

BLACKWELL  
CONSOLIDATED  
INDEPENDENT SCHOOL DISTRICT  
2021-2022  
STUDENT CODE OF CONDUCT

ADOPTED BY THE BCISD BOARD OF TRUSTEES  
AUGUST, 2021

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# Acknowledgement

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Dear Student and Parent:

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

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

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

Thank you.

Abe Gott, Superintendent

We acknowledge that we have been offered the option to receive a paper copy of the Blackwell Student Code of Conduct for the 2021–2022 school year or to electronically access it on the district's Web site at [www.blackwellhornets.org](http://www.blackwellhornets.org). 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 and the Student Handbook.
- Accept responsibility for accessing the Student Code of Conduct and the Student Handbook on the district's Web site.

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

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

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

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

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

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

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

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

## **Purpose of a Student Code of Conduct \_\_\_\_\_**

The Student Code of Conduct that follows is the District's response to the requirements of Chapter 37 of the Texas Education Code. The law requires the District to establish standards of student conduct and to identify the circumstances under which a student may be removed from a classroom, campus, or disciplinary alternative education program, transferred to a disciplinary alternative education program, suspended, or expelled. The Code provides information to parents and students regarding expectations for behavior, consequences of misconduct, and procedures for administering discipline.

We provide you a copy of or access to the Code annually; a copy is also available for review in the principal's office of each campus in the District. The Code is posted on the District's website [www.blackwellhornets.org](http://www.blackwellhornets.org) and can be accessed or printed at any time from that site. If you do not have access to a computer, the principal's office at your child's campus will print one for you, upon request.

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.

# Expectations for Student Behavior \_\_\_\_\_

Each student is expected to:

- Demonstrate courtesy and respect for others.
- Behave in a responsible manner.
- Attend all classes, regularly and on time.
- Be prepared for each class; take appropriate materials and assignments to class.
- Be groomed and dressed appropriately, as articulated in the Blackwell CISD student handbook.
- Obey all campus and classroom rules.
- Respect the rights and privileges of other students and of teachers and other District staff.
- Respect the property of others, including District property and facilities.
- Cooperate with or assist the school staff in maintaining safety, order and discipline.
- Avoid violations of the Student Code of Conduct.

## General Authority to Impose Discipline \_\_\_\_\_

The Texas Legislature has delegated the authority to manage independent school districts and discipline students to the Board of Trustees and its employees. The school has the authority to administer discipline whenever the interest of the school is involved, on or off school property, in conjunction with or independent of classes and school-sponsored activities. The District's disciplinary authority applies:

- during the regular school day and while the student is going to and from school on District transportation;
- on or within 300 feet of school property;
- while the student is participating in any activity during the school day on school grounds;
- during lunch (whether on or off school campus);
- while the student is in attendance at any school-related activity of the District, regardless of time or location;
- while the student is on school property of another Texas school district or attending a school activity of a school in another Texas school district;
- for any school-related misconduct, regardless of time or location;
- when the student retaliates or threatens retaliation against a school employee, regardless of time and location;
- when the district has a reasonable belief that the student has engaged in conduct that would be punishable as a felony, as provided by Texas Education Code § 37.006;
- when the student is involved in criminal mischief on or off school property or at a school-related event;
- when the student makes a false alarm or report of bombing, fire, or other emergency involving a public school, regardless of time or location;
- when the student makes a terroristic threat involving a public school, regardless of time or location; and
- when the student commits aggravated robbery against another student, regardless of time or location.

All District facilities, any other real property that is owned, rented, or leased by the District, and the area within 1,000 feet of any of those facilities is a **gang-free zone** under state law. The penalties from the juvenile or criminal justice systems for certain organized criminal activity occurring within a “gang-free zone” will be enhanced. See “Gang-Free Zones” in the Definitions, p. 44, for more complete information.

## **Discipline of Students with Disabilities** \_\_\_\_\_

Federal law regarding the education of students with disabilities (IDIEA and Section 504) imposes specific procedures and limitations on the discipline of students with disabilities. For further information on this topic, please contact the principal, who will direct you to special education staff, or the superintendent's office. Information is also available to parents of students with disabilities in the "Explanation of Rights and Procedural Safeguards of a Parent with a Child with Disabilities in School," which is provided to parents at the time of admission to special education and annually, upon initial referral, upon request for an evaluation, upon the filing of a request for a special education due process hearing, or upon request by a parent.

