

**El Paso Independent School District  
STUDENT CODE OF CONDUCT**

**APPROVED BY THE BOARD OF TRUSTEES: SEPTEMBER 29, 2009**

# STUDENT CODE OF CONDUCT ACKNOWLEDGMENT

Dear Student and Parent:

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

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

The student and parent should each sign this page in the space provided below, and then return the page to the student's school.

Thank you.

Dr. Lorenzo G. Garcia, Superintendent  
El Paso Independent School District

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We acknowledge that we have received a copy of the El Paso Independent School District Student Code of Conduct and understand that students will be held accountable for their behavior and will be subject to the disciplinary consequences outlined in the Code.

Print name of student: \_\_\_\_\_

Signature of student: \_\_\_\_\_

Print name of parent: \_\_\_\_\_

Signature of parent: \_\_\_\_\_

Discipline Contact Telephone Number: \_\_\_\_\_

Discipline Contact Email Address: \_\_\_\_\_

Date: \_\_\_\_\_

School: \_\_\_\_\_

Grade level: \_\_\_\_\_

Please sign this page, remove it, and return it to the student's school. Thank you.

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# STUDENT CODE OF CONDUCT

## Purpose

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

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

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

In accordance with state law, the Code will be posted at each school campus or will be available for review at the office of the campus principal. Parents will be notified of any conduct violation that may result in a student being suspended, placed in a DAEP, or expelled to JJAEP.

Parent/guardian's questions or complaints regarding disciplinary measures should be addressed to the teacher or campus administration as appropriate. Appeals of disciplinary consequences may be pursued according to the procedures set out in this code of conduct. Complaints regarding other matters may be pursued in accordance with board policy FNG (LOCAL). Appeals concerning placement in DAEP or expulsion to JJAEP are addressed in the sections of this code pertaining to placement in DAEP or expulsion to JJAEP. A copy of this policy may be obtained from the principal's office or central administration office. Consequences will not be deferred pending the outcome of an appeal.

The El Paso Independent School District, as a part of its compliance with laws and procedures as enforced by the Office of Civil Rights and the Texas Education Agency, has provided for students, parents, or employees procedures which preserve the rights and responsibilities of those individuals who register concerns regarding school district procedures and action. These procedures are outlined in district policies DGBA, FNG, and GF and have been codified for the convenience of employees, students, applicants and parents. District administrators are required to adhere to the requirements as outlined in the aforementioned policies in order to provide a timely, thorough, and complete resolution of concerns, complaints, and grievances as identified by policy.

The El Paso Independent School District, as part of its compliance with laws and procedures as enforced by the Office of Civil Rights and the Texas Education Agency, has provided for employees, students, applicants or parents procedures which preserve the rights and responsibilities of those individuals regarding harassment incidents as specified in policies

DH, DIA, and FFH. District administrators are required to adhere to the requirements as outlined in the aforementioned policies in order to provide a timely, thorough, and complete resolution of incidents involving harassment as identified by policy.

This Student Code of Conduct shall remain in effect until amended or superseded by action of the board of trustees. In case of conflict between the Student Code of Conduct and Board Policy or the Student Handbook, the Student Code of Conduct will prevail (except for legal or policy changes made after its adoption).

**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.

The El Paso Independent School District does not discriminate in its educational programs or employment practices on the basis of race, color, religion, sex, national origin, age, disability, military status, or on any other basis prohibited by law. Inquiries concerning the application of Titles VI, VII, and IX, and Section 504 may be referred to the district compliance officer, Vince Sheffield, at (915) 881-2619 ; 504 inquiries regarding students may be referred to Cecilia Whiteman at (915) 881-2527. The office of the district compliance officer and the 504 coordinator may be contacted in person or by mail at the following address:

El Paso Independent School District  
6531 Boeing Drive,  
El Paso, Texas 79925

## **School District Authority and Jurisdiction**

A student whose behavior shows disrespect for others, (including interference with teaching and learning and a safe environment) will be subject to disciplinary action

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.

School administrators will report crimes as required by law. School administrators who suspect that a crime has been committed on campus will call local law enforcement (TEC Section 37.015 or 37.0081)

The district has disciplinary authority over a student:

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

Personal searches of student's purses, handbags, or billfolds and the emptying of pockets, the removal of shoes, socks, coats, and the like, but which do not involve the removal of other items of clothing or wearing apparel, are authorized if a principal or designee has reasonable belief to suspect a search may disclose evidence a student has violated or is violating either the law or the rules of the school. The manner and degree of the search must be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the

nature of the suspected infraction. The principal or designee should perform the search out of the presence of other students and request another school official to act as a witness.

The principal or designee can search a student's outer clothing, pockets, or property if he/she has a reasonable belief to suspect that the search will reveal evidence that the student has violated a school rule. The scope of the search will be related to the suspected violation.

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

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

The District has the right to deny/revoke the transfer of a student for lack of parental cooperation, violating attendance policies, failure to uphold academic standards, and/or noncompliance with the District's *Student Code of Conduct*. If a student is involved in extracurricular activities, his/her eligibility may be affected.

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

A person who knowingly falsifies information on a form required for a student's enrollment in the district shall be liable to the district if student is not eligible for enrollment, but is enrolled based on false information. This is a criminal offense, under Penal Code § 37.10. For the period during which the ineligible student is enrolled, the person is liable for the maximum tuition fee the district may charge under TEC § 25.038 or the amount the District has budgeted per student as maintenance and operating expense, whichever is greater [TEC §25.001(h)].

## **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.
- To cooperate and maintain their best behavior at all school-related activities, whether on or off campus.
- 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.
- Comply with the Student Code of Conduct.
- Return all District-owned textbooks and other materials as required.
- Pay required fees and fines as required by law.

## General Conduct Violations

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

The district prohibits the following:

### Disregard for Authority

1. Rudeness, Disrespect or Failing to comply with directives given by school personnel (insubordination).
2. Leaving school grounds, an educational setting or school-related events without permission.
3. Disobeying rules for conduct on school buses.
4. Disruption of lawful transportation of students to or from school or school sponsored events.
5. Refusing to accept discipline management techniques assigned by a teacher or principal (including persistent violation of rules).
6. Violating dress and grooming standards as communicated in District's Code of Conduct or the District or Campus Student Handbook. The District expects student to come to school in clothes that are clean and that will not be a health or safety threat to themselves or to other students or staff. The District prohibits any clothing or grooming that, in the principal's/designee's judgment, may reasonably be expected to cause disruption of or interference with normal school operations. Student Dress and Grooming Standards will be observed at school and at all school-related activities whether on or off campus. The District prohibits pictures, emblems, or writings on clothing that have the following characteristics:
  - 6.1. Lewdness, vulgarity, obscenity or offensiveness to the average person.
  - 6.2. Advertisements or depictions of tobacco products, alcoholic beverages, drugs, or any other substance prohibited under FNCF.
  - 6.3. Show evidence of membership or affiliation in any gang, unauthorized club, or organization under FNCC.
7. Violating an individual school dress code or school uniform policy, if applicable. This includes, but is not limited to, wearing sleepwear or other inappropriate or unauthorized attire unless as a part of a school-sponsored activity.

8. Failing to complete assignments, have needed or required materials, or return school forms and information requests.
9. Truancy, being tardy, or persistent tardiness.
10. Loitering, being in an unauthorized or restricted area of campus, or trespassing.
11. Intentional disruption of the conduct of classes or other school-related activities, either alone or in concert with others (Class C Misdemeanor). Disrupting the conduct of classes or other school-related activities includes, but is not limited to:
  - 11.1. Emitting noise of an intensity that prevents or hinders classroom instruction;
  - 11.2. Enticing or attempting to entice a student away from a class or other school-related activity.
  - 11.3. Preventing or attempting to prevent a student from attending a class or other school-related activity that the student is required to attend; and/or
  - 11.4. Entering a classroom without the consent of the principal, designee, or the teacher and, through either acts of misconduct or the use of loud or profane language, disrupting the class (TEC Section 37.124).
12. Behavior so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate with other students in the class or with the ability of classmates to learn.
13. Possessing, producing, displaying or distributing materials, food items or documents not approved by school officials.
14. Forgery or any tampering with notes or school documents, whether printed or electronic.

**Mistreatment of Others**

1. Using profanity, verbal abuse, vulgar language or making obscene gestures.
2. Fighting, inciting a fight (whether verbally or non-verbally to include 'mad-dogging,' arguing, scuffling, pushing, shoving, and other similar activities). Consideration will be given to self-defense as a factor. (For assault see DAEP Placement and Expulsion)
3. Threatening a district student, employee or volunteer on or off school property.
4. Engaging in bullying, harassment, or making hit lists. (See glossary for all three terms)

5. Engaging in conduct that constitutes sexual harassment or sexual abuse, whether by word, gesture, or any other conduct, including requests for sexual favors directed toward another person including a district employee or volunteer.
6. Engaging in inappropriate exposure of private body parts, on or off campus. (See section on expulsion for indecent exposure).
7. Hazing. (See glossary)
8. Causing an individual to act through the use of or threat of force (coercion).
9. Committing extortion or blackmail (obtaining money or an object of value from an unwilling person).
10. Engaging in inappropriate verbal, physical, or sexual conduct directed toward another person, including a district student, employee or volunteer.
11. Engaging in harassment motivated by race, color, religion, national origin, disability, or age and directed toward another student or a district employee or volunteer.
12. Intimidation, derogatory statements, name calling, gestures, racial or ethnic/religious slurs which would incite, or influence an individual to act through, the use of force or threat of force.
13. Engaging in conduct that constitutes dating violence including the intentional use of physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person with whom the student has or has had a dating relationship.
14. Recording the voice or image of another without the prior consent of the individuals being recorded or in any way that disrupts the educational environment or invades the privacy of others.

**Property Offenses**

1. Damaging or vandalizing property owned by others, whether on campus or in transit to and from school. (For felony criminal mischief see DAEP Placement or Expulsion)
2. Defacing or damaging school property—including textbooks, lockers, furniture, and other equipment—with graffiti or by other means.
3. Stealing from students, staff, or the school.
4. Possessing, exhibiting, using, selling, or giving stolen property.
5. Committing or assisting in a robbery or theft even if it does not constitute a felony according to the Texas Penal Code. (For felony robbery and theft see DAEP Placement and Expulsion)

**Possession of Prohibited Items**

1. Exhibiting, possessing or using:
  - 1.1. fireworks of any kind;

- 1.2. smoke or stink bombs, or any other pyrotechnic device;
- 1.3. a razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
- 1.4. any instrument or item that may be perceived by a third party as a firearm or part of a firearm or look-alike firearm or weapon;
- 1.5. an air gun, pellet gun, paint ball gun, air powered rifle, toy gun or BB gun;
- 1.6. ammunition;
- 1.7. BBs, caps, paint balls, pellets or any other items considered ammunition regardless of composition;
- 1.8. a stun gun or other device that delivers a shock;
- 1.9. any knife of any size, including a pocket knife (For illegal knives see Mandatory Expulsion);
- 1.10. mace or pepper spray;
- 1.11. pornographic material;
- 1.12. tobacco products;
- 1.13. matches or a lighter;
- 1.14. indelible markers, for purposes other than approved educational use;
- 1.15. a laser pointer for other than an approved use;
- 1.16. any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists. (For weapons and firearms see DAEP Placement and Expulsion to JJAEP); or
- 1.17. any unauthorized electronic devices including, but not limited to, electronic games or entertainment devices.

