independent School District



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## STUDENT CODE OF CONDUCT

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**2019-2020**

If you have difficulty accessing the information in this document because of disability, please contact LPISD Communications Department at 281-604-7000.

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## **Student Code of Conduct**

### **Accessibility**

If you have difficulty accessing the information in this document because of disability, please contact the LPISD Communications Department, 281-604-7000.

### **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 La Porte ISD Board of Trustees and developed with the advice of the district-level committee. This Code provides information to parents and students regarding standards of conduct, consequences of misconduct, and procedures for administering discipline. 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.

## **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. During lunch periods in which a student is allowed to leave campus;
3. While the student is in attendance at any school-related activity, regardless of time or location;
4. For any school-related misconduct, regardless of time or location;
5. When retaliation against a school employee, board member, or volunteer occurs or is threatened, regardless of time or location;
6. When a student engages in cyberbullying, as provided by Education Code 37.0832;
7. When criminal mischief is committed on or off school property or at a school-related event;
8. For certain offenses committed within 300 feet of school property as measured from any point on the school's real property boundary line;
9. For certain offenses committed while on school property or while attending a school-sponsored or school-related activity of another district in Texas;
10. When the student commits a felony, as provided by Education Code 37.006 or 37.0081; and
11. 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. 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 campus behavior coordinator. Contact information may be found at [www.lpsd.org](http://www.lpsd.org).

## **Threat Assessment and Safe and Supportive School Team**

The campus behavior coordinator or other appropriate administrator will work closely with the campus threat assessment 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 campus behavior coordinator and other school administrators as appropriate shall report crimes as required by law and shall 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), and/or security personnel]. In accordance with law, the board has coordinated with the campus behavior coordinator and other district employees to ensure appropriate law enforcement duties are assigned to security staff. The law enforcement duties of district peace officers are listed in policy CKE(LOCAL). The law enforcement duties of school resource officers are the policies and procedures set forth by the City of La Porte Police Department.

### **“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 to give the opening and closing remarks at graduation shall be notified by the campus principal. Notwithstanding any other eligibility requirements, in order to be considered as an eligible student to give the opening or closing remarks, a student shall not have engaged in any misconduct in violation of the district’s Code resulting in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding graduation.

The valedictorian and salutatorian may also have speaking roles at graduation. No student shall be eligible to have such a speaking role if he or she engaged in any misconduct in violation of the district’s Code resulting in an out-of-school suspension, removal to a DAEP, or expulsion during the semester immediately preceding 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.

See **DAEP—Restrictions During Placement** on page 27, for information regarding a student assigned to DAEP at the time of graduation.



## **Standards for Student Conduct**

Each student is expected to:

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

## General Conduct Violations

The categories of conduct below are prohibited at school, 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** on page 18, **DAEP Placement** on page 22, **Placement and/or Expulsion for Certain Offenses** on page 30, and **Expulsion** on page 33, 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 on page 16.

### Academic Integrity

Academic Dishonesty is defined in the La Porte ISD Policy (EIA). Students found to have engaged in academic dishonesty shall be subject to grade penalties on assignments or tests and disciplinary penalties in accordance with the Student Code of Conduct. Academic dishonesty includes cheating, copying the work of another student, plagiarism, and unauthorized communication between students during or regarding an examination. The determination that a student has engaged in academic dishonesty shall be based on the judgment of the classroom teacher or another supervising professional employee, taking into consideration written materials, observation, or information from students.

#### Behaviors defined as cheating:

- Giving or receiving information, looking on someone else's work, or allowing someone else to see one's work during an exam, test or quiz.
- Unauthorized receipt, distribution, or discussion of exam, test or quiz contents, materials, or answer key.
- Use of unauthorized resources such as notes or electronic device(s) during an exam.
- Taking an exam, producing a project, paper or assignment for another student or asking someone to take an exam or produce a project, paper or assignment for an individual.
- Copying work assigned to be done independently or letting others copy one's work.

#### Behaviors defined as plagiarism:

- Any misrepresentation of another's work as one's own, including the copying of sentences, phrases, images, entire essays, passages from an undocumented source, musical scores, and other similar works.

#### Academic Dishonesty will result in academic and/or behavioral consequences.

- A grade of zero will be given on the work involved, and the grade of zero will be averaged with the other grades.
- A building principal will be notified of all incidents of academic dishonesty.
- Other actions as determined by the building principal, which may include assignment to In-School Suspension (ISS).

