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Amy Rodriguez.....Riverside Middle School

Rolando Guerra.....Gateway to Graduation Academy

Ray Saldana, Jr. ....Joe Callandret Positive Redirection Center

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Gracie Martinez..... La Encantada Elementary

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Marta Martinez.....Ed Downs Elementary  
Linda Molina.....Frank Roberts Elementary  
Manuela Lopez.....Fred Booth Elementary  
Cynthia Avelar.....La Encantada Elementary  
Eva Bisailon.....Landrum Elementary  
Belinda Gonzalez.....La Paloma Elementary  
Rolando Diaz.....Judge Oscar De La Fuente Elementary  
Cynthia Clayborn.....Rangerville Elementary  
Stephanie Ramirez.....Sullivan Elementary

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# Acknowledgement

Student Code of Conduct (Electronic Distribution)

Dear Student and Parent:

As required by state law, the San Benito Consolidated Independent School District 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, the school counselor, or campus administrator.

The student and parent should sign this page on the space provided below, then return the page to the student’s school.

Thank you,

Dr. Adrian Vega, Superintendent of Schools



**We acknowledge that we have been offered the option to receive a paper copy of the San Benito Independent School District Student Code of Conduct Handbook for the 2016-2017 school year or to electronically access it on the district’s web site [www.sbcisd.net](http://www.sbcisd.net). We understand that students will be held accountable for their behavior and will be subject to the disciplinary consequences outlined in the Code.**

**We have chosen to:**

**Receive a paper copy of the Student Code of Conduct Handbook**

**Accept responsibility for accessing the Student Code of Conduct Handbook on the district’s website at [www.sbcisd.net](http://www.sbcisd.net) (Policies).**

Student’s Name: \_\_\_\_\_

(please print)

Signature of Student: \_\_\_\_\_ Date: \_\_\_\_\_

Parent’s Name: \_\_\_\_\_

(please print)

Signature of Parent: \_\_\_\_\_ Date: \_\_\_\_\_

School: \_\_\_\_\_ Grade Level: \_\_\_\_\_

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



# 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, out-of-school suspension, placement in a disciplinary alternative education program (DAEP), placement in a juvenile justice alternative education program (JJAEP), or expulsion from school.

This Student Code of Conduct has been adopted by the San Benito Consolidated Independent School District Board of Trustees and developed with the advice of the district-level committee. This Code provides information to parents and students regarding standards of conduct, consequences of misconduct, and procedures for administering discipline. It remains in effect during summer school and at all school-related events and activities outside of the school year until an updated version adopted by the board becomes effective for the next school year.

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

Because the Student Code of Conduct is adopted by the district's board of trustees, it has the force of policy; therefore, in case of conflict between the Code and the student handbook, the Code shall prevail.

Please Note: The discipline of students with disabilities who are eligible for services under federal law (Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973) is subject to the provisions of those laws.

## School District Authority and Jurisdiction

### Campus Behavior Coordinator

As required by law, a person at each campus must be designated to serve as the campus behavior coordinator. The designated person may be the principal of the campus or any other campus administrator selected by the principal. The campus behavior coordinator is primarily responsible for maintaining student discipline. The district maintains a current list of the persons serving as a campus behavior coordinator in the student handbook or on the district's website at [www.sbcisd.net](http://www.sbcisd.net) (Policies)

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

The district has disciplinary authority over a student:

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

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

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

Electronic equipment is subject to search in the event school administrators believe reasonable suspicion exists to support the search.

### **Reporting Crimes**

The principal or campus behavior coordinator and other school administrators as appropriate shall report crimes as required by law and shall call law enforcement when an administrator suspects that a crime has been committed on campus.

### **“Parent” Defined**

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

### **Participating in Graduation Activities**

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

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

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

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

**See DAEP- Restrictions During Placement on page 31, for information regarding a student assigned to DAEP at the time of graduation.**

## **San Benito Consolidated Independent School District**

### **Addendum to the Student Code of Conduct:**

This Code is not a contract and can be amended by the District at any time. However, any change or amendment to the Code will be approved by the Board of Trustees.

Violations of the Code of Conduct are documented by teachers and other professional employees using campus discipline referral forms. Teachers and principals may impose campus or classroom rules in addition to those found in the Student Code of Conduct. These rules may be posted in classrooms or given to the student and may or may not also constitute violations of the Student Code of Conduct. Parents will not necessarily be informed of classroom infractions, but will be informed of any Code of Conduct violation.

### **Standards for Student Conduct**

Each student is expected to:

- Demonstrate courtesy and respect, even when others do not.
- Behave in a responsible manner, always exercising self-discipline.
- Attend all classes, regularly and on time.
- Be prepared for each class; take appropriate materials and assignments to class.
- Be well groomed and dressed appropriately, as articulated in the SBCISD campus student handbook.
- Obey all campus and classroom rules.
- Respect the rights and privileges of other students, teachers, and other district staff and volunteers.
- Respect the property of others, including district property and facilities.
- Cooperate with and assist the school staff in maintaining safety, order and discipline.
- Adhere to the requirements of the Student Code of Conduct.

## General Conduct Violations

A list of all “Prohibited Bus Behaviors” will be issued to students who ride the bus by the Director of Transportation. (See San Benito [CISD website](http://www.sbcisd.net) [www.sbcisd.net]. Click on Transportation Department Students/Parents for *Safety Rules for School Bus Riders.*)

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

### Disregard for Authority

Students shall not:

- Fail to comply with directives given by school personnel (insubordination).
- Fail to comply with campus or district policies and procedures.
- Leave school grounds or school-sponsored events without permission.
- Truancy, skipping school or cutting class without the parent’s knowledge or permission.
- Disobey rules for conduct on district vehicles
- Refuse to accept discipline management techniques assigned by a teacher or principal.
- Behave in a way that disrupts the school environment or educational process.

### Mistreatment of Others

Students shall not:

- Use profanity or vulgar language or make obscene gestures.
- Engage in conduct that can cause injury to person or property damage
- Fight or scuffle. (For assault see DAEP Placement and Expulsion.)
- Lie about the conduct of other students or make false accusations about District employees
- Make ethnic, racial, and religious slurs.
- Make verbal or derogatory or offensive remarks addressed to others.
- Threaten a district student, employee, or volunteer, including off school property, if the conduct causes a substantial disruption to the educational environment.
- Engage in bullying, harassment, or making hit lists. (See glossary for all three terms.)
- Engage in conduct that constitutes sexual harassment or sexual abuse, whether by word, gesture, or any other conduct, directed toward another person, including a district student, employee, board member, or volunteer.
- Engage in conduct that constitutes dating violence. (See glossary.)
- Engage in inappropriate or indecent exposure of private body parts.
- Participate in hazing. (See glossary.)
- Cause an individual to act through the use of or threat of force (coercion).

- Commit extortion or blackmail (obtaining money or an object of value from an unwilling person).
- Engage in inappropriate verbal, physical, or sexual conduct directed toward another person, including a district student, employee, or volunteer.
- Record the voice or image of another without the prior consent of the individuals being recorded or in any way that disrupts the educational environment or invades the privacy of others.

## Property Offenses

Students shall not:

- Damage or vandalize property owned by others. (For felony criminal mischief, see DAEP Placement or Expulsion.)
- Deface or damage school property—including textbooks, technology and electronic resources, lockers, furniture, and other equipment—with graffiti or by other means.
- Steal from students, staff, or the school.
- Commit or assist in a robbery or theft even if it does not constitute a felony according to the Texas Penal Code. (For felony robbery, aggravated robbery, and theft see DAEP Placement and Expulsion.)

## Possession of Prohibited Items

Students shall not possess, exhibit or use:

- Fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;
- A razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
- A “look-alike” weapon or any instrument that may be perceived by a third party as a firearm;
- An air-powered gun or rifle, pellet or BB gun; (TASB - An air gun or BB gun;)
- Ammunition;
- A stun gun;
- A pocketknife or any other small knife
- Martial arts objects (such as shurikan [throwing stars], nunchakus [“nun-chucks”], tonfa [wooden weapon], staff, baton [short stick], bolo [long cord with weights at end]
- Mace or pepper spray;
- Pornographic material;
- Tobacco products, cigarettes; e-cigarettes; and component, part, or accessory for an e-cigarette device;
- Matches or a lighter;
- A laser pointer for other than an approved use; or
- Any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists. (For weapons and firearms see DAEP Placement and Expulsion.)

## Possession of Telecommunications or Other Electronic Devices

Students shall not:

- Display, turn on, or use a telecommunications device, including a cellular telephone, or other electronic device on school property during the school day. (Exception during lunch time.)
- Possess stereo head sets, CD players, radios, MP3 players, iPods, and other electronic games and devices without permission.

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

Students shall not:

- Possess or sell seeds or pieces of marijuana in less than a usable amount. (For illegal drugs, alcohol, and inhalants see DAEP Placement and Expulsion.)
- Possess, use, give, or sell paraphernalia (roach clips, rolling papers, needles, baggies with residue, razor blades, pipes, etc.) related to any prohibited substance. (See glossary for “paraphernalia.”)
- Possess, use, abuse, or sell look-alike drugs or attempt to pass items off as drugs or contraband.
- Abuse the student’s own prescription drug, give a prescription drug to another student, or possess or be under the influence of another person’s prescription drug on school property or at a school-related event. (See glossary for “abuse.”)
- Abuse over-the-counter drugs. (See glossary for “abuse.”) Be under the influence of prescription or over-the-counter drugs that cause impairment of the physical or mental faculties. (See glossary for “under the influence.”)
- Have or take prescription drugs or over-the-counter drugs at school other than as provided by district policy.
- Sell, give, or deliver to another person or possessing, using or being under the influence of marijuana or a controlled substance or a dangerous drug
- Sell, give, or deliver to another person an alcoholic beverage; committing a serious act or offense while under the influence of alcohol; or possessing, using, or being under the influence of alcohol
- Possess or sell look-alike drugs or attempt to pass items off as drugs or contraband
- 

## Misuse of Technology Resources and the Internet

Students shall not:

- Violate policies, rules, or agreements signed by the student or the student’s parent regarding the use of technology resources.