**Possession of Telecommunications Devices**

- 1. Displaying, turning on, or using an unauthorized telecommunications device including, but not limited to pagers, cellular telephones, two-way radios, mobile telephones, wireless communication or data devices, and other telecommunication devices which emit an audible signal, vibrate, display a message, or otherwise summon or deliver a communication to the possessor while participating in school-sponsored or school-related activities (whether on or off school property) during the instructional day, and while instruction is being conducted. Exceptions may be approved at the discretion of the campus principal on a case-by-case basis through a written request from the parent/guardian or adult student establishing a genuine health or safety emergency condition and that other lawful communications alternatives are unavailable or would cause an undue hardship on the

student or his/her immediate family. The principal may impose conditions on the student's use of the device as the principal deems reasonable under the circumstances. (See FNCE)

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

1. Possessing or selling seeds or pieces of marijuana in less than a usable amount. (For illegal drugs, alcohol, and inhalants see DAEP Placement and Expulsion)
2. Possessing, using, giving, delivering to another person or selling paraphernalia related to any prohibited substance or activity. (See glossary for "paraphernalia")
3. Possessing, giving or selling look-alike drugs or items attempted to be passed off as drugs or contraband.
4. Abusing the student's own prescription drug, giving a prescription drug to another student, or possessing or being under the influence of another person's prescription drug on school property or at a school-related event. (See glossary for "abuse.")
5. Having or taking prescription drugs or over-the-counter drugs at school other than as provided by district policy.
6. Violating district policy FFAC by administering prescription or non-prescription medications to anyone on school property, or at a school-related event or activity, except for approved self-administration of asthma medication.
7. Being 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.")

**Misuse of Computers and the Internet**

1. Violating computer use policies, rules, or agreements signed by the student and/or agreements signed by the student's parent.
2. Using the Internet or other electronic communications to threaten district students, employees, volunteers and/or school property or to cause disruption to the educational program including off school property if the conduct causes a substantial disruption to the educational environment.
3. Sending or posting electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, including off school property if the conduct causes a substantial disruption to the educational environment.
4. Using the Internet to promote or encourage illegal behavior or to threaten school safety including off school property if the conduct causes a substantial disruption to the educational environment.
5. Attempting to access or circumvent passwords or other security-related information of the district, students, or employees or upload or create

6. Attempting to alter, destroy, or disable district computer equipment, district data, the data of others, or other networks connected to the district's system, including off school property if the conduct causes a substantial disruption to the educational environment.
7. Possessing, sending, sharing, or viewing pictures, text messages, e-mails or other material of a sexual nature in electronic or any other form on a cell phone or other electronic device, without regard to the time and place of origin.

**Safety Transgressions**

1. Possessing published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety.
2. Engaging in verbal (oral or written) exchanges that threaten the safety of another student, a school employee, or school property.
3. Making false accusations or perpetrating hoaxes regarding school safety.
4. Engaging in any conduct that school officials might reasonably believe will substantially disrupt the school program or incite violence.
5. Throwing objects that can cause bodily injury or property damage.
6. Discharging a fire extinguisher without valid cause.
7. Violating school or classroom safety rules or requirements.
8. Unsafe conduct including, but not limited to, running, pushing, shoving, littering, cutting in line, throwing objects, blocking hallways, doorways and the like and other similar actions (which are not an approved part of a supervised activity).

**Miscellaneous Offenses**

1. Gambling, or possessing gambling paraphernalia (for purposes other than required educational purposes).
2. Falsifying records, passes, or other school-related documents.
3. Engaging in actions or demonstrations that substantially disrupt or materially interfere with school activities.
4. Repeatedly violating other communicated campus or classroom standards of conduct.
5. Eating, drinking, gum chewing, or using other products or materials, in unauthorized areas or at unauthorized times.
6. Possessing/using any of the following on or within 100 feet of school property: skateboards, inline skates, scooters, soaps (shoes with hard plastic on the soles with the intent of mimicking the motion of a skateboard designed for sliding on railings or other smooth surfaces), or heelies (shoes with embedded rollers).

7. Engaging in academic dishonesty including, but not limited to, cheating on tests, assignments or activities, plagiarism, or unauthorized collaboration with another person in completing any school assignment.
8. Disciplinary offenses listed in the discretionary DAEP and discretionary expulsion sections in the Student Code of Conduct.

**Gang Affiliation  
Offenses**

1. No student on or about school property or at any school activity shall do any of the following:
  - 1.1. Wear, possess, use, distribute, display, or sell any clothing, jewelry, emblem, badge, symbol, sign, or other things that are evidence of membership or affiliation in any gang. Each campus principal should post at the school and distribute to parents a list of examples of clothing and other items that are prohibited because they signify membership in a gang.
  - 1.2. Commit any act or omission, or use any speech, either verbal or nonverbal (gestures, hand shakes, and the like) showing membership or affiliation in a gang.
  - 1.3. Use any speech, gesture, or commit any act or omission in furtherance of the interests of any gang or gang activity including but not limited to the following:
    - 1.3.1. Soliciting others for membership in any gang;
    - 1.3.2. Requesting any person to pay protection or otherwise intimidate or threaten any person;
    - 1.3.3. Committing any other illegal act or other violation of school district policies;
    - 1.3.4. Inciting other students to act with physical violence upon any other person.

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

## Discipline Management Techniques

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

The district will take into consideration self-defense, intent or lack of intent, the student's disciplinary history and a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct as factors in the decision to order a suspension, removal to a DAEP, or expulsion.

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

### Students with Disabilities

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

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

In deciding whether to order suspension, DAEP placement, or expulsion regardless of whether the action is mandatory or discretionary, the district will take into consideration a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct. See sections of this Code dealing with Discipline Of Special Education Students and Discipline Under Section 504.

### Techniques

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

- Verbal correction (oral or written).
- Cooling-off time or “time-out.”
- Seating changes within the classroom.
- Temporary confiscation of items that disrupt the educational process.
- Rewards or demerits.

- Behavioral contracts.
- Counseling by teachers, counselors, or administrative personnel.
- Parent-teacher conferences.
- Grade reductions for late assignments or academic dishonesty (including but not limited to cheating or copying the work of another student, plagiarism, and unauthorized communication between students during an examination). [EIA(LOCAL)]
- Detention. [FO (LOCAL)]
- Sending the student to the office or other assigned area, or to in-school suspension.
- Assignment of school service such as cleaning or picking up litter.
- Withdrawal of privileges, such as participation in extracurricular activities, eligibility for seeking and holding honorary offices, and/or membership in school-sponsored clubs and organizations.
- Techniques or penalties identified in individual student organizations' extracurricular standards of behavior.
- School-assessed and school-administered probation.
- In-School Suspension (ISS). The student must serve the assigned number of days. Absences shall not exclude the student from ISS. The term of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity. In School Suspension will end at the end of the school day on the last day assigned as specified on the Student Discipline Action Form.
- Out-of-school suspension (OSS), as specified in the Out of School Suspension section of this Code.
- Placement in a DAEP, as specified in the DAEP section of this Code.
- Placement and/or Expulsion to an alternative educational setting, as specified in the Placement and/or Expulsion to JJAEP for Certain Serious Offenses section of this Code.
- Expulsion to the Juvenile Justice Alternative Education Program (JJAEP), as specified in the Expulsion to JJAEP section of this Code.
- Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the district.
- Withdrawal or restriction of bus privileges. Transportation privileges may be taken away from a student with disabilities only if transportation is not determined necessary as a related service. A change in transportation services for a student with disabilities for

whom transportation is a related service requires ARD committee action. A change in transportation services for a Section 504 student requires a 504 committee action.

- Restitution for damage.
- A Notice of Absence will be issued for violation of the Texas Compulsory Attendance Law. In accordance with this law, referrals will be made, as required, to the Justice of the Peace Court or other agencies, as necessary. The Justice of the Peace Court may assess a fine and other requirements for truancy.
- Referral to EPISD First Chance Program, or other agencies as appropriate to the situation.
- Other strategies and consequences as determined by school officials.

**Paging Devices /  
Electronic Devices**

1. District employees may confiscate any paging device in use by a student while participating in school-sponsored or school-related activities (on or off campus) during the instructional day and while instruction is being conducted.
  - The parent, guardian, adult student, and paging company shall be notified within two school days after the paging device is confiscated. Confiscated devices shall be held in the principal's office for a period of 30 days after notification has been made. The parent, guardian, adult student or paging company may obtain the release of the communication device for a fee of \$15 as authorized by law.
  - If the parent, guardian, adult student or paging company has not responded to the principal's notification after the 30-day period has expired, the principal shall dispose of the paging device pursuant to procedures approved by the superintendent. [FNCE (LOCAL)]
2. District employees may confiscate other electronic devices, games or other items prohibited by the *Student Code of Conduct*. Such items should be turned over to the principal/designee, and will be returned to the parent/guardian after a conference with the principal/designee in accordance with campus policy.

**Administrative  
Disciplinary  
Procedures and  
Parent Notification**

1. The principal or designee will provide the student an opportunity to explain his/her version of the incident.
2. A student discipline report must be completed for each offense. Any school employee may initiate this report.

3. The principal or designee will review the report of the student's behavior and will investigate all infraction(s) included in the report.
4. The principal or designee will determine the disciplinary action to be taken. Disciplinary action will be correlated to the seriousness of the offense, the student's age and grade level, the frequency of the misbehavior, the student's attitude, the effect of the misconduct on the school environment, and statutory requirements. If necessary, the administrator will notify the appropriate law enforcement agency
5. Misconduct will result in application of one or more Discipline Management Techniques consistent with law and the Student Code of Conduct.
6. For each offense, the principal/designee shall record the action taken on the Student Discipline Action Form. A copy of this form must be sent to the parent or guardian and to the Office for Pupil Services no later than the close of business the next school day after the offense. The copy for the parent will be given to the student for delivery. Upon receipt, it is the student's responsibility to convey this message to his or her parent or guardian.
7. If a student is removed from the regular classroom and placed in in-school suspension or another setting other than a disciplinary alternative education program, the student shall be offered the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of removal. The District may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

## **Appeals**

Parental questions or concerns regarding disciplinary measures should be addressed to the teacher or campus administration, as appropriate and in accordance with policy FNG (LOCAL).

Appeals regarding DAEP or Expulsion to JJAEP decisions may be filed according to the procedures set forth in the sections on DAEP and Expulsion to JJAEP.

**Consequences will not be deferred pending the outcome of an appeal.**

## Removal from the Regular Educational Setting

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

### Routine Referral

A routine referral occurs when a teacher sends a student to the principal's office as a discipline management technique. The principal may then employ additional techniques.

### Formal Removal

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

11. 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
12. The behavior is so unruly, disruptive, or abusive that the teacher cannot teach, and the students in the classroom cannot learn.

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

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

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

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

### Placement Review Committee (PRC)

Each campus shall establish a three-member committee to determine placement of a student when a teacher refuses the return of a student to the teacher's class and make recommendations to the District regarding re-

admission of expelled students. The teacher refusing to re-admit the student may not serve on the committee.

Members shall be appointed as follows:

- The campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member, and
- The principal or designee shall choose one member from the professional staff on campus.

The principal or designee determines disciplinary actions. The placement review committee has no role regarding sanctions or disciplinary consequences. The placement review committee meets only when a teacher refuses the return of a student to the teacher's classroom or when a recommendation is required to re-admit an expelled student.

**Returning Student to Classroom**

When a student has been formally removed from class by a teacher for conduct against the teacher containing the elements of assault, aggravated assault, sexual assault, aggravated sexual assault, 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. The teacher may not be coerced to consent.

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

## Suspension

### Misconduct

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

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

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct, and
3. The student's disciplinary history.

### Process

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

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

Before suspending a student, the principal or designee shall consider reasonable alternatives. If after administering due process, the principal or designee determines that suspension is the most appropriate alternative, the principal or designee is not required to precede that suspension with another disciplinary action.

The number of days of a student's suspension will be determined by the appropriate administrator, but will not exceed three school days. A suspension will be for the entirety of days listed on the Student Discipline Action Form. Suspensions end at midnight on the last specified day of suspension as listed on the Student Discipline Action Form. A student shall not participate in school-sponsored extra-curricular activities during the period of suspension. **The length of suspension from extracurricular activities may be longer than the suspension from school, as stated in the applicable rules of the UIL or other sanctioning organization or as set by the applicable coach or faculty sponsor.**

During the period of suspension, the student is prohibited from being within 300 feet of any EPISD campus and from attending and/or participating in any school-sponsored or related activities. A student that enters or remains on any portion of EPISD property while suspended will be prosecuted for criminal trespass (TEC §37.107, 37.105; Penal Code § 30.05). Removal to a DAEP may be preceded by a suspension (OSS) not to exceed three (3) school days. The parent, guardian or adult student is notified, and a copy of the Student Discipline Action Form is given to the student for delivery to the parent/guardian.