Kirk Stroman, Director of Special Education 325-235-8621
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## **Prohibited Conduct** \_\_\_\_\_

A significant part of the district's educational mission is to inculcate or instill the habits and manners of civility and to teach students the boundaries of socially appropriate behavior. In furtherance of this mission, students will be subject to disciplinary consequences if they engage in any of the following prohibited conduct while they are subject to the school's jurisdiction as described in this Code of Conduct:

Scholastic dishonesty, which includes, but is not limited to, cheating on a test or any other assignment, plagiarism, or unauthorized collaboration with another person in preparing written work or any other assignment for which a grade is awarded.

1. Conduct that can cause injury to person or property
2. Leaving classrooms, school grounds, or school-sponsored events without permission
3. Using profanity, lewd or vulgar language, or obscene gestures
4. Scuffling or fighting or other inappropriate physical contact that does not meet the definition of simple assault
5. Stealing
6. Lying about the conduct of other students or making false accusations about district employees
7. Disobeying school rules about conduct on school buses
8. Failing to comply with reasonable directives given by school personnel
9. Failing to comply with campus or district policies
10. Bullying or harassment, which may include the following offenses:

- a. 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
  - b. Making ethnic, racial, or religious slurs or any other harassment based on race, color, national origin, religion, or disability
  - c. Verbal abuse or derogatory or offensive remarks addressed to others
  - d. Damaging or vandalizing property of other students
  - e. Conduct that constitutes sexual harassment or sexual abuse whether the conduct is by word, gesture, or any other sexual conduct, including without limit, requests for sexual favors
  - f. Dating violence, meaning the intentional use of physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person in a dating relationship
12. Making a hit list, i.e., a list of people targeted to be harmed using a firearm, knife, or any other object to be used with intent to cause bodily harm
  13. Harassing or threatening school employees or volunteers through inappropriate, offensive, or sexually explicit or suggestive comments made orally in person or by telephone or in writing through letters, emails, text messages, journals, or in any other way
  14. Committing or assisting in a robbery, theft, or burglary
  15. Any conduct that gives school officials reasonable cause to believe that the conduct will substantially disrupt the school program or incite violence
  16. Damaging or vandalizing district property or property of any school employee or volunteer
  17. Possessing stereo head sets, CD players, cassette players, MP3 players, iPods, electronic games, or any other contraband entertainment device without permission
  18. Possessing or displaying sexually explicit photographs, films, or images
  19. Possessing a paging device, cellular telephone, camera telephone, hand-held computer or PDA, video or voice-recording device or a similar device without permission
  20. Using a paging device, cellular telephone, camera telephone, hand-held computer or PDA, or a similar device without permission or in any way, such as recording a voice or image, that invades the privacy of others or without the consent of those being recorded.
  21. Using or possessing a taser, stun-gun, or similar device
  22. Using or possessing a pellet gun, air-powered rifle, toy gun, or any other instrument that may be perceived by a another person as a firearm



23. Using or exhibiting school supplies (i.e., pencils, pens, scissors, etc.), or any other item in a manner that threatens to inflict or actually inflicts bodily harm to another person
24. Possessing drug paraphernalia (roach clips, rolling papers, needles, baggies with residue, razor blades, pipes, etc.)
25. 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])
26. Possessing or using fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device
27. Inappropriate or offensive physical or sexual contact, whether or not it is consensual, e.g., public displays of affection
28. Inappropriate exposure of a student’s body parts, including exposure of any portions of the body that are ordinarily covered by clothing or required to be covered by the dress code
29. Behaving in any way that disrupts the school environment or educational process
30. Possessing, smoking, or using tobacco products, tobacco substitutes, or non-smoking tobacco products
31. Possessing or using matches or a lighter
32. Using a knife with a blade of 5 ½ inches or less
33. Truancy, i.e., skipping school or cutting class without the parent’s or school’s knowledge or permission
34. Possessing or using any substance represented to be an illegal drug, a dangerous drug, a controlled substance, or alcohol
35. Violating computer or acceptable use policies, rules, or agreements
36. Gambling of any kind
37. Violating safety rules
38. Violating dress or grooming standards
39. Being a member of, pledging to become a member of, or soliciting another person to join or pledge a public school fraternity, sorority, secret society, or gang
40. Gang-related behavior or activity
41. Attempting to commit any serious offense
42. Assisting, encouraging, promoting, or attempting to assist in the commission of a serious offense
43. Failing to report the commission of a serious offense by another student to a school official