- Attempt to access or circumvent passwords or other security-related information of the district, students, or employees or upload or create computer viruses, including off school property if the conduct causes a substantial disruption to the educational environment.
- Attempt to alter, destroy, or disable district technology resources including but not limited to computers and related equipment, district data, the data of others, or other networks connected to the district's system, including off school property if the conduct causes a substantial disruption to the educational environment.
- Use the Internet or other electronic communications to threaten district students, employees, board members or volunteers, including off school property if the conduct causes a substantial disruption to the educational environment.
- Send, post, or possess electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, including cyberbullying and "sexting," either on or off school property, if the conduct causes a substantial disruption to the educational environment.
- Use e-mail or websites to engage in or encourage illegal behavior or threaten school safety, including off school property if the conduct causes a substantial disruption to the educational environment.

### **Safety Transgressions**

Students shall not:

- Possess published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety.
- Engage in verbal (oral or written) exchanges that threaten the safety of another student, a school employee, or school property.
- Make false accusations or perpetrate hoaxes regarding school safety.
- Engage in any conduct that school officials might reasonably believe will substantially disrupt the school program or incite violence.
- Throw objects that can cause bodily injury or property damage.
- Discharge a fire extinguisher without valid cause.
- Pull a fire alarm or discharge a fire extinguisher in a building owned or operated by SBCISD, when there is no smoke, fire, or danger that requires evacuation.
- Call 911 when no emergency exists.
- Violate safety rules.
- Make a false alarm or report of bombing, fire, or other emergency involving a public school
- Make a terroristic threat involving a public school

### **Miscellaneous Offenses**

Students shall not:

- Violate dress and grooming standards as communicated in the Student Handbook.
- Cheat or copy the work of another.



- Gamble.
- Falsify records, passes, or other school-related documents.
- Engage in actions or demonstrations that substantially disrupt or materially interfere with school activities.
- Repeatedly violate other communicated campus or classroom standards of conduct.
- Be a member of, pledge to become a member of, or soliciting another person to join or pledge a public school fraternity, sorority, secret society, or gang
- Assist, encourage, promote, or attempt to assist in the commission of a serious offense
- Fail to report the commission of a serious offense by another student to a school official
- Threaten or retaliate against any student or school employee on or off school property
- Repeatedly violate other previously communicated campus or classroom standards of behavior
- Violate DAEP rules while assigned to the DAEP
- Engage in any conduct punishable as a felony
- Commit an assault of any kind
- Engage in conduct that would be an offense relating to an abusive volatile chemical
- Engage in conduct that would be public lewdness or indecent exposure
- Use, exhibit, or possess an illegal knife
- Use, exhibit, or possess a club
- Use, exhibit, or possess a prohibited weapon
- Engage in conduct that would be aggravated assault, sexual assault, or aggravated sexual assault
- Engage in conduct that would be arson
- Engage in conduct that would be murder, capital murder, or criminal attempt to commit capital murder
- Engage in conduct that would be indecency with a child
- Engage in conduct that would be aggravated kidnapping
- Engage in conduct that would be aggravated robbery against another student
- Engage in conduct that would be manslaughter
- Engage in conduct that would be criminally negligent homicide
- Engage in deadly conduct

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

## Discipline Management Techniques

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

Because of these factors, discipline for a particular offense, including misconduct in a district vehicle owned or operated by the district, unless otherwise specified by law, may bring into consideration varying techniques and responses.

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

### Students with Disabilities

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

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

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

### Techniques

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

- Verbal or written correction
- Cooling-off time or "time-out" in a setting separate from other students 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
- Seating changes within the classroom or vehicles owned or operated by the district.
- Temporary confiscation of items that disrupt the educational process
- Rewards or demerits

- Behavioral contracts
- Counseling by teachers, school counselors, or administrative personnel
- Parent-Teacher Conferences
- Grade reductions as for cheating, plagiarism, and as otherwise permitted by policy
- Detention, including outside regular school hours. (See In-School Suspension section for further details.)
- Sending the student to the office or other assigned area, or to in-school suspension
- In-School Suspension (See In-School Suspension section for further details.)
- Assigned school duties other than class tasks (cleaning or picking up litter).
- Withdrawal of privileges, such as participation in extracurricular activities, participation in graduation exercises, and eligibility for seeking and holding honorary offices, or membership in school-sponsored clubs or organizations
- Penalties identified in individual student organizations' extracurricular standards of behavior
- Restriction or revocation of district transportation privileges
- School-assessed and school-administered probation
- Corporal punishment, unless the student's parent or guardian has provided a signed statement prohibiting its use. (See Corporal punishment section for further details).
- Out-of-school suspension, as specified in the Out-of-school suspension section of this code. (This should not to exceed three school days, at one time)
- Formal removal from class by the teacher (SBCISD added)
- Placement in a DAEP (disciplinary alternative education program), as specified in DAEP section of this Code.
- Placement in DAEP and/or expulsion in an alternative educational setting, as specified in the Placement and/or Expulsion for Certain Serious offenses section of this Code
- Expulsion, as specified in the Expulsion section of this Code
- Referral to outside agency and/or legal authority for criminal prosecution in addition to disciplinary measures imposed by the District
- Other strategies and consequences as determined by school officials

## **Campus Disciplinary Methods**

### **Physical Restraint**

In unusual circumstances, it may be necessary for a district employee to use force, but not deadly force, to physically restrain a student in order to protect the student or any other person from physical injury, to obtain possession of a weapon or other dangerous object, to protect property from serious damage, to remove a student who is refusing to comply with a legitimate directive from a school employee from a specific location in order to restore order or to impose disciplinary measures, or to restrain an irrational student.

## **Corporal Punishment**

Corporal punishment has been approved by the San Benito CISD Board of Trustees as an appropriate disciplinary consequence for Code of Conduct violations.

**Corporal punishment may be used, unless the student's parent or guardian has provided a signed statement prohibiting its use.**

Are there any guidelines for administering corporal punishment?

Corporal punishment is limited to spanking or paddling the student and will be administered only in accordance with the following guidelines:

1. Corporal punishment shall be administered only after less stringent disciplinary measures have been attempted.
2. The student shall be told the reason corporal punishment is being administered.
3. Corporal punishment shall be administered only by the principal and/or assistant principal.
4. The instrument to be used in administering corporal punishment shall be approved by the principal or a designee.
5. When corporal punishment is administered, it shall be done in the presence of one other District professional employee and shall take place in a designated place out of view of other students.

## **In-School Suspension (ISS)**

For minor infractions of the Student Code of Conduct or campus or classroom rules, administrators may assign a student to one or more days of campus ISS where, under the supervision of a teacher assistant/certified teacher, students will complete assignments given to them by their regular teachers.

## **Detention**

For minor infractions of the Student Code of Conduct or campus or classroom rules, teachers or administrators may detain students after school hours on one or more days as provided by the discipline management program and/or Student Code of Conduct. Before being assigned to detention, a student shall be informed of the behavior that allegedly constitutes the violation and shall be given an opportunity to explain his or her version of the incident. The period of time for which a student is assigned to detention shall be used for educational purposes.

## **Notification**

The campus behavior coordinator shall promptly notify a student's parent by phone or in person of any violation that may result in in-school or out-of-school suspension, placement in a DAEP, placement in a JJAEP, or expulsion. The campus behavior coordinator shall also notify a student's parent if the student is taken into custody by a law enforcement officer under the disciplinary provisions of the Education Code. A good faith effort shall be made on the day the action was taken to provide to the student for delivery to the student's parent written notification of the disciplinary action. If the parent has not been reached by telephone or in person by 5:00 p.m. of the first business day after the day the disciplinary action was taken, the campus behavior coordinator shall send written notification by U.S. Mail. If the campus behavior coordinator is not able to provide notice to the parent, the principal or designee shall provide the notice.

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

Students that are assigned to a DAEP placement at either Joe Callendret Postive Redirection Center Site Level II, Site Level III or Cameron County Juvenile Justice Alternative Education Program [JJAEP] must report and attend daily to be in compliance with the Texas state compulsory attendance laws.

## **Appeals**

Questions from parents regarding disciplinary should be addressed to the teacher or campus administration, or campus behavior coordinator, as appropriate. Appeals or complaints regarding the use of specific discipline management techniques should be addressed in accordance with policy FNG (local). A copy of the policy may be obtained from the principal's office, the campus behavior coordinator's office, or the central administration office or through Policy on Line at the following address: ([www.sbcisd.net](http://www.sbcisd.net))

Consequences shall not be deferred pending the outcome of a grievance.

## **Removal from the School Bus**

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

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

removal, the principal or the campus behavior coordinator may restrict or revoke a student's transportation privileges, in accordance with law.

## Removal from the Regular Educational Setting

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

### Routine Referral

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

### Formal Removal

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

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

Within three school days of the formal removal, the campus behavior coordinator or appropriate administrator shall schedule a conference with the student's parent; the student; the teacher, in the case of removal by a teacher; and any other administrator.

At the conference, the campus behavior coordinator or appropriate administrator shall inform the student of the misconduct for which he or she is charged and the consequences. The student shall have 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 campus behavior coordinator or other administrator may place the student in:

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

A teacher or administrator must remove a student from class if the student engages in behavior that under the Education Code requires or permits the student to be placed in a DAEP or expelled. When removing for those reasons, the procedures in the subsequent sections on DAEP or expulsion shall be followed.

### **Returning Student to Classroom**

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

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

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

### **Misconduct**

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

### **Process**

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

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

The number of days of a student's suspension shall be determined by the campus behavior coordinator, but shall not exceed three school days.

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

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

The appropriate administrator shall determine any restrictions on participation in school-sponsored or school-related extracurricular and co-curricular activities.

## **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.

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

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

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

### **DAEP DISCRETIONARY PLACEMENT: MISCONDUCT THAT MAY RESULT IN DAEP PLACEMENT**

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

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

- self-defense (see glossary),
- intent or lack of intent at the time the student engaged in the conduct, and
- the student's disciplinary history.

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

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

- Involvement in a public school fraternity, sorority, or secret society, including participating as a member or pledge, or soliciting another person to become a pledge or member of a public school fraternity, sorority, secret society, or gang. (See glossary.)
- Involvement in criminal street gang activity. (See glossary.)