## **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 kindergarten–grade 5 and secondary classification shall be grades 6–12.

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

### **Available DAEP Programs**

The El Paso Independent School District provides education programs in settings other than a student's regular classroom.

- The purpose of these programs is to provide a disciplinary alternative to suspension and/or permissive expulsion, and to provide the student a supervised education as a part of the disciplinary action.
- A decision to place a student is based on a review of all student records, and a meeting of the parent or guardian with appropriate school representatives to review the evidence.
- The focus of instruction during placement in a DAEP is English, mathematics, science, history, and self-discipline.

If a student placed in a DAEP enrolls in another school district before the expiration of the period of placement, the school district in which the student enrolls may continue the DAEP placement under the terms of the order, or may allow the student to attend regular classes without completing the period of the placement.

### ***In-School Suspension***

A special area in each school may be designated as the in-school suspension room and is supervised by a teacher, administrator, or other designated staff member. In this setting, the student receives assignments/instruction in each course with few or no opportunities for social interaction with peers. The intent of this disciplinary action is to deter student misbehavior, reduce incidents of school disruption, and provide students the educational opportunities to continue their coursework. Students are instructed in the Texas Essential Knowledge and Skills (TEKS) of the courses in which they are enrolled at the time of the removal. An in-school suspension is to be enforced during school hours only.

**Campus Self-Contained DAEP (Grades 6-12)**

A self-contained DAEP has been established at each middle and high school for Grades 6-12. The principal/superintendent/designee assigns students to a DAEP. Campuses serving elementary-level students have a designated off campus site.

**Project About Face at Houston Elementary School (Elementary DAEP, Age 6 to Grade 5)**

*PROJECT ABOUT FACE* is the only elementary-level DAEP for children age 6 through grade 5. It is designed to address the needs of students who have failed to respond to the classroom/campus interventions outlined in the District's *Student Code of Conduct*. The program utilizes developmentally appropriate practices so that those students can modify their behaviors and return to their home campuses and succeed academically and socially.

**Lorenzo G. LaFarelle Alternative Middle School (Middle School DAEP, Grades 6-8)**

Students at LaFarelle Alternative Middle School follow the District's *Student Code Of Conduct*, which contains specific rules of conduct and general behavior requirements and provides sanctions for not following rules and regulations. LaFarelle Alternative Middle School has additional rules, mandatory uniforms, and other requirements that students must follow. The school serves students in grades 6 - 8.

**Raymond Telles Academy (High School DAEP, Grades 9-12)**

Students at the Raymond Telles Academy (RTA) follow the District's *Student Code of Conduct*, which contains specific rules of conduct and general behavior requirements and provides sanctions for not following rules and regulations. The Raymond Telles Academy has additional rules, mandatory uniforms, and other requirements that students must follow. The school serves students in Grades 9 -12.

**First Chance Program (First Time Substance Abuse Program, Grades 6-12)**

The *First Chance Program* provides disciplinary action other than removal from the student's assigned program. This alternative program provides support to the student and his/her parents/guardians for first time substance abusers (including possession of or in control of a dangerous drug, marijuana, contraband, tobacco or alcohol).

The program is an option that may be offered to students in Grades 6-12. If the student or parent(s) fail(s) to comply with the First Chance Program regulations, it will result in the withdrawal from the program. The original order will prevail and the student will be placed in a DAEP.

The First Chance Program may be used in addition to other Discipline Management Techniques as defined by the District's Code of Conduct.

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

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

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

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct, and
3. The student's disciplinary history.

**General Misconduct**

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

**Misconduct Identified in State Law**

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

- Involvement in gang activity, including participating as a member or pledge, or soliciting another person to become a pledge or member of a gang, including a criminal street gang.
- 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, or secret society.
- Any criminal mischief, including a felony.

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

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

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

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

- 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. (School-related felony drug offenses are addressed in the Expulsion section.) (See glossary for “under the influence”)
  - Sells, gives, or delivers to another person an alcoholic beverage; commits a serious act or offense while under the influence of alcohol; or possesses, uses, or is under the influence of alcohol, if the conduct is not punishable as a felony offense. (School-related felony alcohol offenses are addressed in the Expulsion section.)
  - Behaves in a manner that contains the elements of an offense relating to abusable volatile chemicals.
  - Behaves in a manner that contains the elements of the offense of public lewdness or indecent exposure.
- Engages in expellable conduct and is at least six years of age but younger than ten years of age.
- Commits a federal firearms violation and is younger than six years of age.
- Engages in conduct that contains the elements of the offense of retaliation against any school employee or volunteer on or off school property. (Committing retaliation in combination with another expellable offense is addressed in the Expulsion section of this Code.)
- Engages in conduct punishable as a felony listed under Title 5 (see glossary) of the Texas Penal Code when the conduct occurs off school property and not at a school-sponsored or school-related event and:
  1. The student receives deferred prosecution (see glossary),
  2. A court or jury finds that the student has engaged in delinquent conduct (see glossary), or
  3. The superintendent or designee has a reasonable belief (see glossary) that the student engaged in the conduct.

**Sexual Assault and  
Campus Assignments**

If a student has been convicted of, adjudicated for, placed on deferred prosecution for, or on probation for, continuous sexual abuse of a young child or children or convicted of, adjudicated for, placed on deferred adjudication, deferred prosecution or probation 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. Any DAEP placement will be at a campus other than the victim's campus. After any DAEP placement has been completed, the transfer of the offending student away from the victim's campus shall remain in effect for so long as requested by the victim or the victim's parent or guardian.

**Emergencies**

The principal or designee may immediately remove a student to a DAEP for behavior that is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to effectively communicate with the class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity. When an emergency placement occurs, the student will be given oral notice of the reason for the action. The reason for the emergency removal must be a reason for which a DAEP placement could be made on a non-emergency basis. Within a reasonable time, but not later than the tenth day after the date of the placement, the student will be given the appropriate conference required for assignment to a DAEP. (For students with disabilities, see sections dealing with Discipline of Special Education Students or Discipline Under Section 504.)

**Process**

Removals to a DAEP will be made by the principal, assistant principal, director for pupil services or designee, or associate superintendent or designee.

**Conference**

The principal or designee shall advise the student, the parent or guardian, and the teacher, in the case of a teacher removal, that a conference has been scheduled to be held within the next three school days and shall specify the date, time, and place of the conference. The conference may be postponed to a later date and time upon request of the parent or guardian.

If a teacher removed the student from class, the student may not be returned to the regular classroom pending the conference. Prior to the conference, the principal may place the student in another appropriate classroom, in-school suspension, or into a DAEP unless the student has been removed under emergency expulsion provisions.

At the conference, the student is entitled to written or oral notice of the reason(s) for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reason(s) for removal. If a teacher has

removed the student from class, the teacher shall attend the conference. The student, parent or guardian may be represented by legal counsel or another adult at the conference. When the principal or designee is a witness or is otherwise not considered impartial, another appropriate administrator will be appointed by the Director for Pupil Services to conduct the conference.

Following the conference, and whether or not each requested person was in attendance after valid attempts to require the person's attendance, the principal or designee shall determine whether a student should be placed in a DAEP; and if so, shall place the student in a DAEP. If the proposed DAEP placement is based on the reasonable belief that the student has engaged in conduct punishable as a felony, the principal/designee may consider all available information, including the information furnished under Article 15.27, Code of Criminal Procedure. If the student's conduct does not require DAEP placement, the principal/designee or district's hearing officer may consider other appropriate disciplinary options.

Once a determination of the disciplinary action to be taken has been made, the principal/designee shall record that action on the student discipline action form and distribute the pink copy to the student.

***Placement for  
Elementary Students  
and Students  
Younger Than Six***

An elementary school student may not be placed in a DAEP with any other student who is not an elementary school student. A student younger than six may be removed from class but not placed in a DAEP.

***Placement Order***

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

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

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

**Court Ordered  
Placement**

A student may also be placed in a DAEP, under certain circumstances, by court order. Refer to the Court Involvement section below. No administrative conference is required if the DAEP placement occurs based on the lawful order of a juvenile court. A student may also be placed in a DAEP if such placement is ordered by a municipal court or justice of the

peace, but prior to such a placement in a DAEP, the principal or other appropriate administrator will conduct a conference with the student and the student's parent or guardian.

**Length of Placement**

The duration of a student's placement in a DAEP will be determined by the principal or designee, the Director for Pupil Services or designee, or the appropriate Associate Superintendent or designee.

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

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

***Exceeds One Year***

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

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

The statutory limitations on the length of a DAEP placement do not apply to a placement resulting from the board's decision to place a student who engaged in the sexual assault of another student so that the students are not assigned to the same campus. A DAEP placement in accordance with TEC Sec. 37.0081 may be for any length of time determined necessary by the superintendent or designee in light of the factors considered at the time of placement.

***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 district must determine that:

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

***Exceeds 60 Days***

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

**Appeals**

The decision may be appealed to the Director for Pupil Services or designee, the appropriate Associate Superintendent, and lastly, to the

Board of Trustees. If the parent, guardian, or adult student chooses to appeal the expulsion, the following procedures must be initiated:

Within three school calendar days of the date of the decision of the principal or the hearing officer, the parent, guardian, or adult student must file an appeal in writing with the Director for Pupil Services. If not in agreement with the Director's decision, further appeals may be made in writing to the appropriate associate superintendent within three school calendar days of receipt of the Director's decision, and finally, to the Board of Trustees within three calendar days of receipt of the Associate Superintendent's decision. Any appeal should be addressed as follows:

Director for Pupil Services  
El Paso Independent School District  
P. O. Box 20100  
El Paso, Texas 79998-0100

The superintendent or designee will review the decision of the principal or hearing officer and may reinstate the student (subject to the provisions regarding removal of a student from class and regarding bringing a firearm to school); alter the length of the recommended DAEP placement; change the recommendation to another placement; or forward the decision to the Board of Trustees to conduct a hearing as requested; provided, however, that in those cases where there was a victim to the offense (e.g., assault, retaliation, aggravated assault, sexual assault, attempted murder, indecency, aggravated kidnapping, etc.), the superintendent or designee ordinarily should not reduce the duration of the disciplinary placement without first hearing from the victim.

**The student will be excluded from attending any school functions or being on or about school property during the pendency of any appeal unless specifically authorized by the principal or superintendent. Disciplinary consequences will not be deferred pending the outcome of an appeal, provided that the campus principal may place a student into ISS rather than DAEP, pending the outcome of an appeal.**

**The decision to place a student in a DAEP cannot be appealed beyond the board.**

**Restrictions during Placement**

The district does not permit a student who is placed in a DAEP to participate in any school-sponsored or school-related extracurricular or co-

curricular activity including seeking or holding honorary positions and/or membership in school-sponsored clubs and organizations.

The terms of a DAEP placement order shall state whether or not the student's bus transportation privileges are to be revoked during the term of the placement (This provision is inapplicable to a student with a disability who has transportation designated as a related service in the student's IEP).

***Graduating Seniors  
and DAEP***

For seniors who are eligible to graduate and are assigned to a DAEP at the time of graduation, the last day of placement in the program will be the last instructional day and the student will be allowed to participate in the graduation ceremony and related graduation activities unless the student was ordered placed into a DAEP or JJAEP during the last 30 school days (or final six weeks) prior to the graduation date for a term through the end of the semester for any of the following offenses, in which event the placement in the program will continue through graduation, and the student will not be allowed to participate in the graduation ceremony and related graduation activities:

- selling, giving, or delivering to another person, or possessing, using, or being under the influence of, any amount of a controlled substance including but not limited to marihuana and cocaine, alcoholic beverage, or other contraband
- an offense relating to an abusable volatile chemical
- aggravated assault
- use or possession of a firearm, club, or other weapon
- sexual harassment or assault
- arson
- indecency with a child
- graffiti, defacing school property or vandalism
- aggravated robbery

- manslaughter
- criminally negligent homicide
- deadly conduct

Any such placement that continues through graduation may be appealed in accordance with applicable procedures stated elsewhere in this Student Code of Conduct; provided, however, that the administrative review process shall be expedited to the extent necessary so that the superintendent or designee may review such placement decision prior to the graduation ceremony, and decide whether to reinstate the student's participation in the graduation ceremony and/or related graduation activities.