44. Hazing
45. Making a false alarm or report of bombing, fire, or other emergency involving a public school, which includes the following offenses:
  - a. Pulling a fire alarm or discharging a fire extinguisher in a building owned or operated by Blackwell CISD, when there is no smoke, fire, or danger that requires evacuation
  - b. Calling 911 when no emergency exists
46. Making a terroristic threat involving a public school
47. Threatening death or injury to other student(s), school employee(s), or volunteer(s)
48. Retaliating against any school employee or volunteer
49. Repeatedly violating previously communicated campus or classroom standards of behavior
50. Violating DAEP rules while assigned to the DAEP
51. Engaging in any conduct punishable as a felony, which includes the offenses of:
  - a. causing an employee to be in contact with the blood, bodily fluids, saliva, urine, or feces of any person or animal with the intent to assault, harass, or alarm
  - b. placing graffiti on any tangible property owned by the district
  - c. distributing, selling, delivering, or attempting to distribute, sell or deliver any substance represented to be an illegal drug, a dangerous drug, or a controlled substance
  - d. online harassment
52. Committing an assault of any kind
53. Selling, giving, or delivering to another person or possessing, using or being under the influence of marijuana or a controlled substance or a dangerous drug
54. Selling, giving, or delivering 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
55. Engaging in conduct that would be an offense relating to an abusable volatile chemical
56. Engaging in conduct that would be public lewdness or indecent exposure
57. Engaging in conduct that would be disorderly conduct
58. Using, exhibiting, or possessing a firearm, except as permitted for participation or preparation for a school-sanctioned shooting sports

educational activity sponsored by Texas Parks & Wildlife and that is not located on school property

59. Using, exhibiting, or possessing an illegal knife
60. Using, exhibiting, or possessing a club
61. Using, exhibiting, or possessing a prohibited weapon of any kind
62. Engaging in conduct that would be aggravated assault, sexual assault, or aggravated sexual assault
63. Engaging in conduct that would be arson
64. Engaging in conduct that would be murder, capital murder, or criminal attempt to commit murder or capital murder
65. Engaging in conduct that would be indecency with a child
66. Engaging in conduct that would be aggravated kidnapping
67. Engaging in conduct that would be aggravated robbery against another student
68. Engaging in conduct that would be manslaughter
69. Engaging in conduct that would be criminally negligent homicide
70. Engaging in conduct that would be deadly conduct
71. Engaging in conduct that would be continuous sexual abuse of a young child or children

## **Disciplinary Consequences** \_\_\_\_\_

In assessing all discipline, administrators will consider:

1. The seriousness of the offense.
2. The student's age.
3. The student's attitude.
4. The potential effect of the misconduct on the school environment.

In making a decision concerning suspension, removal to the DAEP, expulsion, or placement in a JJAEP, regardless of whether the decision concerns mandatory or discretionary disciplinary action, administrators shall also consider:

1. Whether the student was defending himself or herself.
2. The student's intent or lack of intent at the time the student engaged in the conduct.
3. The student's disciplinary history.

4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, but only as required by federal law and regulations related to discipline of students with disabilities.