- Criminal mischief, not punishable as a felony.
- Assault (no bodily injury) with threat of imminent bodily injury.
- Assault by offensive or provocative physical contact.
- Serious or persistent misbehavior subject to administrative discretion
- Failing to comply with campus or district policies
- Committing extortion, coercion, or blackmail
- Committing or assisting in a robbery, theft, or burglary
- Repeatedly violating other previously communicated campus or classroom standards of behavior
- Threatens the safety of other students or teachers
- Is detrimental to the educational process
- Scuffling or fighting or other inappropriate physical contact
- Stealing
- Committing or assisting in a robbery, theft, or burglary
- Any misbehavior that gives school officials reasonable cause to believe that the conduct will substantially disrupt the school program or incite violence
- Any criminal mischief, including a felony.
- Bullying

In accordance with state law, a student **may** be placed in a DAEP if the superintendent or the superintendent's designee has reasonable belief (see glossary) that the student has engaged in conduct punishable as a felony, other than aggravated robbery or those listed as offenses involving injury to a person in a 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 campus behavior coordinator **may**, but is not required to, place a student in a DAEP for off-campus conduct for which DAEP placement is required by state law if the administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

## DAEP MANDATORY PLACEMENT: MISCONDUCT THAT REQUIRES DAEP PLACEMENT

A student **must** place a student in 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 Texas Penal Code 22.01(a) (1).
  - Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of marijuana, a controlled substance, or a dangerous drug in an amount not constituting a felony offense. A student with a valid prescription for low-THC cannabis as authorized by Chapter 487 of the Health and Safety Code does not violate this provision. (School-related felony drug offenses are addressed in 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 between six and nine years of age.
- Commits a federal firearms violation and is younger than six years of age.
- Engages in conduct that contains the elements of the offense of retaliation against any school employee or volunteer on or off school property. (Committing retaliation in combination with another expellable offense is addressed in the Expulsion section of this Code.)
- Engages in conduct punishable as aggravated robbery or 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.
- Makes a terroristic threat involving a public school, regardless of when the threat is made or the place from which the threat is made
- Assault resulting in bodily injury
- Terroristic threat

- Offenses relating to marijuana, controlled substances and dangerous drugs
- Offenses relating to alcohol
- Illegal Drugs
- Weapons
- “Cussing Out” Teachers and/or Administrators
- Using profanity, lewd or vulgar language, or obscene gestures directed at a school employee
- Lying about the conduct of other students or making false accusations about district employees
- Graffiti
- Damaging or vandalizing the property of others, including district property, when the value of the damage is less than \$1,500
- Using or possessing a pellet gun, air-powered rifle, stun gun, BB gun, ammunition, mace or pepper spray or any other instrument that may be perceived by a third party as a firearm
- Pulling a fire alarm or discharging a fire extinguisher in a building owned or operated by the San Benito CISD, when there is not smoke, fire, or danger that requires evacuation
- Possessing or using martial arts objects (such as shurikan [throwing stars], nunchakus {“nun-chucks”}, tonfa {wooden weapon}, staff, baton {short stick}, bolo [long cord with weights at end])
- Engaging in inappropriate physical or sexual contact directed toward another student or district employee
- Conduct that constitutes sexual harassment or sexual abuse
- Possessing or selling look-alike drugs or items attempted to be passed off as drugs or contraband
- Gambling of any kind
- Participate in hazing
- Conduct that can cause injury to person or property
- Committing extortion, coercion, or blackmail (obtaining money or another object of value from an unwilling person), or forcing an individual to act through the use of force or threat of force
- Using, exhibiting, or possessing a razor, box cutter, chain, or any other item in a manner that threatens to inflict or actually inflicts bodily harm to another person
- Possessing drug paraphernalia (roach clips, rolling papers, needles, baggies with residue, razor blades, pipes, etc.)
- Calling 911 when no emergency exists
- Possessing or using a knife of any size
- Violating computer use policies, rules, or agreements
- Conduct that contains the elements of an offense relating to addictive glue or aerosol paint or relating to volatile chemicals
- Using, exhibiting, or possessing a firearm
- Using, exhibiting, or possessing an illegal knife
- Using, exhibiting, or possessing of a club
- Using, exhibiting, or possessing a prohibited weapon

- Conduct containing the elements of the offense of aggravated assault, or sexual assault, or aggravated sexual assault
- Conduct containing the elements of the offense of arson
- Commits an assault (see glossary) under Texas Penal Code 22.01(a)(1)
- Conduct containing the elements of the offense of murder, capital murder, or criminal attempt to commit capital murder
- Conduct containing the elements of the offense of indecency with a child
- Conduct containing the elements of the offense of aggravated kidnapping
- Engage in bullying, harassment or making hit lists. (see glossary for all three terms)

**NOTE:** A student who is charged with an offense warranting expulsion will be suspended for three days and then placed in the DAEP pending the expulsion hearing. Education Code 37.006(a) (b)

### **Sexual Assault and Campus Assignments**

If a student has been convicted of continuous sexual abuse of a young child or children or convicted of or placed on deferred adjudication for sexual assault or aggravated sexual assault against another student on the same campus, and if the victim or the victim's parent with the authority to act on behalf of the victim request that the board transfer the offending student to another campus, the offending student shall be transferred to another campus in the district. If there is no other campus in the district serving the grade level of the offending student, the offending student shall be transferred to a DAEP (PRC SITE II or SITE III).

### **Emergency Placement**

In an emergency, the principal or the principal's designee may order the immediate placement of a student in a DAAEP (disciplinary alternative education program) for any reason for which placement in a DAEP may be made on a non-emergency basis.

For example, if the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with school operations or activities.

At the time the student is placed in DAEP under this emergency provision, the student shall be informed of the reason for the placement, which must be one of the District's reasons for DAEP placement under this Code.

### **Process**

Removals to a DAEP shall be made by the campus behavior coordinator.

## **Conference**

When a student is removed from class for a DAEP offense, the campus behavior coordinator or appropriate administrator shall schedule a conference within three school days with the student's parent, the student, and the teacher, in the case of a teacher removal.

At the conference, the campus behavior coordinator or appropriate administrator shall inform the student, orally or in writing, of the reasons for the removal and shall give the student an explanation of the basis for the removal and an opportunity to respond to the reasons for the removal.

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

## **Consideration of Mitigating Factors**

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

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

## **Placement Order**

After the conference, if the student is placed in the DAEP, the campus behavior coordinator shall write a placement order. A copy of the DAEP placement order shall be sent to the student and the student's parent.

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

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

## **Coursework Notice**

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

## **Length of Placement**

The duration of a student's placement in a DAEP shall be determined by the campus behavior coordinator.

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

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

### **Exceeds One Year**

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

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

The statutory limitations on the length of a DAEP placement do not apply to a placement resulting from the board's decision to place a student who engaged in the sexual assault of another student so that the students are not assigned to the same campus.

### **Exceeds School Year**

Students who commit offenses requiring placement in a DAEP at the end of one school year may be required to continue that placement at the start of the next school year to complete the assigned term of placement.

For placement in a DAEP to extend beyond the end of the school year, the campus behavior coordinator or the board designee must determine that:

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

### **Exceeds 60 Days**

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

## Appeals

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

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

Appeals, after the campus behavior coordinator's disciplinary decision for DAEP placement, shall begin at:

1. Level One – Campus Principal, then proceed to;
2. Level Two – SBCISD Disciplinary Hearing Committee Chairperson and Committee Members
  - a. Luis Gonzales, Jr., Chairperson
  - b. Theresa Servellon and Mary Alice Martinez, Committee Members
  - c. San Benito CISD Parental Involvement/Attendance Department Office  
355 E. Stenger Street - San Benito, Texas 78586 - (956) 361-6310

## Restrictions during Placement

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

**SCHOOL TRANSPORTATION:** A student placed in a DAEP shall not be provided transportation unless he or she is a student with a disability who has transportation designated as a related service in the student's IEP.

**GRADUATION:** For seniors who are eligible to graduate and are assigned to a DAEP at the time of graduation, the placement in the program shall continue through graduation, and the student shall be allowed to participate in the graduation ceremony and related graduation activities.

## Placement Review

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

## Additional Misconduct

If during the term of placement in a DAEP the student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be

conducted, and the campus behavior coordinator may enter an additional disciplinary order as a result of those proceedings.

**Notice of Criminal Proceedings** The office of the prosecuting attorney shall 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 shall review the student's placement and schedule a review with the student's parent not later than the third day after the superintendent or designee receives notice from the prosecutor. The student may not be returned to the regular classroom pending the review.

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

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

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

### **Withdrawal During Process**

When a student violates the district's Code in a way that requires or permits the student to be placed in a DAEP and the student withdraws from the district before a placement order is completed, the campus behavior coordinator may complete the proceedings and issue a placement order. If the student then 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 shall continue the DAEP placement of a student who enrolls in the district and was assigned to a DAEP in an open-enrollment charter school or another district.

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

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

### **Emergency Placement Procedure**

When an emergency placement occurs, the student shall be given oral notice of the reason for the action. Not later than the tenth day after the date of the placement, the student shall be given the appropriate conference required for assignment to a DAEP.

### **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 shall be in either DAEP or JJAEP for at least one semester.

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

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 shall recommend whether the student should return to the regular classroom or remain in the placement. Absent a special finding, the board or its designee must follow the committee's recommendation.

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

## **Newly Enrolled Student**

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

## **Appeal**

A student or the student's parent may appeal the placement by requesting a conference between the board or its designee, the student, and the student's parent. The conference is limited to the factual question of whether the student is required to register as a sex offender. Any decision of the board or its designee under this section is final and may not be appealed.

## **Certain Felonies**

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

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

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

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

### **Hearing and Required Findings**

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

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

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

### **Length of Placement**

The student is subject to the placement until:

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

### **Newly Enrolled Students**

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

# Expulsion

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

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

## Discretionary Expulsion: Misconduct That May Result in Expulsion

### Any Location

A student **may** be expelled for:

- 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.
- Breach of computer security.
- Engaging in conduct related to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school.