**Placement Review**

A student placed in a DAEP will be provided a review of his or her status, including academic status, by the campus principal or other hearing officer at intervals not to exceed 120 days. In the case of a high school student, the student's progress toward graduation and the student's graduation plan will also be reviewed. At the review, the student or the student's parent will be given the opportunity to present arguments for the student's return to the regular classroom or campus. For information concerning a student being returned to regular education, see the section in this Code dealing with Removal from the Regular Education Setting.

**Additional Misconduct**

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

**Notice of Criminal Proceedings**

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

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

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

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

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

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

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

The above procedure does not apply to mandatory DAEP placements for offenses of false alarm or report or terroristic threat involving a public school, or offenses that require mandatory DAEP placements **because they occur** on school property, within 300 feet of school property, or at a school-sponsored or school-related activity (TEC 37.006 (k))

**Withdrawal during Process**

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

**Newly Enrolled Students**

The district will decide on a case-by-case basis whether to continue the placement of a student who enrolls in the district and was assigned to a DAEP in an open-enrollment charter school or another district, including a district in another state (if the behavior committed is a reason for DAEP placement in the receiving district). The district may place the student in the district's DAEP or a regular classroom setting.

If the student was placed in a DAEP by a school district in another state for a period that exceeds one year, this district, by state law, will reduce the period of the placement so that the total placement does not exceed one year. After a review, however, the placement may be extended beyond a year if the district determines that the student is a threat to the safety of other students or employees or the extended placement is in the best interest of the student.

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

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

### **Registered Sex Offenders**

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

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

If the student is not under any form of court supervision, the placement may be in DAEP or JJAEP for one semester or the placement may be in a regular classroom. The placement may not be in the regular classroom if the board or its designee determines that the student's presence:

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

### **Review Committee**

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

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

### **Newly Enrolled Student**

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

### **Appeal**

A student or the student's parent may appeal the placement by requesting a conference between the Director for Pupil Services, 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 Director for Pupil Services under this section may be appealed to the appropriate Division Associate Superintendent and finally to the Board of Trustees. Any decision of the board of trustees under this section is final and may not be appealed.

**Certain Felonies**

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

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

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

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

***Hearing and Required Findings***

The student must first have a hearing with the Director for Pupil Services (or other assigned administrator), 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 Director for Pupil Services (or other designated administrator) may be appealed to the Appropriate Associate Superintendent and then the Board of Trustees. Any decision of the Board of Trustees under this section is final and may not be appealed.

***Length of Placement***

The student is subject to the placement until:

1. The student graduates from high school,

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

***Newly Enrolled  
Students***

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

## Expulsion to JJAEP

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

In deciding whether to order expulsion, regardless of whether the action is mandatory or discretionary, the district will take into consideration:

1. Self-defense (see glossary),
2. Intent or lack of intent at the time the student engaged in the conduct, and
3. The student's disciplinary history.

A student **may** be expelled for:

#### *Any Location*

- Engaging in the following no matter where it takes place:
  - Conduct that contains the elements of assault under Penal Code 22.01(a)(1) in retaliation against a school employee or volunteer.
  - Criminal mischief, if punishable as a felony.
- Engaging in conduct that contains the elements of one of the following offenses against another student, without regard to where the conduct occurs:
  - Aggravated assault.
  - Sexual assault.
  - Aggravated sexual assault.
  - Murder.
  - Capital murder.
  - Criminal attempt to commit murder or capital murder.
  - Aggravated robbery.
- Engaging in conduct relating to a false alarm or report (including a bomb threat or initiating a fire alarm without cause) or a terroristic threat involving a public school.

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

- Committing any of the following offenses on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:
  - Selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, or a dangerous drug, if the conduct is not punishable as a felony.
  - Selling, giving, or delivering to another person, or possessing, using, or being under the influence of alcohol; or committing a

serious act or offense while under the influence of alcohol, if the conduct is not punishable as a felony.

- Engaging in conduct that contains the elements of an offense relating to abusable volatile chemicals.
- Engaging in conduct that contains the elements of assault under Section 22.01(a)(1) against an employee or a volunteer.
- Engaging in deadly conduct. (See glossary)

***Within 300 Feet of School***

- Engaging in the following conduct while within 300 feet of school property, as measured from any point on the school’s real property boundary line:
  - Aggravated assault, sexual assault, or aggravated sexual assault.
  - Arson. (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.
  - Use, exhibition, or possession of a firearm (as defined by state law), an illegal knife, a club, or prohibited weapon, or possession of a firearm (as defined by federal law).

***Property of Another District***

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

***While in DAEP***

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

**Mandatory Expulsion:  
Misconduct That  
Requires Expulsion**

***At School or School Event***

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

***Federal Law***

- Bringing to school a firearm, as defined by federal law. “Firearm” under federal law includes:
  - 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.

**Texas Penal Code**

- The frame or receiver of any such weapon.
- Any firearm muffler or firearm silencer.
- Any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.
- Using, exhibiting, or possessing the following, as defined by the Texas Penal Code:
  - A firearm (any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use) unless the use, exhibition, or possession of the firearm occurs at an off-campus approved target range facility 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.
  - An illegal knife, such as a knife with a blade over 5½ inches; hand instrument designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; or spear.
  - A club (see glossary) such as an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk.
  - A prohibited weapon, such as an explosive weapon, a machine gun, a short-barrel firearm, a firearm silencer, a switchblade knife, knuckles, armor-piercing ammunition, a chemical dispensing device, or a zip gun. (See glossary)
- Behaving in a manner that contains elements of the following offenses under the Texas Penal Code:
  - Aggravated assault, sexual assault, or aggravated sexual assault.
  - Arson. (See glossary)
  - Murder, capital murder, or criminal attempt to commit murder or capital murder.
  - Indecency with a child.
  - Aggravated kidnapping.
  - Aggravated robbery.
  - Manslaughter.

- Criminally negligent homicide.
- Continuous sexual abuse of a young child or children.
- Behavior punishable as a felony that involves selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, a dangerous drug, or alcohol; or committing a serious act or offense while under the influence of alcohol.

***Any Location***

A student must be expelled to JJAEP for engaging in retaliation against a school employee or volunteer combined with one of the above-listed mandatory expulsion offenses, with the exception of a federal firearm offense, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.

**Under Age Ten**

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

**Emergency**

In an emergency, the principal or the principal’s designee may order the immediate expulsion of a student for any reason for which expulsion **may** be made on a non-emergency basis if the principal or principal’s designee reasonably believes that such action is necessary to protect persons or property from imminent harm. The student should receive immediate oral notice of the reason(s) for expulsion and an opportunity to respond. Within a reasonable time after the emergency placement or expulsion, but not later than the 10<sup>th</sup> calendar day after the date of the placement or expulsion, the student shall be accorded the appropriate due process as required under TEC Sec. 37.009. For students with disabilities, refer to the sections of this code dealing with Discipline of Special Education Students and Discipline Under Section 504.

**Process**

If a student is believed to have committed an expellable offense, the principal or other appropriate administrator will adhere to the following steps:

1. A police report will be made (or verified, if applicable). Any student who engages in conduct that contains the elements of the offense of felony criminal mischief under the Texas Penal Code Sec. 28.03, whether or not expelled, shall be referred to the authorized officer of the juvenile court.
2. A Student Discipline Action Form must be completed for every offense. Any school employee may initiate this report.

3. For each offense, written notification must be sent to the parents not later than the next school day.
4. The principal or designee reviews the reports of a student's behavior. If the student's behavior does not constitute an expulsion offense, the student may be disciplined with other options.
5. If the principal or designee believes that the student's behavior **may constitute** an expulsion offense, he/she shall advise the student that a recommendation for expulsion of the student is being considered.
6. Before a student is proposed for expulsion, the principal or designee should advise the student of the reason(s) for the recommendation and afford the student the opportunity to respond. After this initial conference with the student, the principal or designee may propose the student for expulsion and schedule a hearing. Pending the hearing, unless the student is removed under the emergency placement or expulsion provisions, the student may be suspended for up to three school days or removed to a DAEP placement, ISS, or some alternative supervised arrangement.
7. The principal or designee shall make reasonable efforts to notify the parent/guardian prior to removing the student from school property. Efforts to contact the parent are to be documented by the principal or designee. The reason(s) for the removal/proposed expulsion must be explained. A copy of the Student Discipline Action Form shall be given to the student with the recommendation for expulsion. It is the student's responsibility to convey this message to his or her parent or guardian. A student under 18 years of age will not be sent home during the school day unless the student is released to the parent or guardian.
8. Any student removed from school property who is in a condition that threatens his/her own welfare or the welfare of others must be released to the student's parent/guardian, a representative of the parent, or other proper authority, including but not limited to law enforcement officers and medical personnel.
9. A letter from the principal or designee explaining the proposed expulsion shall invite the parent, guardian, or adult student to attend a hearing with the principal or other hearing officer. The hearing shall be scheduled for a specific date and time within the succeeding three

school calendar days unless the parent, guardian, or adult student requests that it be held at a later date.

10. Students who are 18 years old or older are adults; however, parents/guardians shall be notified if the adult lives in the parent's/guardian's home unless the adult student expressly prohibits the notification in writing.
11. The letter shall contain a statement of the reason(s) for the proposed expulsion and include a list of persons who may appear at the hearing. If a teacher removed the student from class, the teacher shall attend the hearing. If the parent, guardian, or the adult student desires, he/she may appoint an adult or legal counsel to represent him/her. This appointment must be in writing and signed by the parent, guardian, or adult student.

### ***Hearing***

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

- 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,
- An opportunity to testify and to present evidence and witnesses in the student's defense, and
- An opportunity to question the district's witnesses.

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

Each principal is the hearing officer for his/her school. If the impartiality of the Principal is called into question because of the Principal's role as a witness or other factors, the Director for Pupil Services may appoint another administrator as the hearing officer.

### ***Expulsion Order***

After the hearing by the principal or other hearing officer, the parent, guardian, or adult student, and the Director for Pupil Services shall be notified in writing of the decision. The notification shall be referred to as an "order." If the decision is to expel the student, the order shall state the terms of and the reason(s) for the expulsion.

Not later than the second day after the date of the hearing, a copy of the order and the information required by Section 52.04 of the Family Code shall be delivered to the authorized officer of the juvenile court in the county where the student resides. (Refer to section on Court Involvement)

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

## Appeals

The decision may then be appealed to the Director for Pupil Services or designee, the appropriate Associate Superintendent, and lastly, to the Board of Trustees. If the parent, guardian, or adult student chooses to appeal the expulsion, the following procedures must be initiated:

Within three school calendar days of the date of the decision of the principal or the hearing officer, the parent, guardian, or adult student must file an appeal in writing with the Director for Pupil Services. If not in agreement with the Director's decision, further appeals may be made in writing to the appropriate associate superintendent within three school calendar days of receipt of the Director's decision, and finally, to the Board of Trustees within three calendar days of receipt of the Associate Superintendent's decision. Any appeal should be addressed as follows:

Director for Pupil Services  
El Paso Independent School District  
P. O. Box 20100  
El Paso, Texas 79998-0100

The superintendent or designee will review the decision of the principal or hearing officer and may reinstate the student (subject to the provisions regarding removal of a student from class and regarding bringing a firearm to school); alter the length of the recommended expulsion; change the recommendation to a DAEP; or forward the decision to the Board of Trustees to conduct a hearing as requested; provided, however, that in those cases where there was a victim to the offense (e.g., assault, retaliation, aggravated assault, sexual assault, attempted murder, indecency, aggravated kidnapping, etc.), the superintendent or designee ordinarily should not reduce the duration of the disciplinary placement without first hearing from the victim.