The following discipline management techniques may be used, alone or in combination, for misbehavior that violates the Student Code of Conduct or campus or classroom rules:

- Oral 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
- Counseling by teachers, counselors, or administrative personnel
- Parent-teacher or parent-administrator conferences
- Confiscation of items that disrupt the educational process. The principal or designee will determine the period of confiscation, generally not to exceed the end of the school year
- Confiscation of paging devices, cellular telephones, camera phones, and the like. The District will charge the student or parent an administrative fee of \$15 before releasing a confiscated device. The District may also dispose of a confiscated paging device, cellular phone, camera phone, or similar device in any reasonable manner after 30 days notice to the parent and company whose name and address or phone appear on the device.
- Grade reductions as permitted by policy
- Rewards or demerits
- Behavioral contracts
- Sending the student to the office or other assigned area
- Assigned school duties other than class tasks
- Withdrawal of privileges, such as participation in extracurricular activities, participation in graduation exercises, and eligibility for seeking and holding honorary offices, and/or membership in school-sponsored clubs or organizations
- Consequences or penalties identified in individual student organizations' codes of conduct, bylaws, constitutions, or rules
- Withdrawal or restriction of bus privileges
- School-assessed and school-administered probation
- Citation or ticket from School Resource Officers or school security personnel

- Referral to outside agency and/or legal authority for criminal prosecution in addition to disciplinary measures imposed by the District

The following disciplinary measures may be used, alone or in combination with each other or any of the above techniques, for misbehavior that violates the Student Code of Conduct or campus or classroom rules:

- Corporal Punishment
- In-school suspension
- Detention
- Suspension from school, not to exceed three school days at one time
- Formal removal from class by the teacher
- Removal to an disciplinary alternative education program
- Extension of disciplinary alternative education program removal term for additional offenses while in the alternative program
- Expulsion from school

***What minimum procedures will be provided each student facing discipline other than detention?*** Each student will be told what infraction the administrator believes the student to have committed. Each student will then be given the opportunity to tell his or her side of the incident. The student's admission of the offense negates the need for further investigation or procedures, though the administrator may seek further information if desired.

***How and when will we contact you about disciplinary action?*** Parents are responsible to provide to the campus administration each year the address and telephone number(s) at which parents can be reached and to update those numbers as necessary during the school year. School officials will use the information provided by the parent to contact parents about disciplinary matters. Parents will be notified of code of conduct violations that can result in suspension, removal to DAEP, or expulsion in a reasonable amount of time by telephone or in writing. Campus administrators may, but are not required to, notify parents of incidents by telephone on the day of the incident.

***What consequences will occur when a student is an accomplice in an offense?*** Any student who assists, encourages, promotes, or attempts to assist in the commission of a serious offense will receive the same punishment as a student who actually engages in the conduct.

***What are the expectations for student reporting of offenses?*** A student who has knowledge that another student or students have committed a serious offense is expected to report that information to a school official. If the administrator learns that a student failed to report the commission of a serious offense, the student will be subject to a lesser disciplinary consequence, either

one step lower than that imposed for the serious offense of which the student had knowledge or a shorter term of discipline.

## **Physical Restraint**

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In some circumstances, it may be necessary for a district employee to use force, but not deadly force, to physically restrain a student in order to lead, guide, and direct the student or 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, to restrain an irrational student, or to maintain order and discipline in the class or activity.

## **Corporal Punishment**

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

### ***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. The student shall be told the reason corporal punishment is being administered.
2. Corporal punishment shall be administered only by the principal, assistant principal, or a teacher after discussion with the Superintendent's designee.
3. The instrument to be used in administering corporal punishment shall be approved by the principal or a designee.
4. 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.

Coaches, physical education teachers, and classroom teachers supervising students outdoors during recess or lunch may use reasonable physical exercises or activities as a measure to enforce class or team rules in their classes and activities, to encourage moderate or vigorous physical activity, and these exercises or activities are not considered to be "corporal punishment." No other employees may use exposure to the physical elements, e.g., standing outside in heat or cold, or physical exertion, e.g., running, sit-ups, etc., as a disciplinary measure.

## **In-School Suspension**

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For minor infractions of the Student Code of Conduct or campus or classroom rules, teachers or administrators may assign a student to one or more days of in-school suspension where students will complete assignments given them by their regular teachers. The length of the assignment will be left to the discretion of the administrator. Students may not participate in any extra-curricular events that fall within the days (or evenings) of a suspension placement.

If we place your child in in-school suspension for an extended period of time, we will offer an opportunity for the student to complete the courses in which he or she was enrolled at the time of the placement before the beginning of the next school year. This opportunity may be by summer school, correspondence courses, distance learning, or other avenues. You will be responsible for the ordinary charges associated with the program.