## **Disregard for Authority**

Students shall not:

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

## **Mistreatment of Others**

Students shall not:

- Use profanity or vulgar language or make obscene gestures.
- Fight or scuffle. (For assault, see **DAEP—Placement and/or Expulsion for Certain Offenses** on page 30.)
- 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, 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.
- 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 individual being recorded or in any way that disrupts the educational environment or invades the privacy of others.

## **Bullying/Cyber Bullying**

The School District strives to provide a safe, positive learning climate for students in the schools. Therefore, it shall be the policy of the District to maintain an educational environment in which bullying and cyber bullying in any form are not tolerated. Therefore, all forms of bullying and cyber bullying by School District students are prohibited. Anyone who engages in bullying or cyber bullying in violation of this Policy shall be subject to appropriate discipline.

“Bullying” means 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:

- 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;
- is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
- materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or
- infringes on the rights of the victim at school

“Bullying” includes “cyberbullying,” which means 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.

Pursuant to Education Code 37.0832, the District has jurisdiction over:

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

All forms of bullying are unacceptable and, to the extent that such actions are disruptive of the educational process of the School District, offenders shall be subject to appropriate staff intervention, which may include restorative discipline practices or other administrative discipline, such as detention, suspension, or DAEP.

The terms “bullying” and “cyber bullying” shall not be interpreted to infringe upon a student’s right to engage in legally protected speech or conduct.

### **Conduct Occurring Off-Campus**

Students shall not engage in any conduct off-campus that will adversely impact the safe, orderly, and efficient operations or climate of District campuses. Examples of prohibited conduct occurring off-campus include bullying and cyber-bullying (see Glossary p. 36). The school District reserves the right to impose school discipline when conduct can be shown to

have a substantial disruption to a campus instructional environment or when it creates a hostile learning environment for any student(s).

### **Property Offenses**

Students shall not:

- Damage or vandalize property owned by others. (For felony criminal mischief, see **DAEP— Placement and/or Expulsion for Certain Offenses** on page 30.)
- 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 Penal Code. (For felony robbery, aggravated robbery, and theft, see **DAEP— Placement and/or Expulsion for Certain Offenses** on page 30.)

### **Possession of Prohibited Items**

Students shall not possess or use:

- Fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;
- A razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
- A “look-alike” weapon that is intended to be used as a weapon or could reasonably be perceived as a weapon;
- An air gun or BB gun;
- Ammunition;
- A hand instrument designed to cut or stab another by being thrown;
- Knuckles;
- \*A location-restricted knife;
- \*A club;
- \*A firearm;
- A stun gun;
- A pocketknife or any other small knife;
- Mace or pepper spray;
- Pornographic material;
- Tobacco products; cigarettes; e-cigarettes; and any component, part, or accessory for an e-cigarette device; vaping apparatus
- Matches or a lighter;
- A laser pointer for other than an approved use; or
- Any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists.

\*For weapons and firearms, see **DAEP—Placement and/or Expulsion for Certain Offenses** on page 30. In many circumstances, possession of these items is punishable by mandatory expulsion under federal or state law.

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

Students shall not:

- Display, turn on, or use a telecommunications device to include Smart Devices, including a cellular telephone, or other electronic device on school property during the school day, except as otherwise allowed by law and with prior permission from campus administration.

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

Students shall not:

- Possess, use, give, or sell alcohol or an illegal drug. (Also see **DAEP Placement** on page 22 and **Expulsion** on page 33 for mandatory and permissive consequences under state law.)
- Possess or sell seeds or pieces of marijuana 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. (See **glossary** for “abuse.”)
- Abuse over-the-counter drugs. (See **glossary** for “abuse.”)
- Be under the influence of prescription or over-the-counter drugs that cause impairment of the physical or mental faculties. (See **glossary** for “under the influence.”)
- Have or take prescription drugs or over-the-counter drugs at school other than as provided by district policy.

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

Students shall not:

- Violate policies, rules, or agreements signed by the student or the student’s parent regarding the use of technology resources.
- Attempt to access or circumvent passwords or other security-related information of the district, students, or employees or upload or create computer viruses, including off school property if the conduct causes a substantial disruption to the educational environment.
- Attempt to alter, destroy, or disable district technology resources including, but not limited to, computers and related equipment, district data, the data of others, or other networks connected to the district’s system, including off school property if the conduct causes a substantial disruption to the educational environment.
- Use the internet or other electronic communications to threaten or harass district students, employees, board members, or volunteers, including off school property if the conduct

causes a substantial disruption to the educational environment or infringes on the rights of another student at school.