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

A student **may** be expelled for committing any of the following offenses on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, or a dangerous drug, if the conduct is not punishable as a felony. A student with a valid prescription for low-THC cannabis as authorized by Chapter 487 of the Health and Safety Code does not violate this provision. (See glossary for “under the influence.”)
- Selling, giving, or delivering to another person, or possessing, using, or being under the influence of alcohol; or committing a serious act or offense while under the influence of alcohol, if the conduct is not punishable as a felony.
- Engaging in conduct that contains the elements of an offense relating to abusable volatile chemicals.
- Engaging in conduct that contains the elements of assault under Section 22.01(a) (1) against an employee or a volunteer.
- Engaging in deadly conduct. (See glossary.)

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

A student **may** be expelled for engaging in the following conduct while within 300 feet of school property, as measured from any point on the school’s real property boundary line: □ Aggravated assault, sexual assault, or aggravated sexual assault.

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

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

### **While in DAEP**

A student **may** be expelled for engaging in serious offenses or persistent misbehavior (see glossary) that violates the district’s Code, while placed in a DAEP.

1. Deliberate violent behavior that poses a direct threat to the health or safety of others;
2. Extortion, meaning the gaining of money or other property by force or threat;

3. Conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
4. Conduct that constitutes the offense of:
  - a. Public lewdness under Section 21.07, Penal Code;
  - b. Indecent exposure under Section 21.08; Penal Code;
  - c. Criminal mischief under Section 28.03, Penal Code;
  - d. Personal hazing under Section 37.152; or
  - e. Harassment under Section 42.07(a) (1), Penal Code, of a student or district employee.

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

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

### **Under Federal Law**

- Bringing to school a firearm, as defined by federal law. “Firearm” under federal law includes:
  - Any weapon (including a starter gun) that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive.
  - The frame or receiver of any such weapon.
  - Any firearm muffler or firearm weapon.
  - Any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.

### **Under the Texas Penal Code**

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:

1. Using 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, which includes 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 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. (See Glossary.)
  - 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, a zip gun, or a tire deflation device. (See glossary.)
2. 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.
3. Engaging in retaliation against a school employee or volunteer combined with one of the above-listed mandatory expulsion offenses, with the exception of a federal firearm offense, on or off school property or at a school-related activity.

### **Under Age Ten**

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

### **Emergency**

In an emergency, a 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.

At the time of the emergency expulsion, the student shall be given oral notice of the reasons for the action, which must be a reason for which the student could be expelled on a non-emergency basis. Within ten (10) days after the date of the emergency expulsion, the student shall be given appropriate due process required for a student facing expulsion.

## Process

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

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

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

## Procedures for Hearing Expulsion

### Hearing

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

1. Representation by the student's parent or another adult who can provide guidance to the student and who is not an employee of the district;
2. Right to a full and fair hearing before the Superintendent or a designee; and an opportunity to testify and to present evidence and witnesses in the student's defense, and
3. Opportunity to testify and to present evidence and witnesses in his or her defense; and
4. Opportunity to examine question the witnesses called by the district at the hearing.

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

The board of trustees delegates to the Superintendent or Disciplinary Hearing Chairman and Committee the authority to conduct hearings and expel students and:

1. Provide an opportunity to a full and fair hearing before the Superintendent or Disciplinary Hearing Committee; to testify and to present evidence and witnesses in the student's defense, and
2. At least three days prior to the expulsion hearing:
  - a. Provide a written notice of the reason(s) for expulsion and charges
  - b. Allow reasonable opportunity for preparation, including a written invitation to the student's parent or guardian to attend the expulsion hearing.



- c. The notice will also include the date, time, and location of the hearing and the names of adult witnesses who will present evidence at the hearing.

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

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

### **Board Review of Expulsion**

After the due process hearing, the expelled student may request that the board review the expulsion decisions. The student or parent must submit a written request to the superintendent within seven (7) days after receipt of the written decision. The superintendent must provide the student or parent written notice of the date, time, and place of the meeting at which the board will review the decision.

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

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

### **Expulsion Order**

Before ordering the expulsion, the Superintendent or the Disciplinary Hearing Committee shall 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.

If the student is expelled, the Superintendent or the Disciplinary Hearing Committee shall deliver to the student and the student's parent a copy of the order expelling the student.

Not later than the second business day after the hearing, the Superintendent or Disciplinary Hearing Committee Chairman shall deliver to the juvenile court a copy of the expulsion order and the information required by Section 52.04 of the Family Code.

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

## **Length of Expulsion**

The length of an expulsion shall be 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 shall be determined on a case-by-case basis. The maximum period of expulsion is one calendar year except as provided below.

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

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

State and federal law require a student to be expelled from the regular classroom for a period of at least one calendar year for bringing a firearm, as defined by federal law, to school. However, the superintendent may modify the length of the expulsion on a case-by-case basis.

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

## **Withdrawal during Process**

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

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

If the Superintendent or Disciplinary Hearing Committee fails to issue an expulsion order after the student withdraws, the next district in which the student enrolls may complete the proceedings.

**EFFECT OF WITHDRAWAL:** Withdrawal from school does not affect the District's authority to schedule and conduct a hearing on the conduct and enter an order of expulsion, regardless of whether the student or parent are present to participate. The order of expulsion will be included with the records transferred to the new school district, including another public school, a campus charter program, or an open-enrollment charter school, and that district will be empowered to exercise its authority to honor the expulsion. Furthermore, even if we do not complete the expulsion process and issue an expulsion order, we will send disciplinary records to the next

school, and that school has the authority to complete the expulsion process and issue an expulsion order.

Students who transfer out of this District to another public or private school, including students who withdraw from the District for the purpose of home schooling, and students who do not attend the Cameron County Juvenile Justice Alternative Education Program (JJAEP) for the duration of the placement for any reason (other than reasons that constitute an “excused absence” under District policy), will be required upon return to the District, to complete the number of days missed in the JJAEP program before being allowed to return to the regular campus, unless the student’s records indicate the student served the days of expulsion in another district.

### **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 Superintendent or the Disciplinary Hearing Committee may issue an additional disciplinary order as a result of those proceedings.

### **Restrictions during Expulsion**

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

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

### **Expulsion for Graduating Seniors**

When a student is expelled during the final semester of 12th grade, the district will not allow that student to participate in graduation ceremonies.

### **Newly Enrolled Students**

The district shall continue the expulsion of any newly enrolled student expelled from another district or an open-enrollment charter school until the period of the expulsion is completed.

If a student transfers into this District from another school district or an open enrollment charter school in which the student was placed in the Cameron County Juvenile Justice Disciplinary Alternative Education Program, this District shall continue the term of expulsion at the JJAEP.

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

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

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

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

### **Emergency Expulsion Procedures**

When an emergency expulsion occurs, the student shall be given verbal notice of the reason for the action. Within ten days after the date of the emergency expulsion, the student shall be given appropriate due process required for a student facing expulsion.

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

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

### **Summer School**

Our summer school program is not part of the regular school year program. Students are required to attend summer school to re-take courses they did not pass in the regular school year, to receive intensive instruction in subject areas where they did not demonstrate mastery on the state assessment instruments, or to complete courses necessary for graduation that were incomplete because of the student's placement in DAEP.

During summer school, students are expected to abide by the rules of conduct that are in place during the school year. We will handle minor isolated violations of conduct expectations through parent conferences; however, students who commit serious offenses or who have persistent behavior problems while enrolled in summer school will be withdrawn from the program.

## San Benito Consolidated Independent School District DAEP Placement – Joe Callendret Positive Redirection Center

### What is DAEP?

1. Is a setting other than the student's in regular classroom;
2. Is located off a regular school campus;
3. Separates elementary school students assigned to DAEP from secondary school students assigned to DAEP;
4. Provides core academic courses in English language arts, mathematics, science, history, physical education, and self-discipline;
5. Provides services for students' educational and behavioral needs; and
6. Provides supervision and counseling.

### Where is DAEP?

San Benito CISD's DAEP (disciplinary alternative education program) is located at the:

Joe Callendret Positive Redirection Center (PRC) – SITE II and SITE III  
 305 Doherty St.  
 San Benito, Texas 78586  
 Phone: (956) 361-6275  
 Website: <http://alt.sbcisd.net/>  
 Principal: Ray Saldana, Jr.  
 Email: [rsaldana@sbcisid.net](mailto:rsaldana@sbcisid.net)

### Operational Hours:

- The Joe Callendret Positive Redirection Center (PRC) operates between the hours of 7:00 a.m. to 4:30 p.m. for both Site II and Site III students.
- The 21<sup>st</sup> Century Community Learning Centers Grant – EXCEL U After-School Program operates for PRC students from 4:30 – 7:00 p.m.

### Transportation/Parent Drop Off/Pick-Up

- District transportation is not provided and parents are responsible for making sure students are transported to and from the PRC DAEP location on a timely manner.

### Attendance/Tuancy

- Assigned daily attendance is required for each student. Failure of to attend school, while at the PRC-DAEP, is a violation of Texas state compulsory attendance laws. Attendance/Tuancy will be monitored and truancy prevention methods (TPM) will be implemented for all students not adhering to compulsory attendance.

## What courses are taught at the DAEP?

- PRC SITE II – (DAEP placement of 10- 60 day) - The student’s home campus curriculum assignments will be recommended and provided by their regular campus teacher(s) and campus administration.
- PRC SITE III – (DAEP placement of 60 – or more days) PRC teachers and campus administration will recommend and provide all curriculum and instruction assignments for all SITE III students. This included all support instructional services.

Instruction in the DAEP will focus on English language arts, mathematics, science, history, physical education, and self-discipline. The District will provide an opportunity for students who have been placed in the DAEP to complete coursework necessary to fulfill high school graduation requirements before the beginning of the next school year, if the term of the student’s placement is such that the student is not able to continue enrollment in all his or her courses. The opportunity to complete coursework will be provided through any method available, which may include summer school, distance learning, or correspondence courses. The District will not assess any charge for the student to complete a course under this provision.