## **Detention**

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For minor infractions of the Student Code of Conduct or campus or classroom rules, teachers or administrators may detain students after school hours or during lunch on one or more days.

When detention is assigned, notice shall first be given to the student's parent to inform him or her of the reason for the detention and permit arrangements for the necessary transportation. Except in the case of a student who is 18 years of age or older, the detention shall not begin until the parents have been notified. The student's parents, if the student is a minor, may be required to provide transportation when the student has been assigned to detention.

## **Suspension**

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***When and for how long will a student be suspended?*** The principal or other appropriate administrator may suspend a student for a maximum of three school days at a time if the student violates the Code of Conduct by engaging in any prohibited conduct. Both the length of the suspension and restrictions on participation in school-sponsored or school-related extracurricular activities during the suspension are left to the discretion of the administrator.

***How many times can a student be suspended?*** Neither state law nor this Code of Conduct impose a limit on the number of times a student may be suspended during a semester or school year.

## **Formal Removal from Class by Teacher**

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***What is the difference between being sent to the office and formal teacher removal?*** Students may be sent to the principal's office for committing minor classroom infractions. However, a student who has been documented to

repeatedly interfere with a teacher's ability to communicate effectively with the students in the class or with the ability of the students to learn, or who behaves in a manner the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students or with the ability of other students to learn will be formally removed from the teacher's classroom.

***What is the process for formally removing a student from a teacher's classroom?*** Within three days of the removal, a conference will be held between the principal or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, and the student. Pending the conference, the principal may place the student in another appropriate classroom, in-school suspension, or a disciplinary alternative education program. Following the conference, the principal will order the placement of the student. The principal will not return the student to the teacher's class without that teacher's consent, unless the Placement Review Committee determines that such placement is the best or only alternative.

***Are there any special limitations associated with formal teacher removal?*** If a teacher removes a student from class because the student committed any kind of assault against the teacher, the student may not be returned to the teacher's class without the teacher's consent.

## **Disciplinary Alternative Education Program\_\_\_\_\_**

### **General DAEP Information**

***What is a DAEP?*** The District provides for a Disciplinary Alternative Education Program (DAEP) for students who have violated this student code of conduct (see page 21). The DAEP:

1. is in a setting other than the student's regular classroom;
2. is located off a regular school campus;
3. separates students in the DAEP from students in the regular program;
4. separates elementary school students assigned to DAEP from secondary school students assigned to DAEP;
5. focuses on English language arts, mathematics, science, history, and self-discipline;
6. provides for students' educational and behavioral needs;
7. provides supervision and counseling;
8. employs only teachers who are fully certified; and
9. provides at least a 7-hour school day, including lunch and other breaks, but not longer than 10 hours each day.



No student who has engaged in behavior warranting a DAEP assignment will be placed in an unsupervised setting, other than an out-of-school suspension pending the DAEP conference. Blackwell CISD participates in a cooperative or consortium with other school districts to serve those students who are removed from the regular program, either because the statute requires it or because the BCISD Code of Conduct requires it.

***Where is the DAEP? Will it operate during the school day? Is transportation provided?*** Blackwell CISD's disciplinary alternative education program is located in Colorado City, Texas, and operates between the hours of 8 AM and 3 PM. District transportation is provided, and parents are responsible for making sure students attend while assigned. Failure to attend the DAEP is a violation of compulsory attendance laws, and students and parents may be prosecuted for failure to attend while assigned.

***What kind of courses are taught at the DAEP?*** Instruction in the DAEP will focus on English language arts, mathematics, science, history, and self-discipline. The District is not required to provide electives, foreign languages, or honors or advanced courses of any kind at the DAEP.

The District will provide an opportunity for students who have been placed in the DAEP to complete a foundation curriculum course in which the student was enrolled at the time of removal 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 removal order stating a specific term of placement that is the number of successful school days that must be served. Students will be credited with a "successful day" of DAEP assignment if the student is present, completes all assigned work, follows all rules of the DAEP, and engages in no additional violations of the Student Code of Conduct. The length of all DAEP assignments is at the discretion of the administration, within the guidelines stated below.