- Send, post, deliver, or possess electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, including cyberbullying and "sexting," either on or off school property, if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.
- Use the internet or other electronic communication to engage in or encourage illegal behavior or threaten school safety, including off school property if the conduct causes a substantial disruption to the educational environment or infringes on the rights of another student at school.

Note: Specific Acceptable Use Guidelines for use of LPISD Technology can be found in the campus handbooks.

### **Safety Transgressions**

Students shall not:

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

### **Miscellaneous Offenses**

Students shall not:

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

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

## **Discipline Management Techniques**

Discipline shall be designed to improve conduct and to encourage students to adhere to their responsibilities as members of the school community. Disciplinary action shall draw on the professional judgment of teachers and administrators and on a range of discipline management techniques, including restorative 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 Student 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 ARD committee meeting has been held to review the conduct.

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

### **Techniques**

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

- Verbal correction, oral or written.
- 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.
- Family group conferencing.
- 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 **Out-of-School Suspension** on page 18.
- Placement in a DAEP, as specified in **DAEP** on page 22.
- Placement and/or expulsion in an alternative educational setting, as specified in **Placement and/or Expulsion for Certain Offenses** on page 30.
- Expulsion, as specified in **Expulsion** on page 33.
- Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the district.
- Other strategies, including Restorative Practices and consequences as determined by school officials.

### **Prohibited Aversive Techniques**

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, other than corporal punishment as permitted by district policy. [See policy FO(LOCAL).]
- Using techniques designed or likely to cause physical pain by electric shock or any procedure involving pressure points or joint locks.
- 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 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 shall also notify a student's parent if the student is taken into custody by a law enforcement officer under the disciplinary provisions of the Education Code. A good faith effort shall be made on the day the action was taken to provide to the student for delivery to the student's parent written notification of the disciplinary action. If the parent has not been reached by telephone or in person by 5:00 p.m. of the first business day after the day the disciplinary action was taken, the campus behavior coordinator shall send written notification by U.S. Mail. If the campus behavior coordinator is not able to provide notice to the parent, the principal or designee shall provide the notice.

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

### **Appeals**

Questions from parents regarding disciplinary measures should be addressed to the teacher, campus administration, or campus behavior coordinator, 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 campus behavior coordinator's office, or the central administration office or through Policy On Line at the following address: [www.lpsd.org](http://www.lpsd.org).

The district shall not delay a disciplinary consequence while a student or parent pursues a grievance.

## **Removal from the School Bus**

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

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

**Please note:** The removal of students with disabilities who are eligible for transportation services under federal law (Individuals with Disabilities Education Act) is subject to the provisions of those laws.

## **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 behavior coordinator's office as a discipline management technique. The campus behavior coordinator 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 campus behavior coordinator or appropriate administrator shall 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 campus behavior coordinator or appropriate administrator shall 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 campus behavior coordinator or other administrator may place the student in:

- Another appropriate classroom.
- In-school suspension.
- Out-of-school suspension.
- 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 a Student to the Classroom**

When a student has been formally removed from class by a teacher for conduct against the teacher containing the elements of assault, aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, or criminal attempt to commit murder or capital murder, the student may not be returned to the teacher's class without the teacher's consent.

When a student has been formally removed by a teacher for any other conduct, the student may be returned to the teacher's class without the teacher's consent if the placement review committee determines that the teacher's class is the best or only alternative available.

## **Out-of-School Suspension**

### **Misconduct**

Students may be suspended for any behavior listed in the Code 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 shall have an informal conference with the campus behavior coordinator or appropriate administrator, who shall advise the student of the alleged misconduct. The student shall have the opportunity to respond to the allegation before the administrator makes a decision.

The campus behavior coordinator 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 behavior coordinator 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.

The appropriate administrator shall determine any restrictions on participation in school-sponsored or school-related extracurricular and cocurricular 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 doesn't require the use of the internet.

A student removed from the regular classroom to in-school suspension 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.

## District Discipline Committee Process

Disciplinary Alternative Education Program (DAEP), Juvenile Justice Alternative Education Program (JJAEP) and Harris County High Point East Alternative School recommendations and placements are made by campus principals. The Discipline Committee serves as a **review** body to ensure consistency and validity of DAEP/JJAEP/Expulsion recommendations across the District. The committee additionally allocates DAEP seats among the four District DAEPs: Elementary (College Park Elementary), 6<sup>th</sup> – 8<sup>th</sup> DAEP (Lomax Junior High School), 9<sup>th</sup> – 12<sup>th</sup> DAEP (HS DAEP Center), and Highpoint East Alternative School.