**TERM OF PLACEMENT:** Students are assigned to DAEP with a written disciplinary conference form that states a specific term of placement that is the number of school days that must be served. The length of all DAEP assignments is at the discretion of the administration including the, within the guidelines stated below.

- PRC SITE II - DAEP placement is for eleven to sixty (11-60) attended school days.
- PRC SITE III – DAEP placement is for sixty-one (61) or more attended school days.
- The length of the DAEP placement may also be adjusted by the Disciplinary Hearing Committee after the student and parents have requested and received a Student Due Process Hearing.

The administrator issuing the disciplinary conference form will use his or her best professional judgment, taking into account the factors considered in all disciplinary actions, in making a DAEP placement. In some circumstances, a placement term may be longer than one year if, after a review, the administrator determines that the student is a threat to the safety of other students or to employees or that an extended placement would be in the student’s best interest.

Ordinarily a DAEP assignment will not extend beyond the end of a school year. However, if the administrator making the placement determines:

1) that the student's presence in the regular classroom or at the student's regular campus poses a danger of physical harm to the student or another individual; or 2) the student has engaged in serious or persistent misbehavior that violates the District's Student Code of Conduct, then the assignment may be continued to the next school year.

The DAEP administrator may extend the original term of removal based on new violations that occur while the student is assigned to the DAEP, including violation of DAEP rules, by following the procedures for initial DAEP placement, i.e., a conference with student and parents.

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

**SCHOOL-RELATED ACTIVITIES:** Students assigned to a DAEP may not participate in extracurricular and/or co-curricular activities at the district level and may not attend any functions at their home campus during the term of their assignment.

**STUDENTS YOUNGER THAN TEN:** Students younger than ten who commit an expellable offense will be placed in a disciplinary alternative education program for elementary age students.

**STUDENTS YOUNGER THAN SIX:** Students younger than six shall not be placed in a disciplinary alternative education program for any reason other than committing a federal firearm offense.

**EFFECT OF WITHDRAWAL:** Withdrawing a student from school does not affect the District's authority to schedule and conduct a conference on the conduct and enter an order of removal, regardless of whether the student or parent is present to participate. The order of removal will be included with the records sent to any transferring school, including another public school, a campus charter program, or an open-enrollment charter school, and that district or school will be empowered to exercise its authority to honor the removal. Furthermore, even if we do not complete the removal process and issue a removal order, we will send disciplinary records to the next school, and that school has the authority to complete the removal process and issue a removal order.

Students who transfer out of this District to another public or private school, including students who withdraw from this District for the purpose of home schooling, and students who do not attend San Benito CISD's disciplinary alternative education program for the duration of the placement for any reason (other than reasons which constitute an "excused absence" under District policy), will be required upon return to this District to complete the number of days missed in the disciplinary alternative education program before being allowed to return to the regular campus, unless their records indicate that the term of removal was served in another school district or charter school.

**EFFECT OF TRANSFER INTO DISTRICT:** If a student transfers into this District from another school district in which the student was placed in a disciplinary alternative education program, San Benito CISD may continue the DAEP placement under the terms of the order provided by the sending school district.

**GRADUATING SENIORS IN THE DAEP:** For seniors who are eligible to graduate and are assigned to a DAEP at the time of graduation, the placement in the program shall continue through graduation, and the student shall be allowed to participate in the graduation ceremony and related graduation activities. A student who is expelled for an offense that otherwise would have resulted in a DAEP placement does not have to be placed in a DAEP in addition to the expulsion.

### **CONDUCT UNRELATED TO SCHOOL - TITLE 5 OFFENSES:**

A student **will** be removed from class and placed in a disciplinary alternative education program based on off-campus criminal conduct punishable as a felony under Title 5, Texas Penal Code. However, if more than a year passes from the date of the off-campus criminal offense to the time that a school administrator learns of the offense, the administrator is not required to place the student in the DAEP.

#### **What are Title 5 offenses?**

Title 5 offenses are crimes against the person, identified in Title 5 of the Texas Penal Code. Specifically, Title 5 offenses include: murder; capital murder; manslaughter; criminally negligent homicide; kidnapping; aggravated kidnapping; indecency with a child; sexual assault; aggravated assault; aggravated sexual assault; injury to a child, elderly individual, or disabled individual; abandoning or endangering a child; deadly conduct; terroristic threat; aiding a person to commit suicide; and tampering with a consumer product.

Education Code 37.006(c)

### **CONDUCT UNRELATED TO SCHOOL - NON-TITLE 5 OFFENSES:**

A student **may** be removed from class and placed in a disciplinary alternative education program for off-campus criminal conduct punishable as a felony, other than offenses defined by Title 5, Texas Penal Code, if the administration determines that 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. However, if more than a year passes from the date of the off-campus criminal offense to the time that a school administrator learns of the offense, the administrator is not required to place the student in the DAEP.

Education Code 37.006(d)

### **RELATIONSHIP OF CRIMINAL JUSTICE SYSTEM AND THE SCHOOL DISTRICT:**



The school district may place a student in the DAEP regardless of any action or lack of action taken by the criminal justice system. However, in some circumstances, the district may re-assess the punishment based on information from law enforcement authorities.

### **Does a student have to be arrested or convicted of a felony offense before the District can place the student in a DAEP?**

No. A student may be removed from class and placed in DAEP if the administration determines that the student committed an offense requiring DAEP assignment while he or she was under the school's jurisdiction. The district will send the required information about the removal to the juvenile authorities.

When the assignment is necessary because of CONDUCT UNRELATED TO SCHOOL, the removal is based on the administrator's reasonable belief that the student has committed a felony offense. If the out-of-school offense is a non-Title 5 felony, before the student is placed in the DAEP, the administration must also determine that the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense in the Penal Code, the administrator may consider all information available, including information furnished by law enforcement.

### **What options does the school have if the student is found guilty of a Title 5 felony offense?**

The administration must place the student in DAEP if the conviction, deferred adjudication, or determination of delinquency occurs during the school year while the student is enrolled in a district school and the student is not otherwise confined under the authority of the criminal justice system. The administration also has the authority to place a student in DAEP, after a conference with the student and parent, if it determines that the student's presence in the regular classroom threatens the safety of other students or of district employees, is detrimental to the educational process, or is not in the best interest of the district's students.

The administration can order DAEP placement for a student who has received deferred adjudication or been determined delinquent based on a Title 5 felony regardless of the date of the conduct, where the offense occurred, whether the student was enrolled in the District at the time, or whether the student has successfully completed any court disposition requirements. The placement order in this circumstance can be for any period the administration considers necessary and is not limited to one year.

The decision regarding DAEP placement in this circumstance is final and may not be appealed.

### **What happens if the courts say the student did not commit the offense or the student is not prosecuted for other reasons?**

If, after the placement, the administration receives notice from an appropriate law enforcement agency that the student was found not guilty of the felony offense and the case was dismissed with prejudice, or that the student was not prosecuted and no formal proceedings, deferred adjudication,

or deferred prosecution was initiated, the administration will review the student's placement in the DAEP. This review will occur regardless whether the offense occurred at school or a school-related activity or outside of school.

The student will remain in the DAEP pending the review, which will take place within three class days of the administration's receiving the notice. The parents or guardian will be provided an opportunity for input. However, if after the review the administration believes that the presence of the student in the regular classroom threatens the safety of other students or teachers, the administration may continue the student's placement in the DAEP.

If the student is not being prosecuted for the offense, but the school wants to continue the DAEP placement, what rights of appeal does the student have? The student or the parent or guardian may appeal the decision of the administration to continue the student's placement in the DAEP to the San Benito CISD Board of Trustees. The appeal will be heard at the next regularly scheduled board meeting, where the board will review the notice letter from law enforcement and receive information from the administration and the student or the student's parent or guardian. The decision of the Board of Trustees is appealable to the Commissioner of Education. The student remains in the DAEP pending all appeals. Education Code 37.006

### **JUVENILE COURT-ORDERED PLACEMENT IN DAEP:**

The juvenile court may order a student to attend the district's DAEP as a condition of probation, regardless of whether the school district has a basis for imposing discipline on the student. When the juvenile court orders a student to attend the DAEP as a condition of probation, the district, after receiving a copy of the order, will immediately transfer the student to the DAEP for the period of time designated by the court. However, state law prohibits the juvenile court from ordering a student who has been expelled from the district to attend the DAEP.

### **OTHER COURT-ORDERED PLACEMENT IN DAEP:**

When the district receives a copy of an order from a justice or municipal court indicating that a student must attend the DAEP as a condition of a term of probation under Code of Criminal Procedure 45.051, the principal or other administrator will hold a conference as described in Procedures for Removal to a DAEP and determine whether the student should be assigned to the DAEP or should remain in the regular school setting. The principal or other administrator will consider the nature of the misdemeanor offense resulting in the order in making this determination.

## **Procedures for Removal to DAEP**

### **Will the student have a chance to dispute the allegations?**

Before a student is placed in a disciplinary alternative education program, the campus behavior coordinator shall tell the student briefly why he or she is being removed to that program and explain that the student shall have an opportunity to give his or her version of events at a conference to be scheduled and held within three class days. In most circumstances, the student will be suspended pending the placement conference.

**Will parents have an opportunity to provide input?**

Within three class days after the date of the offense, campus behavior coordinator shall contact the parent by telephone or in writing to schedule and hold a conference with the student, the teacher who removed the student from class (if any), and the parents and will make efforts to ensure that all invited parties can attend. The administrator will attempt to hold the conference within that same three day period; in any event the conference will be held no more than five (5) class days after the student is removed to the DAEP.

**What if the parent cannot attend the conference?**

The District may proceed with the conference without the parents or student present, so long as the parents and student have been notified of the conference. Whether or not the parents or the student attend the conference, the student will receive oral or written notice at the conference from the administrator of the reason(s) for the removal and the offense the student is charged with violating. The student will have an opportunity at that time to explain or respond to the reasons for removal. The student and parents will receive a written notice no later than two days after the conference documenting the conference and stating the length of the removal to the DAEP, if applicable, and any conditions or other requirements related to the DAEP assignment. Likewise, a copy of the order (and any information required under Family Code 52.04) will be forwarded to the authorized officer of the juvenile court and the county in which the student resides.