***What are the guidelines for the term of DAEP placement?*** A removal to DAEP may be for as brief a time as 10 school days up to one full year from the date of the order. The administrator issuing the removal order will use his or her best professional judgment, taking into account the factors considered in all disciplinary actions, in setting the term of a DAEP placement.

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. Serious offenses occurring during the last grading period of the school year will generally extend into 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.

***Are some offenses subject to a different length of assignment?*** Yes. A student who has received punishment through the criminal or juvenile justice system for sexually assaulting another student, regardless of whether the conduct occurred on or off school property, and who cannot be assigned to a campus other than a campus where the victim of the assault is assigned may be assigned to the DAEP for so long as both students are enrolled in the district.

**SCHOOL-RELATED ACTIVITIES:** Students assigned to a DAEP may not attend or participate in extracurricular activities 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 will not be placed in an disciplinary alternative education program for any reason other than bringing a firearm to school.

**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 has authority 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 Blackwell 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 that the student was placed in a disciplinary alternative education program, Blackwell CISD may continue the DAEP placement under the terms of the order provided by the sending school district.

If a student transfers into this District from an open-enrollment charter school or from another state and the District receives a copy of the removal order in the records from the other school, the district may enforce the terms of that removal order, provided the grounds for removal to DAEP in the charter school or other state are grounds for removal in the District.

**GRADUATING SENIORS IN THE DAEP:** When a student is placed in the DAEP during the 12<sup>th</sup> grade, the District may allow that student to participate in graduation ceremonies, provided that all prerequisites for graduation are met and provided that the student has successfully completed all of the days that the student was placed in the DAEP. If the student in question has unexcused absences or has not completed his or her days in the DAEP for any other reason, such as withdrawal or transfer to another school district, the student will not be allowed to participate in graduation ceremonies. Furthermore, senior students initially assigned to the DAEP during the final grading period of the school year generally will not be permitted to participate in graduation ceremonies or activities. Any decision concerning participation in graduation ceremonies will be made by the student's home campus principal, whose decision is final.

## **Conduct That Warrants DAEP Placement**

**DEFINITIONS:** Definitions of offenses and other key terms are found in the Definition section of the Code, beginning on page 36.

**SCHOOL-RELATED CONDUCT:** The campus principal or other appropriate administrator will place a student in DAEP if the student:

- makes a false report of bombing, fire, or other emergency involving a public school, regardless of when the false report is made or the place from which the false report is made
- makes a terroristic threat involving a public school, regardless of when the threat is made or the place from which the threat is made.

The campus principal or other appropriate administrator will place a student in DAEP if the student commits 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:

- Conduct punishable as a felony
- Assault resulting in bodily injury
- Offenses relating to marijuana, controlled substances, and dangerous drugs
- Offenses relating to alcohol
- Offenses relating to abusable volatile chemicals
- Indecent exposure
- Public lewdness
- Retaliation against a school employee, regardless of where the conduct takes place
- Serious or persistent misbehavior, subject to administrative discretion as described in the following section

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.

***What is “serious offense” or “persistent misbehavior?”*** “Serious offense” includes the following offenses, which will always result in DAEP placement:

- Conduct punishable as a felony, which includes without limitation:
  - distribution of any substance represented to be an illegal drug, a dangerous drug, or a controlled substance
  - placing graffiti on any tangible property owned by the district
  - harassment of a public servant, i.e., causing an employee to be in contact with the blood, bodily fluids, saliva, urine, or feces of any person or animal with the intent to assault, harass, or alarm
  - online harassment
- Assault resulting in bodily injury
- Making a false report of bombing, fire, or other emergency involving a public school, which includes the following offenses:
  - pulling a fire alarm or discharging a fire extinguisher in a building owned or operated by the district when there is no smoke, fire, or danger that requires evacuation
  - calling 9-1-1 when no emergency exists
- Terroristic threat involving a public school
- Offenses relating to marijuana, controlled substances and dangerous drugs
- Offenses relating to alcohol

- Offenses relating to abusable glue, volatile chemicals and aerosol paint
- Indecent exposure
- Public lewdness
- Retaliation against a school employee, regardless of where the conduct takes place