### *Interim Placement Pending Appeal*

**Pending the appeal hearing, the student shall be placed in a campus DAEP. The student will be excluded from attending any school functions or being on or about school property during the pendency of any appeal unless specifically authorized by the principal or superintendent.**

**Board Review of  
Expulsion**

- If a hearing before the Board of Trustees is requested, the Board will conduct a hearing and render a decision within 30 calendar days after the date of the campus request.
- The board will review the record of the expulsion hearing in a closed meeting unless the parent requests in writing that the matter be held in an open meeting. The board may also hear a statement from the student or parent and from the board's designee.
- The board will hear statements made by the parties at the review and will base its decision on evidence reflected in the record and any statements made by the parties at the review. The board will make and communicate its decision orally at the conclusion of the presentation.
- The Director for Pupil Services shall deliver, personally or by mail, a copy of the Board's decision to the parent, guardian, or adult student. A copy of the order shall also be delivered to the authorized officer of the juvenile court in the county in which the student resides.
- After the Board of Trustees' hearing, the parent or guardian or adult student may appeal the decision of the Board to a state district court of El Paso County.
- The District will cooperate with governmental agencies and community organizations providing services to students who have been expelled.

**Enrollment  
Requirement**

Expelled students who are not detained or receiving treatment under order of court must be enrolled in an educational program in the Juvenile Justice Alternative Education Program (JJAEP) (in accordance with the memorandum of understanding between the District and El Paso County Juvenile Board). The Juvenile Justice Alternative Education Program (JJAEP) is located at the Raymond Telles Academy or Dr. Lorenzo G. Lafarelle Alternative Middle School campus, pursuant to a memorandum of understanding (Interlocal Agreement) between the District and the El Paso County Juvenile Board. This is a daily seven-hour self-contained program [see Board Policy FODA (LEGAL)].

**Length of Expulsion**

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

The duration of a student's expulsion to JJAEP will be determined on a case-by-case basis. 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.

A student who brings to school, or possesses at school, a firearm as defined by federal law must be expelled from the student's regular campus for a period of at least one year; provided, however, that the one-year minimum duration does not apply if the firearm was, at all relevant times, lawfully stored in a vehicle. Also, if, in the case of an individual student, the principal believes that the one-year duration of expulsion from the regular campus is excessive, the principal may recommend to the Superintendent, through the Director for Pupil Services, a reduction of the length. The superintendent or other appropriate administrator may modify the length of the expulsion on a case-by-case basis.

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

**Withdrawal during or after Process**

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

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

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

If a student who is expelled to JJAEP enrolls in another school district before the expiration of the period of placement, the district shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the expulsion order.

**Additional Misconduct**

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

**Restrictions during Expulsion**

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

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

***Graduating Seniors  
and JJAEP***

For seniors who are eligible to graduate and are placed in JJAEP just prior to the time of graduation, the last day of placement in the program will be the last instructional day and the student will be allowed to participate in the graduation ceremony and related graduation activities unless the student was ordered placed into a JJAEP during the last 30 school days (or final six weeks) prior to the graduation date for a term through the end of the semester for any of the following offenses, in which event the placement in the program will continue through graduation, and the student will not be allowed to participate in the graduation ceremony and related graduation activities:

- selling, giving, or delivering to another person, or possessing, using, or being under the influence of any amount of a controlled substance, alcoholic beverage, or other contraband
- an offense related to an abusable volatile chemical
- aggravated assault
- use or possession of a firearm, club, or other weapon
- sexual harassment or assault
- arson
- indecency with a child
- graffiti, defacing school property or vandalism
- aggravated robbery
- manslaughter
- criminally negligent homicide

- deadly conduct

Any such placement that continues through graduation may be appealed in accordance with applicable procedures stated elsewhere in this Student Code of Conduct; provided, however, that the administrative review process shall be expedited to the extent necessary so that the superintendent or designee may review such placement decision prior to the graduation ceremony, and decide whether to reinstate the student's participation in the graduation ceremony and/or related graduation activities.

**Newly Enrolled Students**

A student expelled from another school district or open-enrollment charter school at the time he or she enrolls in this district will be placed directly into JJAEP, provided that the other school provides to this district a copy of the placement order, and the grounds for the expulsion by an out-of-state district are grounds for placement in this district. If the student was expelled by a school district in another state for a period that exceeds one year, this district will reduce the period of placement so the total JJAEP placement does not exceed one year, unless, after review, this 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.

If a student expelled in another state enrolls in the district, the district may continue the expulsion under the terms of the expulsion order and may place the student in a JJAEP for the period specified in the order 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 and places the student in JJAEP, the district will reduce the period of the JJAEP 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.

**Sexual Assault and Campus Assignments**

If a student has been convicted or adjudicated of or placed on deferred adjudication, deferred prosecution or probation for sexual assault, aggravated sexual assault, or continuous sexual abuse of a young child

against another student who was assigned to the same campus at the time the offense occurred, and the victim or the victim's parents or other person with authority to act on behalf of the victim, request the transfer of the offending student to another campus, then the transfer of the offending student away from the victim's campus shall remain in effect for the duration of the JJAEP placement, and for so long thereafter as requested by the victim or victim's parents.

## Court Involvement

1. As stated in sections concerning DAEP and Expulsion to JJAEP, no later than the second business day after the date on which a hearing is held under the law, the Board of Trustees, Superintendent, campus administrator, Director for Pupil Services, or other hearing officer shall deliver a copy of the order placing a student in a DAEP or expelling a student and any information required under § 52.04 of the Family Code to the authorized officer of the juvenile court in the county in which the student resides.
2. If a student is expelled for engaging in serious or persistent misbehavior after placement in a DAEP, the Board of Trustees or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Title 3, Family Code.
3. Unless the juvenile board for El Paso County has entered into a memorandum of understanding with the District's Board of Trustees concerning the juvenile probation department's role in supervising and providing other support services for students in DAEPs, a court may not order a student expelled under the law to attend a regular classroom, a regular campus, or a school DAEP as a condition of probation. If the juvenile board and the district's board enter into such a memorandum of understanding, then a juvenile court may order such a student to attend a regular classroom, a regular campus, or a school DAEP as a condition of probation.
4. Unless the juvenile board for El Paso County has entered into a memorandum of understanding as described by law, if a court orders a student to attend a DAEP as a condition of probation once during a school year and the student is referred to juvenile court again during that school year, the juvenile court may not order the student to attend a DAEP in the District without the District's consent until the student has successfully completed any sentencing requirements which the court imposes. Even without such a memorandum of understanding, however, a juvenile court may order an unexpelled student to attend a district DAEP as a condition of probation once during the school year.
5. Any placement in a DAEP by a court under this section must prohibit the student from attending or participating in school-sponsored or school-related activities.
6. If a student is expelled, then on the recommendation of the campus Placement Review Committee or on its own initiative, the District may readmit the student while the student is completing any court disposition requirements which the court imposes. After the student meets the requirements for admission into the public schools, the District may not refuse to admit the student. However, the District may place the student in a DAEP. The student may not be returned to the classroom of the teacher

under whose supervision the offense occurred without the teacher's consent. The teacher may not be coerced to consent.

7. If an expelled student enrolls in another district, the Board of Trustees of the district that expelled the student shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the expulsion order and the referral to the authorized officer of the juvenile court.
8. A person is not liable in civil damages for referral to juvenile court as required by Section 37.010 of the Texas Education Code.

## **Discipline of Special Education Students**

A student with a disability is subject to the Student Code of Conduct as is a non-disabled student except:

1. when the student's Admission, Review, and Dismissal (ARD) committee has determined the student cannot follow all or part of the *Student Code of Conduct* and has developed a Behavior Intervention Plan (BIP) which addresses the interventions and strategies to meet the student's behavioral needs; and/or
2. when the discipline involves a removal from the student's current educational placement for more than 10 school days.

### **Removing a Student from a Current Educational Placement**

In accordance with the Student Code of Conduct, a hearing (to include the principal, parent, student, and other appropriate personnel) must be held if considering a removal of more than 10 days (consecutive or cumulative). If the recommendation of the principal (or designee) is to remove the student with a disability for more than 10 school days (consecutive or cumulative) from his or her current placement, an ARD committee meeting must be held to conduct a manifestation determination. This ARD must be held as soon as possible, but not later than 10 school days after the day the recommendation is made, to review the relationship between the student's disability and the conduct subject to discipline. Please note that the manifestation determination ARD must be held before the student has been removed from the current placement for more than ten (10) consecutive days or ten cumulative days.

### **Functional Behavior Assessment**

Prior to a manifestation determination ARD, individuals knowledgeable of the student will gather data related to the behavior in order to complete the Functional Behavior Assessment Report/Summary. At the ARD, the committee will review and/or complete the Functional Behavior Assessment Report/Summary in order to develop or modify a behavior intervention plan and to determine the student's educational services.

## **Manifestation Determination**

A manifestation determination is a review of the relationship between the student's disability and the behavior subject to the disciplinary action. If the school decides to discipline the student by removing the student from the current placement for more than ten (10) consecutive days or ten (10) cumulative days in a school year, which constitutes a change in placement, it must do the following:

- (a) on the day the decision is made, inform the parent/guardian of the decision and provide a copy of procedural safeguards; and
- (b) immediately, if possible, but not later than 10 school days after the day the decision is made, review the relationship between the student's disability and the conduct subject to discipline. A student cannot be removed from the current placement for more than ten (10) consecutive or ten (10) cumulative days unless the manifestation determination is to the effect that the student's conduct was not a manifestation of his/her disability.

An ARD committee must make the manifestation determination decision. The ARD committee can find that the student's conduct was *not* a manifestation of a disability only if the following are completed:

1. The ARD committee will consider all relevant information in the student's file, including these items:
  - the child's IEP
  - any teacher observations of the student; and
  - any relevant information provided by the parents.
2. The ARD committee then finds the following:
  - the conduct in question was not caused by, or did not have a direct and substantial relationship to, the child's disability; and
  - the conduct in question was not the direct result of the local educational agency's failure to implement the IEP.

If the ARD committee finds that the student's conduct was not a manifestation of his/her disability, the school may discipline the student by following the *Student Code of Conduct*.

If the ARD committee finds that the student's conduct was a manifestation of his/her disability, the ARD committee shall:

- conduct a Functional Behavioral Assessment (FBA) and implement a behavioral plan if a prior determination was not made.
- if a behavioral plan already exists, review the plan to address modifications and behavior.
- return the child to his/her prior placement unless the parent and the district agree to the change of placement as part of the modification of the behavioral plan.

The parent/guardian may request a due process hearing to appeal the ARD committee's manifestation finding. If the parent/guardian requests a due process hearing, the student may remain in the Interim Disciplinary Placement pending the decision of the hearing officer. The hearing officer must find whether the school correctly determined that the student's conduct was not a manifestation of his/her disability. The Texas Education Agency must arrange for an expedited hearing on this question.

Special Education and related services do not have to be provided during the first ten (10) school days a student is removed from his/her placement by suspension or in-school suspension, provided that there is not a change in placement as defined below. Special Education and related services must be provided for any removal to an alternative education placement that exceeds ten school days.

### **What Constitutes a Change of Placement?**

The following removals constitute a 'change in placement:'

1. a single removal of over ten (10) days; or,
2. multiple removals cumulating to more than ten (10) days in a school year that constitute a pattern of removal.

## **What Constitutes a Pattern of Removal?**

In order to establish a ‘pattern of removal’ the ARD Committee must consider the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another. Portions of a school day that a student has been suspended will be included in determining whether the student had been removed for more than ten (10) cumulative days or subjected to a change in placement.

**NOTE:** Removal from transportation counts against the ten (10) days if transportation is being provided as a related service and alternative transportation is not provided.

**NOTE:** State law limits suspensions to three days per occurrence.

In-school suspension does not count toward the ten (10) days of removal from school if the student continues to receive the services in the IEP, has the opportunity to progress in the general curriculum, and continues to participate with non-disabled peers to the same extent as before the removal to the in-school suspension setting.