**What information will be provided to the juvenile authorities?**

When a student is placed in the Cameron County Juvenile Justice Alternative Education Program (JJAEP) for a mandatory placement reason, a copy of the removal order, the child and parent's names and address, names and address of any witnesses, and a complete statement of the circumstances surrounding the conduct will be forwarded to the authorized officer of the juvenile court in the county in which the student resides.


**DISTRICT – 120 Day Review of DAEP Status (SITE III)**

What does a review consist of?

Both the discipline and the academic status of students assigned to the DAEP shall be reviewed at intervals not to exceed 120 calendar days, but in any event, at least every 120 calendar days.

Who attends?

At the review, the parents may make arguments for the student's return to the regular classroom. If the student is in high school and is to remain in the DAEP, the administration, together with the parents, will establish a plan designed to assist the student's progress toward meeting high school graduation requirements.



The District is not obligated to provide any course other than English language arts, math, science, history, physical education, and self-discipline to students assigned to the DAEP.

The District is not required to provide all of a student's courses necessary for graduation while the student is assigned to the DAEP, but must offer an opportunity for the student to complete courses before the beginning of the next school year without charge to the student.

The student may not be returned to the classroom of a teacher who removed the student without that teacher's consent.

## Glossary

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

**Abuse** is improper or excessive use

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

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

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

**Arson** is:

1. A crime that involves starting a fire or causing an explosion with intent to destroy or damage:
  - a. Any vegetation, fence, or structure on open-space land; or
  - b. Any building, habitation, or vehicle:
    1. Knowing that it is within the limits of an incorporated city or town,
    1. Knowing that it is insured against damage or destruction,
    1. Knowing that it is subject to a mortgage or other security interest,
    1. Knowing that it is located on property belonging to another,
    1. Knowing that it has located within it property belonging to another, or
    1. 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. §22.01(a)(2) as intentionally or knowingly threatening another with imminent bodily injury; and §22.01(a)(3) as intentionally or knowingly causing physical contact with another that can reasonably be regarded as offensive or provocative.

**Bullying** is when a student or group of students engages in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the district and a school district's board of trustees or the board's designee determines that the behavior:

1. Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or
2. Is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

This conduct is considered bullying if it:

1. Exploits an imbalance of power between the student perpetrator who is engaging in bullying and the student victim through written or verbal expression or physical conduct; and
2. Interferes with a student's education or substantially disrupts the operation of a school.

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

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

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

**Cyberbullying** is the use of any electronic communication device to engage in bullying or intimidation.

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

relationship with the person committing the offense, as defined by Section 71.0021 of the Family Code.

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

**Deferred adjudication** is an alternative to seeking a conviction in court that may be offered to a juvenile for delinquent conduct or conduct indicating a need for supervision.

**Deferred prosecution** may be offered to a juvenile as an alternative to seeking a conviction in court for delinquent conduct or conduct indicating a need for supervision.

**Delinquent conduct** is conduct that violates either state or federal law and is punishable by imprisonment or confinement in jail. It includes conduct that violates certain juvenile court orders, including probation orders, but does not include violations of traffic laws.

**Discretionary** means that something is left to or regulated by a local decision maker.

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

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

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

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

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

**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 (LOCAL) and FFH (LOCAL); or
2. Conduct that threatens to cause harm or bodily injury to another student, is sexually intimidating, causes physical damage to the property of another student, subjects another student to physical confinement or restraint, or maliciously and substantially harms another student's physical or emotional health or safety.

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

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

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

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

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

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

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

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

**Public school fraternity, sorority, secret society, or gang** means an organization composed wholly or in part of students that seeks to perpetuate itself by taking additional members from the students enrolled in school based on a decision of its membership rather than on the free choice of a qualified student. Educational organizations listed in Section 37.121(d) of the Education Code are excepted from this definition.



**Reasonable belief** is a determination made by the superintendent or designee using all available information, including the information furnished under Article 15.27 of the Code of Criminal Procedure.

**Self-defense** is the use of force against another to the degree a person reasonably believes the force is immediately necessary to protect he or herself; limited blocking blows and not aggressive retaliation

**Serious misbehavior means:**

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

Serious or persistent misbehavior includes but is not limited to:

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

**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.

**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.

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

- 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).

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

**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; 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)]

**Title 5 offenses** are those that involve injury to a person and include:

- Murder;
- Kidnapping;
- Trafficking of persons;

- Smuggling or continuous smuggling of persons;
- Assault;
- Aggravated assault;
- Sexual assault;
- Aggravated sexual assault;
- Unlawful restraint;
- Voyeurism;
- Indecency with a child;
- Invasive visual recording;
- Disclosure or promotion of intimate visual material;
- Injury to a child, an elderly person, or a disabled person of any age;
- Abandoning or endangering a child;
- Deadly conduct;
- Terroristic threat;
- Aiding a person to commit suicide; and
- Tampering with a consumer product.

[See FOC(EXHIBIT)]

**Under the influence** means lacking the normal use of mental or physical faculties. Impairment of a person’s physical or mental faculties may be evidenced by a pattern of abnormal or erratic behavior or the presence of physical symptoms of drug or alcohol use. A student “under the influence” need not be legally intoxicated to trigger disciplinary action.

**Use** means voluntarily introducing into one’s body, by any means, a prohibited substance.

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

## Definitions

### ABUSABLE VOLATILE CHEMICAL OFFENSES

No student shall inhale, ingest, apply, use, or possess an abusable volatile chemical with intent to inhale, ingest, apply or use any of these in a manner:

1. Contrary to the directions for use, cautions, or warnings appearing on a label of a container of the chemical;
2. Designed to affect the central nervous system, create or induce a condition of intoxication, hallucination, or elation, or change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.

Health and Safety Code 485.031

No student shall knowingly deliver to a person younger than 18 an abusable volatile chemical that does not contain additive material in accordance with rules adopted by the Commissioner of Health.

Health and Safety Code 485.032

No student shall knowingly use or possess with intent to use inhalant paraphernalia to inhale, ingest, or otherwise introduce into the human body an abusable volatile chemical. No student shall knowingly deliver, sell, or possess with intent to deliver or sell inhalant paraphernalia knowing that that person who receives it intends to use it to inhale, ingest, apply, use, or otherwise introduce into the human body an abusable volatile chemical.

Health and Safety Code 485.033

### AGGRAVATED ASSAULT

“Aggravated assault” is defined as causing serious bodily injury to another or using or exhibiting a deadly weapon during the commission of any assault.

“Serious bodily injury” is defined as bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

“Deadly weapon” is defined as a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

Penal Code 1.07(46), (17)

### AGGRAVATED KIDNAPPING

(a) A person commits an offense if he intentionally or knowingly abducts another person with the intent to:

- (1) hold him for ransom or reward;

- (2) use him as a shield or hostage;
  - (3) facilitate the commission of a felony or the flight after the attempt or commission of a felony;
  - (4) inflict bodily injury on him or violate or abuse him sexually;
  - (5) terrorize him or third person; or
  - (6) interfere with the performance of any governmental or political function.
- (b) A person commits an offense if the person intentionally or knowingly abducts another person and uses or exhibits a deadly weapon during the commission of the offense.

Penal Code 20.04

### **AGGRAVATED ROBBERY**

A person commits an offense if he commits robbery and he:

- (1) causes serious bodily injury to another;
- (2) uses or exhibits a weapon; or
- (3) causes bodily injury to a person or threatens or places another person in fear of imminent bodily injury or death if the other person is 65 years of age or older or a disabled person, i.e., an individual with a mental, physical, or developmental disability who is substantially unable to protect himself from harm.

Penal Code 29.031

A person commits robbery if, in the course of committing theft as defined in

Chapter 31 and with intent to obtain or maintain control of the property, he (1) intentionally, knowingly, or recklessly causes bodily injury to another; or (2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

Penal Code 29.02

### **AGGRAVATED SEXUAL ASSAULT**

“Aggravated sexual assault” is defined as sexual assault (see page 46) in which the actor:

- 1. Causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode; or
- 2. By acts or words, places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person; or
- 3. By acts or words occurring in the presence of the victim, threatens to cause death, serious bodily injury, or kidnapping; or
- 4. Uses or exhibits a deadly weapon in the course of the same criminal episode; or
- 5. Acts in concert with another, who commits a sexual assault directed toward the same victim and occurs during the same criminal episode; or

6. Assaults a victim who is younger than 14 years of age or is 65 years of age or older.

**ARSON**

- (a) A person commits an offense if the person starts a fire, regardless of whether the fire continues after ignition, or causes an explosion with intent to destroy or damage: (1) any vegetation, fence, or structure on open-space land; or  
 (2) any building, habitation, or vehicle:  
 (A) knowing that it is within the limits of an incorporated city or town;  
 (B) knowing that it is insured against damage or destruction  
 (C) knowing that it is subject to a mortgage or other security interest;  
 (D) knowing that it is located on property belonging to another;  
 (E) knowing that it has located within it property belonging to another; or  
 (F) when he is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.
- (b) It is an exception to the application of Subsection (a)(1) that the fire or explosion was a part of the controlled burning of open-spaced land.

Penal Code 28.02

**ASSAULT**

Students are prohibited from assaulting anyone on school property or at any school related event.

Assault is defined as:

1. Intentionally, knowingly, or recklessly causing bodily injury to another. Penal Code 22.01(a)(1)
2. Intentionally or knowingly threatening another with imminent bodily injury. Penal Code 22.01(a)(2)
3. Intentionally or knowingly causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. Penal Code 22.01(a)(3);
4. “Bodily injury” is defined as physical pain, illness, or any impairment of physical condition. Penal Code 1.07(8)

**CONTROLLED SUBSTANCE AND DANGEROUS DRUG**

Controlled substances or dangerous drugs include but are not limited to marijuana; any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, barbiturate; or

prescription medicine provided to any person other than the person for whom the prescription was written.