The District Discipline Committee is composed of administrators representing the La Porte High School, LPISD Academy of Viola DeWalt High School, La Porte Junior High and Lomax Junior High, the James H. Baker Sixth Grade Campus, Special Education and one elementary administrator (if required). The Committee is chaired by a certified District administrator. Other personnel as required a case-by-case basis as required.

The Committee meets weekly to review the following disciplinary situations. Additional Committee meetings may be called in the event of the need for emergency disciplinary placement:

1. Campus recommendations for discretionary DAEP (Disciplinary Alternative Education Program) placements;
2. Campus recommendations for mandatory DAEP/JJAEP placements;
3. Campus recommendations for discretionary expulsions;
4. Campus recommendations for mandatory expulsions;
5. In-District transfers of students with outstanding DAEP/JJAEP (Juvenile Justice Alternative Education Program) placements;
6. Return-to-District or In-District transfer of students completing JJAEP placements (court-ordered or District-assigned).

**Purpose:** The purpose of the District Discipline Committee is:

1. To review DAEP/JJAEP/Expulsion recommendations for compliance with TEC Chapter 37 and the District Student Code of Conduct.
2. To promote consistency of disciplinary management from campus to campus.
3. To coordinate specific DAEP/JJAEP placements and recommendations. All Discipline Committee decisions are subject to review by the District Hearing Officer.

**Discipline Committee placement procedures:**

1. The Committee will assign DAEP students to either Elementary DAEP (College Park Elementary), 6<sup>th</sup>-8<sup>th</sup> DAEP (Lomax), 9<sup>th</sup>-12 DAEP (LPHS DAEP Center) or Harris County Highpoint East Alternative School. First time secondary DAEP assignments will normally be to 6<sup>th</sup>-8<sup>th</sup> DAEP (Lomax) or 9<sup>th</sup>-12 DAEP (LPHS DAEP Center). Repeat DAEP offenses in



the same school year, especially for mandatory placements, will normally be to Highpoint to demonstrate progressive disciplinary consequences.

2. First time placements for DAEP will result in a minimum of 20 days for discretionary placements and a minimum of 30 days for mandatory placements.
3. DAEP placements, including Highpoint East, that carry over to the next school year will terminate when the assigned days have been met.
4. Students that transfer into the District with incomplete DAEP/JJAEP will be assigned to complete their placement prior to enrollment in a regular campus.
5. Students that return to District or transfer into the District from JJAEP will normally be assigned to transition to the regular campus through the 6<sup>th</sup>-8<sup>th</sup> DAEP (Lomax) or 9<sup>th</sup>-12 DAEP (LPHS DAEP Center), subject to review by the campus principal.

Note: The Discipline Committee has the discretion to not apply mandatory consequences when warranted by:

- Conditions of self-defense,
- Intent or lack of intent at the time the student engaged in the conduct,
- Student's ability to understand the wrongfulness of the act,
- The student's disciplinary history, and/or
- Highly extenuating circumstances.

All DAEP placements and committee recommendations are subject to review by the District Hearing Officer.

## Disciplinary Alternative Education Program (DAEP) Placement

The DAEP shall be provided in a setting other than the student's regular classroom. An elementary school student may not be placed in a DAEP with a student who is not an elementary school student.

For purposes of DAEP, elementary classification shall be second-grade 5. The secondary classification will be divided between two campuses - junior high shall be 6<sup>th</sup> – 8<sup>th</sup>, and high school shall be grades 9–12.

Summer programs provided by the district shall may serve students assigned to a DAEP in conjunction with other students.

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

In deciding whether to place a student in a DAEP, regardless of whether the action is mandatory or discretionary, the campus behavior coordinator 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 Placement: Misconduct That May Result in DAEP Placement

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

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

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

- 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 of a student who is 18 years of age or older without the student's consent.
- Involvement in a public school fraternity, sorority, or secret society, including participating as a member or pledge, or soliciting another person to become a pledge or member of a public school fraternity, sorority, secret society, or gang. (See **glossary**.)
- Involvement in criminal street gang activity. (See **glossary**.)
- Criminal mischief, not punishable as a felony.
- Assault (no bodily injury) with threat of imminent bodily injury.
- Assault by offensive or provocative physical contact.

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

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

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

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

- Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school. (See **glossary**.)
- Commits the following offenses on school property or within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:
  - Engages in conduct punishable as a felony.
  - Commits an assault (see **glossary**) under Penal Code 22.01(a)(1).
  - Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of marijuana, a controlled substance, or a dangerous drug in an amount not constituting a felony offense. 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 **Expulsion** on page 33.) (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 **Expulsion** on page 33.)
  - 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. (See **glossary**.)
  - 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 and 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 **Expulsion** on page 33.)