## **Placement in A Disciplinary Alternative Education Program:**

The school may not place a student with disabilities in a DAEP unless his/her conduct meets the criteria applicable to students without disabilities for DAEP placement. A student with a disability may not be placed in DAEP solely for educational reasons. The student may be placed in a **DAEP subject to a Manifestation Determination by an ARD committee**, or by a due process hearing officer in the circumstances described in the “request for due process hearing for placement in a Disciplinary Alternative Education Program (DAEP)” section below.

The student with a disability may be placed in a DAEP setting for the same amount of time as a student without a disability if there is no link between his/her disability and his/her conduct.

When there is a link, the student may not be placed in DAEP unless:

1. the student carries or possesses a weapon at school, in transit to or from school, on school district property, at a school function or in transit to or from a school function; or
2. the student knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function; or

3. the student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.

In these cases the DAEP placement is limited to 45 school days.

An ARD committee meeting must be held to ensure that the student has access to the following:

1. participation in the general curriculum, although in another instructional setting;
2. special education, related services and modifications described in the current Individual Education Plan (IEP) which will enable the student to meet his or her IEP goals; and
3. as appropriate, a Functional Behavioral Assessment, behavioral modification services and modifications that are designed to address the behavior violation so it does not reoccur.

A copy of the Individual Education Plan (IEP), which includes the Functional Behavior Assessment Report/Summary, Behavior Intervention Plan (BIP), and Manifestation Determination review, must be attached to the campus copy of the student discipline action form.

### **Removal to JJAEP**

In the case of expulsions to JJAEP, the district shall, in accordance with applicable federal law, provide to the administrator of the JJAEP or the administrator's designee: (1) reasonable notice of the meeting of the student's admission, review, and dismissal committee to discuss the student's expulsion; and (2) a copy of the student's current individualized education program. A representative of the JJAEP may participate in the meeting to the extent that the meeting relates to the student's placement in the program and implementation of the student's current IEP in JJAEP. If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given an opportunity to participate through alternative means, including telephonic conference calls. If, after placement of a student in JJAEP, the administrator of the program or the administrator's designee provides written notice of specific concerns to the director of pupil services and/or the principal/designee of the campus from which the student was expelled, the student's ARD committee shall meet to consider the placement of the student in JJAEP. The campus principal or designee shall, in accordance with applicable federal law, provide the JJAEP administrator or designee with reasonable notice of the meeting, and a representative of the program may participate in the meeting to the extent

that the meeting relates to the student's continued placement in JJAEP. If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given an opportunity to participate through alternative means, including telephonic conference calls.

### **Request for Due Process Hearing for Placement in a Disciplinary Alternative Education Program (DAEP)**

The school district may file with TEA for a due process hearing seeking an order from a state special education hearing officer placing a student in a DAEP. To order the student placed in a DAEP, the hearing officer must find that the school has demonstrated that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

### **Use of Physical Restraint, Isolation and Timeout:**

The use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of the student's body (restraint) may be used only in an emergency. An emergency is a situation in which the student's behavior poses a threat of imminent serious physical harm to the student or others, or imminent serious property destruction. Restraint must be limited to such reasonable force as is necessary to address the emergency; the restraint must be discontinued at the point at which the emergency no longer exists; the restraint must be implemented so as to protect the health and safety of the student and others; and the restraint cannot deprive the student of basic human necessities. On the day that restraint is utilized, the campus administrator or designee must be notified verbally or in writing, and a good faith effort must be made to verbally notify the parent. Written notification of the use of restraint must be mailed or otherwise provided to the parent within one school day of the use of restraint. Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder so that the information will be available to the ARD committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a Behavioral Intervention Plan. Written notification to the parent and documentation in the eligibility folder must include the name of the student, the name of the staff member administering the restraint, the date of the restraint and the time the restraint began and ended, the location of the restraint, nature of the restraint, a description of the activity in which the student was engaged immediately preceding the use of restraint, the behavior that prompted the restraint, the efforts made to de-escalate the situation and alternatives to restraint that were attempted, and information documenting parent contact and notification.

A student may be separated from other students for a limited period in a setting that is not locked and from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object as a behavioral management technique (time-out), as long as physical force or threat of physical force is not used to place the student in time-out, the time-out is utilized in conjunction with an array of positive behavioral intervention strategies and techniques, the time-out is included in the student's IEP or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior, and the time-out is not implemented so that it precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP. The student's IEP or BIP must address the documentation or data collection regarding the use of time-out, and the ARD committee must use any collected data to judge the effectiveness of the use of time-out and provide a basis for making determinations regarding its continued use.

Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

### **Bullying, Harassment and Making a Hit List**

In accordance with the Texas Education Code, a student who is enrolled in a special education program may not be disciplined for conduct meeting the definition of bullying, harassment, or making hit lists until an ARD committee meeting has been held to review the conduct. In deciding whether to order suspension, DAEP placement or expulsion, the district will take into consideration a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.

## **Discipline Under Section 504**

A student in a 504 program is subject to the District's *Student Code of Conduct* unless otherwise stated in the modifications determined by the Section 504 Review Committee. A student's modifications may include a behavior intervention plan which outlines disciplinary options to be used in addition to or instead of certain parts of the District's Student Code of Conduct.

### **Removal from Classes and/or School**

1. In some cases, inappropriate behavior may cause the student to be removed from classes and/or school for a few days, or to be sent to a DAEP (a supervised setting separate from regular classes). In either case, the student will be given the opportunity to complete assignments and earn course credit.
2. When a Section 504 student is subject to a single removal of over ten days, or is subject to multiple removals cumulating to more than ten days in a school year that constitute a pattern of removal, the campus Section 504 Review Committee must convene to review the relationship between the child's disability and the behavior subject to the disciplinary action.

### **Manifestation Determination-Section 504:**

A manifestation determination is a review of the relationship between the student's disability and the behavior subject to the disciplinary action. If the school decides to discipline the student by removing the student from the current placement for more than ten (10) consecutive days or ten (10) cumulative days in a school year, which constitutes a change in placement, it must do the following:

- (a) on the day the decision is made, inform the parent/guardian of the decision and provide a copy of procedural safeguards; and,
- (b) immediately, if possible, but not later than 10 school days after the day the decision is made, review the relationship between the student's disability and the conduct subject to discipline.

A Section 504 committee must make the manifestation determination decision. The Section 504 committee can find that the student's conduct was *not* a manifestation of a disability only if it does the following:

1. first considers all relevant information about the conduct subject to discipline, including these items:

- a) evaluation and diagnostic results, including the Functional Behavior Assessment Report/Summary, and any other relevant information that the parent provides to the 504 committee;
- b) any teacher observations of the student; and
- c) any relevant information provided by the parents;

2. then finds the following:

- a) the conduct in question was not caused by, and did not have a direct and substantial relationship to, the child's disability; and
- b) the conduct in question was not the direct result of the local educational agency's failure to implement the 504 accommodations.

If the 504 committee finds that the student's conduct was not a manifestation of his/her disability, the school may discipline the student by following the Student Code of Conduct.

The parent/guardian may request a due process hearing to appeal the 504 committee's manifestation finding. If the parent/guardian requests a due process hearing, the student may remain in the Interim Disciplinary Placement pending the decision of the hearing officer. The hearing officer must find whether the school correctly determined that the student's conduct was not a manifestation of his/her disability.

504 Services and related services do not have to be provided during the first ten (10) school days a student is removed from his/her placement by suspension or in-school suspension.

### **Expulsion to JJAEP**

Before an expulsion to JJAEP or other exclusion that constitutes a significant change in placement, the campus 504 Review Committee must conduct a "manifestation determination" to determine whether the student's misconduct is related to his/her disabling condition. A student may be expelled (to JJAEP) only if the Section 504 Review Committee determines, based on adequate and current evaluation data, that the student's misbehavior is not a result of either an inappropriate placement or the student's disability. If it is determined by the Section 504 Review Committee that the misconduct is not related to the student's disabling condition, the student may be excluded from

school in the same manner as his/her non-disabled peers. The District may not cease all educational services to a student during the expulsion period.

If it is determined by the Section 504 Review Committee that the misconduct is related to the student's disabling condition, the student may not be expelled. The Section 504 Review Committee must then determine whether the student's current educational placement is inappropriate.

### **Weapons**

A school district may place a student with a disability in an alternative program for up to 45 school days without a prior determination of whether the behavior is related to his or her disability for carrying a weapon. During this phase, the Section 504 Review Committee must convene to determine whether the student's misconduct is a manifestation of his or her disability. A parent/guardian may appeal the 45-day placement. During the appeal (due process) procedure, the student must remain in the alternative education setting until the completion of the hearing, unless the parent/guardian and the District can agree on another placement.

### **Substance Abuse**

Schools may take disciplinary action in situations where students are "currently engaging [in] the illegal use of drugs or in the use of alcohol" to the same extent that such disciplinary action is taken against non-disabled students. In such a case, the parents/guardians may not resort to a due process procedure under the law to contest the disciplinary action.

# **CONDUCT ON SCHOOL BUSES**

In order for district transportation to be effective and efficient, cooperation from students, parents, and school personnel is a necessity. Safety is also vital. For this reason, a set of rules of bus conduct has been developed to ensure safe and orderly transportation.

## **School Bus Rules of Conduct**

1. All students riding school buses to and from school are required to have a pass, issued by the school, which must be shown to the bus driver each time the student boards the bus. If a student has no bus card in his/her possession, the bus driver will report the student to the campus principal. **STUDENTS WHO DO NOT HAVE BUS CARDS AFTER THE THIRD WARNING WILL NOT BE ABLE TO RIDE THE BUS UNTIL CLEARED BY THE CAMPUS PRINCIPAL.**
2. Students should line up upon arrival of the bus so that they may board quickly and in an orderly manner.
3. Loud and boisterous behavior, failure to remain seated, throwing objects or any similar conduct which interferes with the bus driver's attention to traffic, creates a hazard for occupants of the bus or otherwise creates an unsafe condition is strictly prohibited.
4. Smoking, eating, drinking and the use of profanity are prohibited.
5. Students who do not comply with the transportation regulations will be reported to the campus administration using a Bus Conduct Report. Students who disregard the posted bus rules or violate the Student Code of Conduct may be suspended from bus privileges, and may be subject to further disciplinary action, pursuant to the Student Code of Conduct. (EPISD Board Policy CNA (Local))
6. If the student's behavior constitutes Disruption of Transportation, or otherwise violates the law, the student may be reported to law enforcement and citation may be issued by the appropriate law enforcement agency.

## **Violation of Rules Procedure**

1. The bus driver will attempt to contain the disciplinary situation until a report may be made to campus administration unless this attempt will create an unsafe transportation condition.
2. Students who violated the rules will then be referred to campus administration using the Bus Conduct Report.
3. Administration will investigate the report according to the procedures outlined on Page 15 in the Student Code of Conduct. (See the Section of this Code titled Discipline Management Techniques.)
4. If the administrator believes that a penal law has been violated, the appropriate law enforcement agency will be contacted by administration.

**Procedure for Severe Disruptions (EPISD Board Policy CNA (Local))**

1. If a student is disruptive and refuses to obey the driver's instructions to be seated or to cease disruptive behavior, the driver may stop the bus at a safe location, contact police services and request immediate removal of the student from the bus.
2. Police Services will take the child home or to the police services office for pick up by a parent or guardian, and may take such further law enforcement action as it deems appropriate under the circumstances.

**Definition of Disruption of Transportation (Texas Education Code Sec. 37.126)**

- (a) Except as provided by Section 37.125, a person commits an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children to or from school or an activity sponsored by a school on a vehicle owned or operated by a county or independent school district.
- (b) An offense under this section is a Class C Misdemeanor.

**Filing a Police Report**

No part of this section should be construed as a limitation on a person's right to file a report with an appropriate law enforcement agency.

# **LAW ENFORCEMENT INVOLVEMENT**

During the course of an investigation, law enforcement officials may require the cooperation and assistance of El Paso Independent School District employees. The following are provisions for this involvement.