### **CRIMINAL MISCHIEF**

- (a) A person commits an offense if, without the effective consent of the owner:
- (1) he intentionally or knowingly damages or destroys the tangible property of the owner;
  - (2) he intentionally or knowingly tampers with the tangible property of the owner and causes pecuniary loss or substantial inconvenience to the owner or a third person; or
  - (3) He intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner.
- (h) An offense under this section is a state jail felony if the amount of the pecuniary loss to real property or to tangible personal property is \$1,500 or more but less than \$20,000 and the damage or destruction is inflicted on a public or private elementary school, a secondary school, or institution of higher education.

Penal Code 28.03

### **CRIMINALLY NEGLIGENT HOMICIDE**

Causing the death of an individual by acting with criminal negligence, i.e., with respect to circumstance surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's viewpoint. Penal Code 19.05, 6.03(d)

### **DEADLY CONDUCT**

A person engages in deadly conduct if he recklessly engages in conduct that places another in imminent danger of serious bodily injury or knowingly discharges a firearm at or in the direction of one or more individuals or a habitation, building, or vehicle and is reckless as to whether it is occupied. Recklessness and danger are presumed if the person knowingly points a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded.

A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's viewpoint. Penal Code 22.05, 6.03(c)

**DISRUPTION OF CLASSES AND/OR LAWFUL ASSEMBLY**

Conduct by students either in or out of class that for any reason - whether because of time, place, or manner of behavior - materially disrupts class work or involves substantial disorder or invasion of the rights of others is prohibited.

Student demonstrations and similar activities shall be prohibited when there is evidence that may reasonably lead school authorities to forecast substantial disruption of, or material interference with, normal school operations or approved school activities.

No person shall be permitted, on school property or on public property within 500 feet of school property, to willfully disrupt, alone or in concert with others, the conduct of classes or other school activities.

Conduct that disrupts the educational activities of a school includes:

1. Emissions by any means of noise of an intensity which prevents or hinders classroom instruction.
2. Enticement or attempted enticement of students away from classes or other school activities which students are required to attend.
3. Prevention or attempted prevention of students from attending classes or other school activities which students are required to attend.
4. Entrance into a classroom without consent of either the principal or teacher and either through acts of misconduct and/or use of loud or profane language causing disruption of class activities.

For purposes of this provision, "school property" shall include the public school campuses or school grounds upon which any public school is located, and any grounds or buildings used by District schools for assemblies or other school-sponsored activities.

For purposes of this provision, "public property" shall include any street, highway, alley, public park, or sidewalk.

Education Code 37.124

No person or group of persons acting in concert may intentionally engage in disruptive activity or disrupt a lawful assembly on the campus or property of any school in the District.

Disruptive activity means:

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway or any building without the authorization of the administration of the school.
2. Seizing control of any building or portion of a building for the purpose of interfering with any administrative, educational, research, or other authorized activity.
3. Preventing or attempting to prevent by force or violence or the threat of violence any lawful assembly by the school administration.



4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress.
5. Obstructing or restraining the passage of any person at any exit or entrance to said campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from said property or campus without the authorization of the administration of the school.

A lawful assembly is disrupted when any person in attendance is rendered incapable of participating in the assembly due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur.

Education Code 37.123

### **GANG ACTIVITY**

A “gang” is defined as any group of two or more individuals whose purposes may include the commission of illegal acts. A gang is a prohibited fraternity, sorority, or society as defined by Education Code 37.121.

Gang activities and gang involvement are described as:

1. Wearing, possessing, using, distributing, displaying, or selling any clothing, jewelry, emblems, badges, symbols, signs, graffiti, or other items that are evidence of membership or affiliation in a gang.
2. Committing any act or using any speech, either verbal or non-verbal such as gestures, handshakes, and the like, that indicates membership or affiliation in a gang.
3. Promoting interest in any gang or gang activity, including but not limited to:
  - a. Soliciting others for membership.
  - b. Requesting any person to pay protection or otherwise intimidating or threatening any person.
  - c. Committing any other illegal act or other violation of District policies.
  - d. Inciting other students to act with physical violence toward any other person.
  - e. Engaging in concert with others in intimidating, fighting, assaulting, or threatening to assault others.
  - f. Painting, writing, or otherwise inscribing gang-related graffiti, messages, symbols, or signs, on school property, or on property of students or staff.

**HAZING**

“Hazing” means any intentional, knowing, or reckless act occurring on or off school property directed against a student, by one person alone or acting with others, that endangers the mental or physical health or the safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization whose members are or include other students. The term includes but is not limited to:

1. Any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.
2. Any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.
3. Any activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the student to any unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.
4. Any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame, or humiliation, or that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution, or that may reasonably be expected to cause a student to leave the organization or the institution rather than submit to acts described above.
5. Any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code.

Education Code 37.151

A person commits an offense if the person commits any of the following:

1. Engages in hazing.
2. Solicits, encourages, directs, aids, attempts to aid another in an act of hazing.
3. Recklessly permits hazing to occur.
4. Has firsthand knowledge of the planning of a specific hazing incident involving a student, or first-hand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge in writing to the principal, Superintendent or designee.

Education Code 37.152

**INDECENCY WITH A CHILD**

- (a) A person commits an offense if, with a child younger than 17 years and not the person's spouse, whether the child is of the same or opposite sex, the person:
- (1) engages in sexual contact with the child or causes the child to engage in sexual contact; or
  - (2) with intent to arouse or gratify the sexual desire of any person:
    - (A) exposes the person's anus or any part of the person's genitals, knowing the child is present; or
    - (B) causes the child to expose the child's anus or any part of the child's genitals.
- (b) It is an affirmative defense to prosecution under this section that the actor:
- (1) was not more than three years older than the victim and of the opposite sex; and
  - (2) did not use duress, force, or a threat against the victim at the time of the offense.
- (c) In this section, "sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:
- (1) any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a child; or
  - (2) any touching of any part of the body of a child, including touching through clothing, with the anus, breast, or any part of the genitals of a person.

Penal Code 21.11

**INDECENT EXPOSURE**

A person commits an offense if he exposes his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended by his act.

Penal Code 21.08

**MANSLAUGHTER**

Recklessly causing the death of an individual, i.e., acting, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's viewpoint.

Penal Code 19.04, 6.03(c)

**MURDER**

[Subsections (a) and (b) are not pertinent to school offenses.] (c)

A person commits an offense of murder if he:

- (1) intentionally or knowingly caused the death of an individual;
- (2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that caused the death of an individual; or
- (3) commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

Penal Code 19.02

**CAPITAL MURDER, CRIMINAL ATTEMPT TO COMMIT CAPITAL MURDER**

(a) A person commits an offense of capital murder if he commits murder as defined under Section 19.02(b) (1)

- (1) the person murders a peace officer or fireman who is acting in the lawful discharge of an official duty and who the person knows is a peace officer or fireman;
- (2) the person intentionally commits the murder in the course of committing or attempting to commit kidnapping, burglary, robbery, aggravated sexual assault, arson, or obstruction or retaliation;
- (3) the person commits the murder for remuneration or employs another to commit the murder for remuneration or the promise of remuneration;
- (4) the person commits the murder while escaping or attempting to escape from a penal institution;
- (5) the person, while incarcerated in a penal institution, murders another:
  - (A) who is employed in the operation of the penal institution; or
  - (B) with the intent to establish, maintain, or participate in a combination or in the profits of a combination;
- (6) the person:
  - (A) while incarcerated for an offense under this section or Section 19.02, murders another; or
  - (B) while serving a sentence of life imprisonment or a term of 99 years for an offense under Section 20.04, 22.021, or 29.03, murders another;
- (7) the person murders more than one person:
  - (A) during the same criminal transaction; or

- (B) during different criminal transactions but the murders are committed pursuant to the same scheme or course of conduct; or
- (8) the person murders an individual under six years of age.

Penal Code 19.03

### **PAGING DEVICE OR CELLULAR TELEPHONE**

A “paging device or cellular telephone” is a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor.

Education Code 37.082 Board Policy FNCE (LEGAL)

### **PERSISTENT MISBEHAVIOR**

“Persistent misbehavior” consists of two or more separate violations of the Student Code of Conduct in general or repeated violations of the same offense.

### **POSSESSION**

“Possession” means having actual or constructive control of an item either on the student’s person, or in a car, locker, bag, or other article under the actual or constructive control of the student, regardless of the student’s knowledge or intent to possess the item.

### **PROHIBITED WEAPONS**

“Prohibited weapons” are defined as follows:

1. 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; any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, the frame or receiver of any such weapon, any firearm muffler or firearm silencer). Penal Code 46.03(a), 46.01(3); 18 U.S.C. § 921(a)(3)
2. A destructive device (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 these devices. The term does not include an antique firearm). 18 U.S.C. § 921(a)(4)
3. An illegal knife as defined by law (knife with a blade over 5 inches, hand instrument designed to cut or stab another by being thrown, dagger, bowie knife, sword, spear). Penal Code 46.01(6), 46.03(a)

4. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine 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, and includes a device designed, made or adapted for delivery or shooting an explosive weapon). Penal Code 46.01(2)
5. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). Penal Code 46.01(9)
6. A short-barrel firearm (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). Penal Code 46.01(10)
7. A switchblade knife 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. Penal Code 46.01 (11)
8. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). Penal Code 46.01(8)
9. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). Penal Code 46.01(12)
10. A chemical dispensing device (device other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of causing an adverse psychological or physiological effect on a human being). Penal Code 46.01(14)
11. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). Penal Code 46.01(16)
12. A club (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). Penal Code 46.01(1), 46.03(a)

A student shall not interfere with normal activities, occupancy, or use of any building or portion of the campus or of any school bus engaged in the transportation of students to and from school-sponsored activities by exhibiting, using, or threatening to exhibit or use a firearm.

Education Code 37.125...

**PUBLIC LEWDNESS**

A person commits an offense if he knowingly engages in any of the following acts in a public place or, if not in a public place, he is reckless about whether another is present who will be offended or alarmed by his:

- (1) act of sexual intercourse;
- (2) act of deviate sexual intercourse;
- (3) act of sexual contact; or
- (4) act involving contact between the person's mouth or genitals and the anus or genitals of an animal or fowl.

Penal Code 21.07

**RETALIATION**

Intentionally or knowingly harms or threatens to harm another by an unlawful act:

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

“Informant” means a person who has communicated information to the government in connection with any governmental function.