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

### **Process**

Decisions for removal to a DAEP will be made at the recommendation of the appropriate administrator/campus behavior coordinator in coordination with the District Discipline Committee. The Committee will meet to review the decision and coordinate the placement location and term, subject to review by the District Hearing Officer.

### **Conference**

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

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

### **Consideration of Mitigating Factors**

In deciding whether to place a student in a DAEP, regardless of whether the action is mandatory or discretionary, the campus behavior coordinator 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, or

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 shall be sent to the student and the student's parent.

No later than the second business day after the conference, the board's designee shall deliver to the juvenile court a copy of the placement order and all information required by Section 52.04 of the Family Code.

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

***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.

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

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.

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

***Exceeds One Year***

Placement in a DAEP may exceed one year when a review by the district determines that 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 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 shall be given notice and the opportunity to participate in a proceeding before the board or the board's designee.

### **Appeals**

Questions from parents regarding disciplinary measures should be addressed to the campus administration.

Student or parent appeals regarding a student's placement in a DAEP should be addressed in accordance with policy FNG(LOCAL). A copy of this policy may be obtained from the principal's office, the campus behavior coordinator's office, the central administration office, or through Policy On Line at the following address: [www.lpsid.org](http://www.lpsid.org).

Appeals shall begin at the campus where the student is enrolled.

**Level One** – Appeals begin at Level One with the campus principal or campus behavior coordinator. The Level One Appeal for must be submitted within ten (10) days of the date of the event to the campus. The campus principal or campus behavior coordinator will hear the Level One Appeal and make the decision regarding the outcome of the appeal.

If you are not satisfied with the results of the initial, appeal, a Level Two Appeal may be made with the Executive Director of Secondary Instruction, who is the LPISD Board of Trustees designated hearing officer.

**Level Two** – In the event that the parent is not satisfied with the results of the initial Level One Appeal, a Level Two Appeal may be made to the Executive Director of Secondary Instruction, who is the LPISD Board of Trustees designated hearing officer. The submission of the Appeal form must be within ten (10) days of the date of the Level One Appeal Response upon which the Level One Disciplinary appeal is based upon. A copy of the Level One Appeal and Response should be attached to the Level Two Appeal.

The decision to place a student in a DAEP cannot be appealed beyond the Board's designee. Therefore, the Level Two appeal decision regarding the DAEP placement is final and not appealable to the Board of Trustees.

The district shall not delay disciplinary consequences pending the outcome of an appeal.

### **Restrictions During Placement**

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

The district shall provide transportation to students in a DAEP.

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

### **Placement Review**

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

### **Additional Misconduct**

If during the term of placement in a DAEP the student engages in additional misconduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted, and the campus behavior coordinator 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 shall 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 or designee'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 shall, 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 shall 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 re-enrolls 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, shall reduce the period of the placement so that the total placement does not exceed one year. After a review, however, the placement may be extended beyond a year if the district determines that the student is a threat to the safety of other students or employees or the extended placement is in the best interest of the student.

### **Emergency Placement Procedure**

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.

## **Misconduct That Requires JJAEP Placement**

A student **shall** be placed in a JJAEP if the student:

- Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school where charges have been received by the Harris County District Attorney. (See glossary.)
- Engages in conduct relating to the exhibition, use, or threat of exhibition or use of firearms:
  - A person commits an offense if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally;
  - Exhibits or uses a firearm;
  - In or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or
  - on a school bus being used to transport children to or from school-sponsored activities of a private or public school'
  - threatens to exhibit or use a firearm in or on property described above;
  - or on a bus described above and was in possession of or had immediate access to the firearm; or
  - threatens to exhibit or use a firearm in or on property described by above or on a bus described above;
  - An offense is a third degree felony.

The campus principal or other appropriate administrator may modify the placement from a JJAEP assignment to a DAEP assignment in the case of an individual student, if the administrator determines that a DAEP assignment is more appropriate, based on consideration of the circumstances and the factors set out in Texas Education Code 37.001(a)(4).