## **Questioning of Students**

The following guidelines, as established in EPISD Board Policy GRA (Local), shall apply when law enforcement officers of other lawful authorities desire to question or interview the student at school:

1. The principal shall verify and record the identity of the officer or other authority and request an explanation of the need to question or interview the student at school.
2. The principal ordinarily shall make reasonable efforts to notify the student's parents or other person having lawful control of the student. If the interviewer raises what the principal considers to be a valid objection to the notification (such as that the parents are under investigation), parents will not be notified.
3. The principal or a designee ordinarily shall be present during the questioning or interview. If the interviewer raises what the principal considers to be a valid objection to a third party's presence, the interview shall be conducted without that person's presence.

## **Child Abuse Investigations**

When a student is questioned as a part of a child abuse investigation conducted by the Department of Protective and Regulatory Services or other lawful authority, the principal shall cooperate fully with the officers' requests regarding the conditions of the interview or questioning. When the principal determines that a staff member must be present during the investigation, the principal shall make the request. If the request is denied, the principal shall abide by the investigative agency's response to the request. (EPISD Board Policy GRA (Local))

## **Students Taken Into Custody**

In accordance with EPISD Board Policy GRA (Legal), the district shall permit a student to be taken into custody:

1. Pursuant to an order of the juvenile court.

2. Pursuant to the laws of arrest.
3. By a law enforcement officer if there is probable cause to believe the student has engaged in delinquent conduct or conduct in need of supervision.
4. By a probation officer if there is probable cause to believe the student has violated a condition of probation imposed by the juvenile court.
5. Pursuant to a properly issued directive to apprehend.
6. By an authorized representative of the Texas Department of Protective and Regulatory Services, a law enforcement officer, or a juvenile probation officer, without a court order, under the conditions set out in Family Code 262.104 relating to the student's physical health or safety.

Before a student at school is arrested or taken into custody by a law enforcement officer or other legally authorized person, the principal shall verify the official's identity. To the best of his or her ability, the principal shall verify the official's authority to take custody of the student, and then shall deliver over the student.

The principal shall immediately notify the Superintendent and ordinarily shall notify the parent or other person having lawful control of the student. If the officer or other authorized person raises what the principal considers to be a valid objection to notifying the parents at that time, the principal shall NOT notify the parents. (EPISD Board Policy GRA (Local))

### **Authority of the El Paso Independent School District Police Department**

In order to maintain a safe and orderly environment conducive to learning, The El Paso Independent School District Board of Trustees has established a District Police Department in accordance with statutory provisions. The policies, rules, and regulations promulgated by Board, as well as the general and criminal laws of the state of Texas, are in full force and effect within the areas of control and jurisdiction of the District. (CKE (Local))

### **Arrest**

Commissioned peace officers of the District may, in the performance of their duties, arrest any person found committing a violation of local ordinances, state laws, and federal statutes and will take immediate action to prevent any obvious offense or to arrest, if reasonably possible, any known offender in accordance with authority, jurisdiction, and scope of duties. (CKE (Local))

### **Use of Force**

A District Peace Officer may use as much force as is reasonably necessary to protect self and others in the performance of the officer's duties as a peace officer, and may use deadly force only in life-threatening situations. (CKE (Local))

### **Citations**

District peace officers are authorized to issue class "C" misdemeanor citations, parking citations, and traffic citations in accordance with state law and department policy. (CKE (Local))

## **Use of Hand-Held Metal Detector/Use of Trained Dogs For Security Purposes**

The Board of Trustees authorizes the use of hand-held metal detectors by school administrators when there is a reasonable cause to believe that weapons or dangerous metal objects are in the possession of a student. Students shall be informed of the use of the hand-held metal detectors for searches through the *Student Code of Conduct* and by signs posted throughout school campuses.

Searches shall be systematic, shall not discriminate on the basis of race, gender, or ethnicity, and shall be done in compliance with the following procedures:

### **Hand-Held Metal Detectors**

1. The hand-held metal detector search shall be conducted by the principal or designee in the presence of another adult witness, preferably in a private location.
2. If the detector used on a student registers the presence of a metal object, the student shall be asked to remove all metal objects from his/her possession and be checked again.
3. If after the removal of all other metal objects, the detector continues to register the presence of metal, the student shall be taken to an area out of view from other students for a “pat-down” search.
4. The “pat-down” search shall be conducted by school personnel of the same gender as the student and shall be limited to the student’s clothing, bags, parcels, and/or other containers capable of containing a weapon.
5. If the school personnel conducting a “pat-down” search detect an object which may have activated the metal detecting device, the student will be asked to remove the object. If the student declines to remove the object, it may then be removed by school personnel.
6. If the object removed from the student could have activated the metal detector, the school personnel will cease performing the “pat-down” search. In such an event, the student will again be scanned with a hand-held metal detector and the “pat down” search will continue only if the device again yields a positive reading.
7. All property removed from the student as a result of the above procedure which may legitimately be brought onto school premises must be returned to the student.

8. All property removed from the student, possession of which is a violation of Board Policy or the Student Code of Conduct shall be confiscated, and the student shall be disciplined in accordance with the **Student Code of Conduct**.
9. Students who fail to cooperate with school personnel performing their duties under these procedures may be subject to disciplinary action.

### **Use of Trained Dogs**

1. Lockers may be sniffed by trained dogs at any time.
2. Vehicles parked on school property may be sniffed by trained dogs at any time students are not present.
3. Classrooms and other common areas may be sniffed by trained dogs at any time students are not present.
4. If contraband of any kind is found, the student shall be subject to appropriate disciplinary action.
5. If, as a result of the sniffing, the dog becomes alerted so that there is a reason to believe that illegal and/or dangerous items are present in any location, the following procedures will be followed:
  - The person owning or having temporary custody of the area under question will be contacted and informed that there is a reason to suspect that an illegal substance is in the area because the dog was alerted. He/she will be asked to allow a voluntary search of the area under suspicion.
  - If the person refuses permission, the parent or guardian of the person will be contacted if that individual is a minor. If the parent or guardian refuses a voluntary search of the area, the appropriate law enforcement agency will be contacted.
6. The student's parent or guardian shall be notified if any prohibited articles or materials are found in a student's locker or vehicle parked on school property or on the student's person as a result of a search conducted in accordance with Board Policy.
7. If any illegal substance or item is found after the search is completed, it will be removed and reported to the proper authorities. All *Student Code of Conduct* procedures regarding possession of illegal substances or items will be followed.

# Acceptable Use Policy For Internet/Computer System Access

The internet is an electronic highway connecting thousands of computers all over the world with millions of individual subscribers. Internet access is available to students, teachers, and administrators of the EPISD.

Since it is a constantly changing, fluid environment, school library media specialists and teachers have a professional responsibility to work together to help students develop the intellectual skills needed to discriminate among information sources, to identify information appropriate to their age and developmental levels, and to evaluate and use information to meet their education goals. One of our goals is to promote educational excellence in the EPISD by facilitating resource sharing, innovation, and electronic communication.

Access to the district's electronic communications system, including the internet, shall be made available to students, parents, and employees, exclusively for instructional and administrative purposes and in accordance with administrative regulations. Access to the district's electronic communications system is a privilege, not a right. Students need to be aware that the district computers are shared equipment and time limits may be imposed when people are waiting to use them.

Any person using these resources through a district connection must accept and abide by the following policies:

1. Students may not allow anyone else to use their personal password.
2. Students must respect the rights of other individuals and not use language that is abusive (harshly or coarsely insulting, containing cursing in any language, or ethnic or racial slurs), profane (vulgar, irreverent toward god or sacred things, satanic), sexually offensive (sexual in nature, repugnant to the moral sense or good taste, sexual harassment), or threatening.
3. No one may access text or visual depictions (any picture, image, graphic image file, or other visual depiction) that are obscene and/or harmful to minors (appeals to a prurient interest; an actual or simulated sexual act or contact; and lacks serious literary, artistic, political or scientific value).
4. Students may not access or participate in chat rooms at any time. If the curriculum mandates the use of a supervised chat room, chat rooms may be

allowed if the chat room is monitored on-line by a third party and if the students are under close supervision of the instructor.

5. Students may access only those games approved by a teacher or librarian.
6. Students must respect the privacy of others and not intentionally obtain copies of or modify files, passwords, or data that belong to anyone else. No one should represent him/herself as someone else by using another's account. No one should forward personal material without prior consent of the originator.
7. Electronic mail transmissions and other use of the electronic communication system are not considered to be private and may be monitored at any time by designated district staff to ensure appropriate use. Transmitting obscene messages or pictures is prohibited. Messages dealing with illegal activities may be reported to the administrator or police.
8. For the safety and privacy of the student, no student information in any form except directory information will be posted on the internet without express parental permission (see board policy FL and the student handbook).
9. Students must respect the integrity of computing systems and abide by existing federal and state laws regarding electronic communication. The following conduct is prohibited: accessing secure and/or confidential information without authorization, divulging passwords, causing system malfunction, developing programs that harass other users, attempting to infiltrate a computer or computing system, maliciously harming or destroying district equipment, materials, or data, the uploading or creation of computer viruses, accessing indecent information, and deliberately degrading or disrupting system performance. These actions may be viewed as violations of district policy EFE (LEGAL), EFE (EXHIBIT), and EFE (LOCAL) and, possibly, as criminal activity under applicable state and federal laws. These laws can carry penalties of up to 20 years in prison.
10. Students must respect the legal protection provided by copyright laws to computer programs, articles, graphics and data. (See board policies on copyright.) Students shall not copy anything that belongs to someone else. Students shall rewrite research materials in their own words, and are reminded to give credit to the owner of the information.
11. Any expense incurred as a result of internet use is the responsibility of the student/parents.

Access to the internet is considered a privilege. Users should not waste school resources through improper use of the computer system. Anyone found using access in a way deemed inappropriate will be denied privileges. Noncompliance with applicable regulations may result in suspension or termination of privileges and other disciplinary action consistent with Board Policy and the Student Code of Conduct.

## Glossary

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

**Abuse** is improper or excessive use.

**Abusable Glue, Aerosol Paint, or Volatile Chemical** is a substance that may affect the person's central nervous system creating such conditions as intoxication, hallucination, elation, distortion of eyesight, thinking process, balance or coordination. A student commits an offense if the student inhales, ingests, applies, uses, or possesses an abusable glue, aerosol paint, or volatile chemical or uses it in any way which is contrary to the directions, cautions, or warnings on the label of the product or with the intent of causing the above conditions.

**Adult Student** is a student who has reached the age of majority (18 years old) and does not sustain any legal mental disabilities.

**Alcoholic Beverage** is any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted. Beer, ale, malt, and liquor are all alcoholic beverages.

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

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

1. Any vegetation, fence, or structure on open-space land; or
2. Any building, habitation, or vehicle:
  - a. Knowing that it is within the limits of an incorporated city or town;
  - b. Knowing that it is insured against damage or destruction;
  - c. Knowing that it is subject to a mortgage or other security interest;
  - d. Knowing that it is located on property belonging to another;
  - e. Knowing that it has located within it property belonging to another; or

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 Texas Penal Code 22.01(a)(1) as intentionally, knowingly, or recklessly causing bodily injury to another.

**Assault, Aggravated** is defined as causing serious bodily injury to another or using or exhibiting a deadly weapon during commission of the assault.

**Assault, Aggravated Sexual** is defined as sexual assault associated with causing serious bodily injury or attempting to cause the death of the victim, or a sexual assault committed against a victim younger than 14 years of age.

**Assault, Sexual** is defined as intentionally or knowingly causing physical sexual contact or sexual penetration of another person without the person's consent, if the actor compels the victim to submit to participate by use of physical force, violence, or the threat of force or violence, when the victim believes the actor has the present ability to execute the threat.

**Bullying** is written or oral expression or physical conduct that a school district's board of trustees or the board's designee determines:

1. To have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or
2. To be sufficiently severe, persistent, or pervasive to create an intimidating, threatening, or abusive educational environment for a student.

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

**Class Disruption** is any behavior which violates the rules of a particular classroom and/or interferes with the teacher's opportunity to present material or the other students' opportunity to concentrate on material or their assignments.

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

**Contraband** is any property which is unlawful to produce or possess; in the school context, contraband includes drugs, drug paraphernalia, tobacco products, alcoholic beverages, and weapons.