“Harm” means anything reasonably regarded as loss, disadvantage, or injury, including harm to another person in whose welfare the person affected is interested.

Penal Code 1.07 (25), 36.06;

**SERIOUS MISBEHAVIOR**

“Serious misbehavior” includes, but is not limited to, the following offenses:

1. Conduct punishable as a felony
2. Assault resulting in bodily injury
3. Making a false report or alarm of bombing, fire, or other emergency involving a public school
4. Terroristic threat involving a public school
5. Offenses relating to marijuana, controlled substances and dangerous drugs
6. Offenses relating to alcohol

7. Offenses relating to abusable glue, volatile chemicals and aerosol paint
8. Indecent exposure
9. Public lewdness
10. Retaliation against a school employee, regardless of where the conduct takes place
11. Using profanity, lewd or vulgar language, or obscene gestures directed at a school employee
12. Lying about the conduct of other students or making false accusations about district employees
13. Failing to comply with campus or district policies
14. Committing extortion, coercion, or blackmail
15. Committing or assisting in a robbery, theft, or burglary
16. Damaging or vandalizing the property of others, including district property, when the value of the damage is less than \$1,500
17. Using or possessing a pellet gun, air-powered rifle, toy gun, or any other instrument that may be perceived by a third party as a firearm
18. Pulling a fire alarm or discharging a fire extinguisher in a building owned or operated by the district when there is not smoke, fire, or danger that requires evacuation
19. Possessing or using martial arts objects
20. Inappropriate physical or sexual contact, whether or not it is consensual
21. Conduct that constitutes sexual harassment or sexual abuse
22. Inappropriate or indecent exposure of a student's body parts
23. Possessing or selling look-alike drugs or items attempted to be passed off as drugs or contraband
24. Gambling of any kind
25. Hazing
26. Repeatedly violating other previously communicated campus or classroom standards of behavior
27. Committing an assault of any kind
28. Vandalism
29. Robbery or theft
30. Aggressive, disruptive action or group demonstration that substantially disrupts or materially interferes with school activities
31. Insubordination
32. Fighting, committing physical abuse, or threatening physical abuse



33. Possession of distribution of pornographic materials
34. Leaving school grounds with permission
35. Making or assisting in making threats, including threats against individuals and bomb threats
36. Sexual harassment of a student or District employee
37. Possession of or conspiring to possess any explosive or explosive device
38. Falsification of records, passes, or other school-related documents
39. Refusal to accept discipline management techniques assigned by the teacher

**SEXUAL ASSAULT**

“Sexual assault” is defined as intentionally or knowingly causing physical sexual contact or sexual penetration of another person without that person’s consent. Sexual assault is without the consent of the other person if the actor compels the other person to submit or participate by use of physical force or violence, or threat of force or violence, and the other person believes the actor has the present ability to execute the threat; or the other person cannot consent.

Penal Code 22.011

**TERRORISTIC THREAT**

A “terroristic threat” is a threat to commit any offense involving violence to any person or property with the intent to:

- (1) cause a reaction of any type to his threat by an official or volunteer agency organized to deal with emergencies
- (2) place any person in fear of imminent serious bodily injury; or
- (3) prevent or interrupt the occupation or use of a building; room; place of assembly; place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place; or
- (4) cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service.

Penal Code 22.07

**UNDER THE INFLUENCE**

“Under the influence” means not having the normal use of mental or physical faculties; however the student need not be legally intoxicated.

District officials may determine that a student is under the influence based on information from other students, employees, or patrons or the student’s admission that student used a prohibited substance (alcohol, dangerous drug, controlled substance, or any other intoxicant) at school or recently enough prior to being at school or a school activity that

the student would experience the effects of using the substance while at school or the school activity.

Policy FNCF (LOCAL)

**USE** “Use” means a student has voluntarily introduced into his or her body by any means a prohibited substance recently enough that it is detectable by the student’s physical appearance, actions, breath, or speech. Policy FNCF (LOCAL)

## **Family Code**

### **§ 52.041. REFERRAL OF CHILD TO JUVENILE COURT AFTER EXPULSION.**

- (a) A school district that expels a child shall refer the child to juvenile court in the county in which the child resides.
- (b) The board of the school district or a person designated by the board shall deliver a copy of the order expelling the student and any other information required by Section 52.04 on or before the second working day after the date of the expulsion hearing to the authorized officer of the juvenile court.
- (c) Within five working days of receipt of an expulsion notice under this section by the office or official designated by the juvenile board, a preliminary investigation and determination shall be conducted as required by Section 53.01.
- (d) The office or official designated by the juvenile board shall within two working days notify the school district that expelled the child if:
  - (1) a determination was made under Section 53.01 that the person referred to juvenile court was not a child within the meaning of this title;
  - (2) a determination was made that no probable cause existed to believe the child engaged in delinquent conduct or conduct indicating a need for supervision;
  - (3) no deferred prosecution or formal court proceedings have been or will be initiated involving the child;
  - (4) the court or jury finds that the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case has been dismissed with prejudice; or
  - (5) the child was adjudicated but no disposition was or will be ordered by the court.
- (e) In any county where a juvenile justice alternative education program is operated, no student shall be expelled without written notification by the board of the school district or its designated agent to the juvenile board's designated representative. The notification shall be made not later

than two business days following the board's determination that the student is to be expelled. Failure to timely notify the designated representative of the juvenile board shall result in the child's duty to continue attending the school district's educational program, which shall be provided to that child until such time as the notification to the juvenile board's designated representative is properly made.

Added by Acts 1995, 74th Leg., ch. 262, § 20, eff. Jan. 1, 1996.

Amended by Acts 1997, 75th Leg., ch. 1015, § 16, eff. June 19, 1997; Acts 2001, 77th Leg., ch. 1297, § 17, eff. Sept. 1, 2001.

## **Health & Safety Code**

### **§ 485.031. POSSESSION AND USE.**

(a) A person commits an offense if the person inhales, ingests, applies, uses, or possesses an abusable volatile chemical with intent to inhale, ingest, apply, or use the chemical in a manner:

(1) contrary to directions for use, cautions, or warnings appearing on a label of a container of the chemical; and

(2) designed to:

(A) affect the person's central nervous system;

(B) create or induce a condition of intoxication, hallucination, or elation; or

(C) change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.

(b) An offense under this section is a Class B misdemeanor.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

Amended by Acts 2001, 77th Leg., ch. 1463, § 2, eff. Sept. 1, 2001.

### **§ 485.032. DELIVERY TO A MINOR**

(a) A person commits an offense if the person knowingly delivers an abusable volatile chemical to a person who is younger than 18 years of age.

(b) It is a defense to prosecution under this section that:

(1) the abusable volatile chemical that was delivered contains additive material that effectively discourages intentional abuse by inhalation; or

(2) the person making the delivery is not the manufacturer of the chemical and the manufacturer of the chemical failed to label the chemical with the statement of principal hazard on the principal display panel "VAPOR HARMFUL" or other labeling requirement subsequently established under the Federal Hazardous Substances Act (15 U.S.C. Section 1261 et seq.), as amended, or regulations subsequently adopted under that Act.

(c) It is an affirmative defense to prosecution under this section that:

(1) the person making the delivery is an adult having supervisory responsibility over the person younger than 18 years of age and:

(A) the adult permits the use of the abusable volatile chemical only under the adult's direct supervision and in the adult's presence and only for its intended purpose; and

(B) the adult removes the chemical from the person younger than 18 years of age on completion of that use; or

(2) the person to whom the abusable volatile chemical was delivered presented to the defendant an apparently valid Texas driver's license or an identification certificate, issued by the Department of Public Safety of the State of Texas and containing a physical description consistent with the person's appearance, that purported to establish that the person was 18 years of age or older.

(d) Except as provided by Subsections (e) and (f), an offense under this section is a state jail felony.

(e) An offense under this section is a Class B misdemeanor if it is shown on the trial of the defendant that at the time of the delivery the defendant or the defendant's employer held a volatile chemical sales permit for the location of the sale.

(f) An offense under this section is a Class A misdemeanor if it is shown on the trial of the defendant that at the time of the delivery the defendant or the defendant's employer:

(1) did not hold a volatile chemical sales permit but did hold a sales tax permit for the location of the sale; and

(2) had not been convicted previously under this section for an offense committed after January 1, 1988.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, § 2.06, eff. Sept. 1, 1994. Renumbered from V.T.C.A., Health & Safety Code § 485.033 and amended by Acts 2001, 77th Leg., ch. 1463, § 2, eff. Sept. 1, 2001.

**§ 485.033. INHALANT PARAPHERNALIA**

(a) A person commits an offense if the person knowingly uses or possesses with intent to use inhalant paraphernalia to inhale, ingest, or otherwise introduce into the human body an abusable volatile chemical in violation of Section 485.031.

(b) A person commits an offense if the person:

(1) knowingly:

(A) delivers or sells inhalant paraphernalia;

(B) possesses, with intent to deliver or sell, inhalant paraphernalia; or

(C) manufactures, with intent to deliver or sell, inhalant paraphernalia; and

(2) at the time of the act described by Subdivision

(1), knows that the person who receives or is intended to receive the paraphernalia intends that it be used to inhale, ingest, apply, use, or otherwise introduce into the human body a volatile chemical in violation of Section 485.031.

c) An offense under Subsection (a) is a Class B misdemeanor, and an offense under Subsection (b) is a Class A misdemeanor.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, § 206, eff. Sept. 1, 1991. Renumbered from V.T.C.A., Health & Safety Code § 485.034 and amended by Acts 2001, 77th Leg., ch. 1463, § 2, eff. Sept. 1, 2001.



**The Student Code of Conduct booklet is available in Spanish upon request.**

**Si usted desea una copia de Manual de Codigos de conducta del estudiante puede pedirla en la oficina de la escuela de su hijo(a).**

## **Legal Notice**

The San Benito Consolidated Independent School District does not discriminate on the basis of race, religion, color, national origin, sex, or disability in providing education or providing access to benefits of education services, activities, and programs, including vocational programs in accordance with Title VI of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973, as amended; and Title II of the Americans with Disabilities Act.