## **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 shall 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:

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

### **Review Committee**

At the end of the first semester of a student's placement in an alternative educational setting and before the beginning of each school year for which the student remains in an alternative placement, the district shall convene a committee, in accordance with state law, to review the student's placement. The committee shall 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 campus behavior coordinator 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;
- Have 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;
- Have been charged with engaging in conduct defined as aggravated robbery or a Title 5 felony offense;
- Have been referred to a juvenile court for allegedly engaging in delinquent conduct for conduct defined as aggravated robbery or a Title 5 felony offense; or
- Have received probation or deferred adjudication or have been arrested for, charged with, or convicted of aggravated robbery or a Title 5 felony offense.

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

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

### ***Hearing and Required Findings***

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

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

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

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

The student is subject to the placement until:

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

### ***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 campus behavior coordinator 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

In deciding whether to order expulsion, regardless of whether the action is mandatory or discretionary, the campus behavior coordinator 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** on page 22)

#### **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 of a student who is 18 years of age or older without the student's consent.
- 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.
- Breach of computer security. (See **glossary**)
- Engaging in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school.
- Engages in conduct relating to the exhibition, use, or threat of exhibition or use of firearms:
  - A person commits an offense if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally;

- Exhibits or uses a firearm;
- In or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or
- on a school bus being used to transport children to or from school-sponsored activities of a private or public school'
- threatens to exhibit or use a firearm in or on property described above;
- or on a bus described above and was in possession of or had immediate access to the firearm; or
- threatens to exhibit or use a firearm in or on property described by above or on a bus described above;
- An offense is a third degree felony.

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

A student **may** 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:

- Selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, or a dangerous drug, if the conduct is not punishable as a felony. 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. (See **glossary** for "under the influence.")
- Selling, giving, or delivering to another person, or possessing, using, or being under the influence of alcohol; or committing a serious act or offense while under the influence of alcohol, if the conduct is not punishable as a felony.
- Engaging in conduct that contains the elements of an offense relating to abusable volatile chemicals.
- Engaging in conduct that contains the elements of assault under Section 22.01(a)(1) against an employee or a volunteer.
- Engaging in deadly conduct. (See **glossary**.)

### ***Within 300 Feet of School***

A student **may** be expelled for engaging in the following conduct while within 300 feet of school property, as measured from any point on the school's real property boundary line:

- Aggravated assault, sexual assault, or aggravated sexual assault.
- Arson. (See **glossary**.)
- Murder, capital murder, or criminal attempt to commit murder or capital murder.
- Indecency with a child, aggravated kidnapping, manslaughter, criminally negligent homicide, or aggravated robbery.
- Continuous sexual abuse of a young child or children.
- Felony drug- or alcohol-related offense.

- Unlawfully carrying on or about the student’s person a handgun or a location-restricted knife, as these terms are defined by state law. (See **glossary**.)
- Possessing, manufacturing, transporting, repairing, or selling a prohibited weapon, as defined by state law. (See **glossary**.)
- Possession of a firearm, as defined by federal law. (See **glossary**.)

### ***Property of Another District***

A student **may** be expelled for committing any offense that is a state-mandated expellable offense if the offense is committed on the property of another district in Texas or while the student is attending a school-sponsored or school-related activity of a school in another district in Texas.

### ***While in DAEP***

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

1. Deliberate violent behavior that poses a direct threat to the health or safety of others;
2. Extortion, meaning the gaining of money or other property by force or threat;
3. Conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
4. Conduct that constitutes the offense of:
  - a) Public lewdness under 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.

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

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

#### ***Under Federal Law***

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

**Note:** Mandatory expulsion under the 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.

#### ***Under the 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. (See **glossary**.)  
**Note:** A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs at an approved target range facility that is not located on a school campus, while participating in or preparing for a school-sponsored, shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department, or a shooting sports sanctioning organization working with the department. [See policy FNCG(LEGAL).]
- 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 Penal Code:
  - Aggravated assault, sexual assault, or aggravated sexual assault.
  - Arson. (See **glossary**.)
  - Murder, capital murder, or criminal attempt to commit murder or capital murder.
  - Indecency with a child.
  - Aggravated kidnapping.
  - Aggravated robbery.
  - Manslaughter.
  - Criminally negligent homicide.
  - Continuous sexual abuse of a young child or children.
  - Behavior punishable as a felony that involves selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, a dangerous drug, or alcohol; or committing a serious act or offense while under the influence of alcohol.
- Engaging in retaliation against a school employee or volunteer combined with one of the above-listed mandatory expulsion offenses.

### **Under Age Ten**

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

### **Process**

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

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

- Another appropriate classroom.



- In-school suspension.
- Out-of-school suspension.
- DAEP.