**Communications Device** is a telecommunications device, other than a paging device. (See definition of Paging Device).

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

**Dating Violence** is the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate or control another person with whom the student

has or has had a dating relationship, as defined by Section 71.0021 of the Texas Family Code.

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

**Deferred adjudication** is an alternative to an adjudication of guilt that may be offered to a student tried as an adult, or that may be offered to a juvenile as an alternative to an adjudication hearing for delinquent conduct or conduct indicating a need for supervision.

**Deferred prosecution** may be offered to a juvenile as an alternative to seeking an adjudication 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.

**Discipline Management Plan** is any action that is intended to promote proper behavior and/or discourage misconduct.

**Disorderly Conduct** is defined as the use of profanity, offensive language and/or gestures, noises or sounds, fights with others in public, or inciting a fight (*Penal Code* § 42.01).

**Drug-Free Zones** are the areas around any schools, playgrounds, youth centers, public swimming pools, and arcade facilities. Under federal law, a drug-free zone is that area which is in, on, or within 1,000 feet of the premises of a school.

**Electronic Devices** include, but are not limited to, items such as radios, compact disc (CD) players, tape recorders, camcorders, digital video disc (DVD) players, or electronic games.

**Excessive** is defined as exceeding what is necessary, usual, or proper.

**Explosive weapon** is any explosive or incendiary bomb, grenade, rocket, or mine and its delivery mechanism that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror.

**Expulsion** is a removal for more than three consecutive school days from the student's regular campus for disciplinary reasons which require or permit expulsion. Under current law, a student expelled from the student's regular campus is to be placed in an off-campus DAEP or in JJAEP.

**Extortion** is obtaining money, objects, a promise, etc., by threat, force, or fraud.

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

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

3. Prevent or interrupt the occupation of a building, room, or place of assembly.

**Family** includes individuals related by consanguinity or affinity, as determined under Sections 573.022 and 573.024, government code, individuals who are former spouses of each other, individuals who are the parents of the same child, without regard to marriage, and a foster child and foster parent, without regard to whether those individuals reside together.

**Fighting** is mutual combat that results in physical contact or bodily injury.

**Firearm (Federal Law)** is defined as any weapon (including a starter gun) which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device (meaning any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices). Also any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will or which may be readily converted to expel a projectile by the action of an explosive or other propellant and which has a barrel with a bore of more than one-half inch in diameter and any combination of parts either designed or intended for use in converting any device into a destructive device as described here and from which a destructive device may be readily assembled.

**Firearm (Texas Penal Code)** is defined as any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

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

**Fireworks** is defined as a device(s) designed to produce a display of light, noise, or smoke by the throwing or burning of explosive or inflammable materials or prepared chemicals, including, but not limited to smoke or stink bombs, or any other pyrotechnical device.

**Functional Behavior Assessment Inventory** is a document utilized to identify problems in the areas of emotional, cognitive, and social behavior, in order to provide data for development of the individual behavior intervention plan.

**Gambling** is a bet as defined by *Texas Penal Code* § 47.01 and/or any other agreement between two or more persons that a sum of money or other valuable thing may be won or lost.

**Gang** is defined as an organization composed wholly or in part of students of public (primary or secondary) schools that seeks to perpetuate itself by taking in additional members from the students enrolled in school on the basis of the decision of its membership rather than on the free choice of a student in the school who is qualified by the rules of the school to fill the special aims of the organization.

**Graffiti** are 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.

**Harassment** is:

1. Conduct that meets the definition established in district policies DIA and FFH; or
2. Conduct that threatens to cause harm or bodily injury to another student, is sexually intimidating, causes physical damage to the property of another student, subjects another student to physical confinement or restraint, or maliciously and substantially harms another student's physical or emotional health or safety.

**Hazing** is an intentional or reckless act, on or off campus, by one person alone or acting with others, that endangers the mental or physical health or safety of a student for the purpose of pledging, initiation into, affiliation with, holding office in, or maintaining membership in an organization.

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

**Household** is defined as a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other.

**Human Consumption** is defined as the injection, inhalation, ingestion, or application to or into a human body.

**Illegal Knife** is defined as a knife with a blade over five and one-half inches; hand instrument designed to cut or stab another by being thrown.

**In-School Suspension Program (ISS)** is an on-campus assignment for students who commit disciplinary infractions. Students continue to receive instruction in core academic courses of English language arts, math, science, and history, and other elective courses to the extent possible.

**Insubordination** is defined as defying the authority of school personnel or disobeying directives; an unprovoked display of disrespect.

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

**Laser Pointer** is an instrument that produces light amplified by the stimulated inversion of redirected light and is designed for use in presentations. This instrument may damage the retina of the unprotected eye and its use is strictly controlled by the federal government.

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

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

**Manifestation Determination** – Prior to removing a child with a disability who has engaged in conduct that violates the *Student Code of Conduct* from his/her current educational placement for more than ten (10) school days (consecutive or cumulative)

during a given school year, a review by an ARD or 504 Review Committee must be conducted to determine the relationship between the child's disability and the behavior subject to disciplinary action.

**Paging Device** is a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor including but not limited to cell phones and mobile phones (*TEC* § 37.082).

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

**Parent** – Includes parents, legal guardian, foster parent, surrogate parent, or persons in lawful control.

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

**Placement Review Committee (PRC)** – A three-member committee which determines placement of a student when a teacher refuses the return of a student to the teacher's class and which makes recommendations to the District (ARD or 504 Review Committee for students with disabilities) regarding re-admission of the expelled student.

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

**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 Texas Education Code are excepted from this definition.

**Public Lewdness** is defined as knowingly engaging in any of the following acts in a public place or, if not in a public place, being reckless about whether another is present who will be offended or alarmed by the following acts:

1. act of sexual intercourse;
2. act of deviate sexual intercourse;
3. act of sexual contact; or
4. other acts as defined in Section 21.07 of the Texas Penal Code

**Racial Slur** is any statement that degrades or demeans any person's racial, ethnic, cultural, or national origins.

**Reasonable belief** is a determination made by the superintendent or designee using all available information, including the information furnished under Article 15.27 of the Code of Criminal Procedure. Administrators may place a student in a disciplinary DAEP if they have a reasonable belief that the student engaged in felony conduct under Title 5. Administrators also may place a student in a disciplinary DAEP if they have a reasonable

belief that the student committed felony conduct that is not a Title 5 offense, and the Superintendent or designee believes the student's continued presence in the regular classroom threatens the safety of other students or teachers, or will be detrimental to the educational process.

**Reassignment of Classes** is the removal of a student from his or her assigned classroom to another class on the same campus to the extent possible. The student should continue to receive instruction in the courses in which he/she was enrolled.

**Restraint** is defined as the use of physical force or mechanical device to significantly restrict the free movement of all or a portion of a student's body.

**Retaliation** – The elements of retaliation exist when a person commits an offense if he/she intentionally or knowingly harms or threatens to harm another by an unlawful act under these conditions:

- in retaliation for or on account of the service of another as public servant, witness, informant, or a person who has reported or who the actor knows intends to report the occurrence of a crime; or
- to prevent or delay the service of another as a public servant, witness, prospective witness, informant, or a person who has reported or who the actor knows intends to report the occurrence of a crime.

**School Official** – The principal, assistant principal, counselor, teacher, or other professional designated by the principal.

**School Property** is any property owned by the District or over which the District or its personnel exert lawful authority.

**Seclusion** – Confining a student in a locked box, locked closet, or locked room that is designed solely to seclude a person and contains less than 50 square feet of space. This practice is prohibited under Texas law with certain limited exceptions

**Section 504** – Section 504 of the *Rehabilitation Act of 1973* is a federal civil rights statute, which protects the rights of persons with disabilities. Section 504 prohibits discrimination against disabled persons, including both students and staff members, by school districts receiving federal financial assistance.

**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 and has no other options available.

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

- Murder.
- Vandalism.
- Robbery or theft.
- Extortion, coercion, or blackmail.

- Actions or demonstrations that substantially disrupt or materially interfere with school activities.
- Hazing.
- Insubordination.
- Profanity, vulgar language, or obscene gestures.
- Fighting, committing physical abuse, or threatening physical abuse.
- Possession or distribution of pornographic materials.
- Leaving school grounds without permission.
- Sexual harassment of a student or district employee.
- Possession of or conspiracy to possess any explosive or explosive device.
- Falsification of records, passes, or other school-related documents.
- Refusal to accept discipline assigned by the teacher or principal.

**Sexual Harassment** – Sexual harassment of a student by an employee includes any welcome or unwelcome sexual advances, requests for sexual favors, and other verbal (oral or written), physical, or visual conduct of a sexual nature. It also includes such activities as engaging in sexually oriented conversations for purposes of personal sexual gratification, telephoning a student at home or elsewhere to solicit inappropriate social relationships, physical contact that would be reasonably construed as sexual in nature, and enticing or threatening a student to engage in sexual behavior in exchange for grades or other school-related benefit.

**Sexual Harassment** of a student by another student includes unwanted and unwelcome verbal or physical conduct of a sexual nature, whether by word, gesture, or any other sexual conduct, including requests for sexual favors.

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

**Sports Participant** is a person who participates in any official capacity with respect to an interscholastic, intercollegiate, or other organized amateur or professional athletic competition and includes an athlete, referee, umpire, linesman, coach, instructor, administrator, or staff member.

**Students with Disabilities (Individuals with Disabilities Education Act – IDEA)** – A student with disabilities under IDEA is a student who has been evaluated in accordance with IDEA relating to comprehensive individual assessment and determined by an ARD committee to be learning disabled, attention deficit disorder, attention deficit hyperactivity disorder, speech impaired, physically disabled, mentally retarded, behavior disorder or emotionally disturbed, autistic, multiply disabled, hearing impaired, visually impaired, or traumatic brain injured.

**Suspension** – A deprivation of education services for disciplinary reasons for a period not to exceed three school days at one time. The absence is an excused absence if the student satisfactorily completes the assignments for the period of the suspension. A minimum of one school day of make-up time will be allowed for each day’s absence due to suspension. Failure to make up the assigned work by an established deadline will result in a grade of zero.

**Switchblade** is any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or by the force of gravity or centrifugal force. The term does not include a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife.

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

1. Cause a reaction of any type by an official or volunteer agency organized to deal with emergencies;
  - Place any person in fear of imminent serious bodily injury;
  - 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;
  - Cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;
  - Place the public or a substantial group of the public in fear of serious bodily injury; or
  - Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state (including the district).

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

**Tobacco on School Property** – Smoking, using, or being in possession of tobacco products at a school-related or school sanctioned activity on or off school property is prohibited (*TEC* § 38.006).

**Transfer to a Different School Campus** – The Director of Pupil Services or designee, Associate Superintendent or designee, and the Superintendent may assign and transfer any student from one school facility or classroom within the District to another facility or classroom within the District. Currently enrolled students with disabilities will require an ARD committee/Section 504 Review Committee meeting to determine access to appropriate educational and related services. Any disciplinary request for transfer of a

student with a disability will also require an ARD committee/Section 504 Review Committee meeting prior to sending the request to the Director of Pupil Services.

**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.

**Weapon** – For purposes of discipline of a student with disabilities and discipline under Section 504, a "weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half (2 ½) inches in length. Note: For purposes of JJAEP placement, prohibited weapons are the same as those for regular education students.

**Weapons-Free School Zones (Punishment)** – Criminal punishment for a person who commits a weapons-related offense is increased to the punishment prescribed for the next higher category of offense (for example, from a second-degree felony to a first-degree felony) if the offense is committed in a place the person knew was:

- within 300 feet of the premises of a school;
- on premises where an official school function is taking place; or
- on premises where an event sponsored by the University Interscholastic League is taking place.

**Zero Tolerance** – The Board of Trustees has declared that the District will observe "zero tolerance" with regard to violence at school, verbal abuse of a school employee, and drugs and weapons. When a student knowingly brings a prohibited weapon or controlled substance to school, the police shall be summoned and charges filed. Campus administrators should also notify the District's Police Services office. Alternative educational settings are in place for students whose behavior precludes their functioning in a regular school setting.

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