### **Hearing**

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

1. Representation by the student's parent or another adult who can provide guidance to the student and who is not an employee of the district,
2. An opportunity to testify and to present evidence and witnesses in the student's defense, and
3. An opportunity to question the witnesses called by the district at the hearing.
4. After providing notice to the student and parent of the hearing, the district may hold the hearing regardless of whether the student or the student's parent attends.

The board of trustees delegates to the Deputy Superintendent authority to conduct hearings and expel students.

### **Board Review of Expulsion**

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

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

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

### **Expulsion Order**

Before ordering the expulsion, the board or campus behavior coordinator 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 Deputy 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 shall give notice of the inconsistency.

### **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.

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

An expulsion may not exceed one year unless, after review, the district determines that:

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

State and federal law require a student to be expelled from the regular classroom for a period of at least one calendar year for bringing a firearm, as defined by federal law, to school.

However, the superintendent may modify the length of the expulsion on a case-by-case basis.

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

### **Withdrawal During Process**

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

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

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

### **Additional Misconduct**

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

### **Restrictions During Expulsion**

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

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

### **Newly Enrolled Students**

The district shall decide on a case-by-case basis the placement of a student who is subject to an expulsion order from another district or an open-enrollment charter school upon enrollment in the district.

If a student expelled in another state enrolls in the district, the district may continue the expulsion under the terms of the expulsion order, may place the student in a DAEP for the period specified in the order, or may allow the student to attend regular classes if:

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

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

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

### **Emergency Expulsion Procedures**

When an emergency expulsion is necessary to protect persons or property from imminent harm, the student shall be given verbal notice of the reason for the action. Within ten days after the date of the emergency expulsion, the student shall be given appropriate due process required for a student facing expulsion.

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

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

### **Transition Services**

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.

## Drug Offense Consequences

The following procedures will be used by the District Discipline Committee in response to drug offenses on campus, at school related events, or within 300 feet of a campus: **(Note: These procedures do not apply to positive drug test results obtained as part of voluntary participation in random drug testing or if obtained as part of any involuntary participation in random drug testing that may be associated with extra-curricular activities.)**

### Random Drug testing policy

1. Under the influence of marijuana, controlled substance, or alcohol (based on nurse assessment, field sobriety test, or evident impaired behaviors) with no possession, or possession of paraphernalia or trace amounts of marijuana/controlled substance/alcohol:
  - First time offense – DAEP at 9<sup>th</sup>-12<sup>th</sup> DAEP Center/6<sup>th</sup>-8<sup>th</sup> Grade DAEP(Lomax)/Elementary DAEP (College Park Elementary) for minimum of 30 days.
  - Second offense – DAEP at Highpoint for rest of semester. If semester ends prior to completion of 30 days or the expected program progress milestones, the student will return to Highpoint to complete the disciplinary placement.
  - Third offense – Discretionary expulsion to Highpoint or JJAEP.
  
2. Under the influence of controlled substance, marijuana, or alcohol offense, and/or misdemeanor possession (or usable amount of contraband) offense:
  - First time offense – DAEP at 9<sup>th</sup>-12<sup>th</sup> DAEP Center/6<sup>th</sup>-8<sup>th</sup> Grade DAEP(Lomax)/Elementary DAEP (College Park Elementary) for the rest of the current semester. If the offense **occurs** during the third grading period, the placement will continue into the next semester for the duration of the disciplinary placement.
    - Minimum placement length will be 45 days.
    - All placements subject to review for return to campus after 45 days.
  - Second offense – DAEP at Highpoint for the rest of the semester. If the semester ends prior to completion of 30 days or the expected program upgrades, the student will return to Highpoint to complete the disciplinary placement.
  - Third offense – Expulsion (discretionary) to either Highpoint or JJAEP for the remainder of the year.
  
3. Suspected drug trafficking (reasonable suspicion required such as quantity of contraband, multiple plastic bags, abnormal amounts of money, observed behaviors such as transferring products, etc.):
  - First time offense – DAEP at Highpoint for the rest of the semester. If the semester ends prior to completion of 30 days or the expected program

upgrades, the student will return to Highpoint to complete the disciplinary placement.

- Second offense – Expulsion (discretionary) with preference to JJAEP.
4. Felony level offense – Mandatory Expulsion.
- JJAEP for 180 days, or
  - Note: The District Discipline Committee has the prerogative to consider such factors as previous discipline history, intent of the user, or quantity of the controlled substance to recommend to the District Hearing Officer either a reduced term in JJAEP or alternative expulsion to Highpoint East Alternative School.

## Glossary

**Abuse** is improper or excessive use.

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

3. Causes serious bodily injury to another;
4. Uses or exhibits a deadly weapon; or
5. 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:

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:
    - 1) Knowing that it is within the limits of an incorporated city or town,
    - 2) Knowing that it is insured against damage or destruction,
    - 3) Knowing that it is subject to a mortgage or other security interest,
    - 4) Knowing that it is located on property belonging to another,
    - 5) Knowing that it has located within it property belonging to another, or
    - 6) 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.
2. 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
3. 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 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, 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 defined by Penal Code 71.01 as three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.

**Cyberbullying** is defined by Section 37.0832 of the Education Code as bullying that is done through the use of any electronic communication device, including through the use of a cellular

or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an internet website, or any other internet-based communication tool.

**Dangerous drug** 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. 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 weapon; or
  4. Any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.
- Such term does not include an antique firearm.

**Firearm silencer** is defined by Penal Code 46.01 as any device designed, made, or adapted to muffle the report of a 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.

**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.

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

**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.

**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.

**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
7. A firearm silencer, unless classified as a curio or relic by the U.S. Department of Justice or the actor otherwise possesses, manufactures, transports, repairs, or sells the firearm silencer in compliance with federal law.

**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 excepted 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 school work as assigned.
- Insubordination.
- Profanity, vulgar language, or obscene gestures.
- Leaving school grounds without permission.
- Falsification of records, passes, or other school-related documents.
- Refusal to accept discipline assigned by the teacher or principal.

**Short-barrel firearm** is 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.

**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 children 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.

**Vape** 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. 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.

**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.

# Appendix I

## La Porte Independent School District

### Level One Discipline Appeal Form

Please complete this form and submit to the Campus Principal or Campus Behavior Coordinator. All Appeals shall be processed in accordance with the LPISD Student Code of Conduct, the LPISD Board Policy FNG (Legal) and FNG (Local.)

STUDENT/Parent: \_\_\_\_\_

CAMPUS: \_\_\_\_\_

PRINCIPAL/ ADMINISTRATOR \_\_\_\_\_

=====

***The submission of this Appeal form must be within ten (10) days of the date of the event(s) upon which the appeal is based on the date student/parent first knew or should have known of the disciplinary action decision.***

1. Date of the Event or Series of Events: \_\_\_\_\_

2. Disciplinary Action Being Appealed: \_\_\_\_\_

3. Statement of Appeal: \_\_\_\_\_

4. List in detail specific facts which support this Level One Appeal:  
\_\_\_\_\_  
\_\_\_\_\_

5. Relief being requested:  
\_\_\_\_\_

6. List name and telephone number of representative(s) (if applicable):  
\_\_\_\_\_

=====

\_\_\_\_\_  
Parent/Student Signature

\_\_\_\_\_  
Date

**NOTE: Level One Appeal decisions regarding DAEP Placements are to be made to the campus principal. If you are not satisfied with the results of the initial, appeal, a Level Two Appeal may be made with the Executive Director of Secondary Instruction, who is the LPISD Board of Trustees designated hearing officer.**

## Appendix 2

### La Porte Independent School District

#### Level Two Discipline Appeal Form

Please complete this form and submit to the Campus Principal, Campus Behavior Coordinator or Executive Director for Secondary Education. All Appeals shall be processed in accordance with the LPISD Student Code of Conduct, the LPISD Board Policy FNG (Legal) and FNG (Local.)

STUDENT/Parent: \_\_\_\_\_

CAMPUS: \_\_\_\_\_

PRINCIPAL/ ADMINISTRATOR \_\_\_\_\_

=====

***The submission of this Appeal form must be within ten (10) days of the date of the Level One Appeal Response upon which the Level One Disciplinary appeal is based upon. A copy of the Level One Appeal and Response should be attached to this document.***

1. Date of the Level One Appeal: \_\_\_\_\_

2. Initial date of the Event or Series of Events: \_\_\_\_\_

3. Disciplinary Action Being Appealed: \_\_\_\_\_

4. Statement of Appeal: \_\_\_\_\_

5. List in detail specific facts which support this Level Two Appeal:

\_\_\_\_\_  
\_\_\_\_\_

6. Relief being requested:

\_\_\_\_\_

7. List name and telephone number of representative(s) (if applicable):

\_\_\_\_\_

=====

\_\_\_\_\_  
Parent/Student Signature

\_\_\_\_\_  
Date

**NOTE:** Level Two Appeal decisions regarding DAEP Placements are final and not appealable to the Board of Trustees. Disciplinary consequences will not be deferred pending the outcome of an appeal.

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