Serious misconduct also includes the following offenses. The campus administrator will exercise discretion in making assignments for the serious offenses listed here and will consider all the facts and circumstances in determining appropriate disciplinary action:

- 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
- Failing to comply with campus or district policies
- Violating computer or acceptable use policies, regulations, or guidelines
- Bullying or harassment, which include the following offenses:
  - 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
  - Making ethnic, racial, or religious slurs or any other harassment based on race, color, national origin, religion, or disability, against students, employees, or volunteers
  - Verbal abuse or derogatory or offensive remarks addressed to others
  - Damaging or vandalizing property of other students
  - Conduct that constitutes sexual harassment or sexual abuse whether the conduct is by word, gesture, or any other sexual conduct, including without limit, requests for sexual favors
  - Dating violence, meaning the intentional use of physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person in a dating relationship
- Making a hit list , i.e., 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
- Threatening death or injury to other student(s), school employee(s), or volunteer(s)
- Harassing or threatening school employees or volunteers through inappropriate, offensive, or sexually explicit or suggestive comments

made orally in person or by telephone or in writing through letters, emails, text messages, journals, or in any other way

- Possessing or displaying sexually explicit photographs, films, or images
- Committing or assisting in a robbery, theft, or burglary
- Damaging or vandalizing district property other than graffiti, when the value of the damage is less than \$1,500
- 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
- Using or possessing a taser, stun-gun, or similar device
- Conduct that can cause injury to another person
- Possessing or using martial arts objects, other than those that would be prohibited weapons, unless the conduct amounts to an assault resulting in bodily injury (See also Expulsion for prohibited weapons)
- Any misbehavior that gives school officials reasonable cause to believe that the conduct will substantially disrupt the school program or incite violence
- Inappropriate physical or sexual contact, whether or not it is consensual, e.g., public displays of affection
- Inappropriate exposure of a student's body parts, including exposure of any portions of the body that are ordinarily covered by clothing or required to be covered by the dress code
- Possessing or using any substance represented to be an illegal drug, a dangerous drug, a controlled substance, or alcohol
- Gambling of any kind
- Gang-related behavior of any kind
- Hazing
- Repeatedly violating other previously communicated campus or classroom standards of behavior
- Committing an assault of any kind

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

**CONDUCT UNRELATED TO SCHOOL - TITLE 5 OFFENSES:** A student will be removed from class and placed in an disciplinary alternative education program based on off-campus criminal conduct punishable as a felony under Title 5, Texas Penal Code. See the chart on page 52 in the Definitions for a list of these offenses. 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.

**CONDUCT UNRELATED TO SCHOOL - NON-TITLE 5 OFFENSES:** A student will be removed from class and placed in an 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.

**RELATIONSHIP OF CRIMINAL OR JUVENILE 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 or juvenile justice system. However, in some circumstances, the district may re-assess the punishment based on information from law enforcement authorities.

***When will the school contact law enforcement about a student's conduct?*** The principal or designee is required to notify the sheriff's department or the city police department if he or she has reasonable grounds to believe that a student or anyone else has engaged in certain criminal conduct on school property or at a school activity. Those activities include any conduct that would be an offense listed in Government Code § 508.149 (see Definitions); deadly conduct; a terroristic threat; drug, paraphernalia, or marijuana offenses; possession of a prohibited weapon; organized criminal activity; criminal conduct that would support mandatory expulsion. The District may contact law enforcement officials at any time the administrator determines that their presence will assist the District.

***Does a student have to be arrested or convicted of a felony offense before the District can place the student in an DAEP?*** No. A student may be removed from class and placed in an 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 prosecution, 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 or juvenile justice system. The administration also has the authority to expel the student to the DAEP or a JJAEP in which the district participates. See PERMISSIVE EXPULSION TO JJAEP OR DAEP OF STUDENTS WITH CRIMINAL HISTORIES in the Expulsion portion of the Code for more complete information.

***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. 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.

**This review is not necessary if the reason for the removal is an offense that must result in DAEP placement because (1) it is a false report or terroristic threat or (2) the conduct occurred on or within 300 feet of school property or at any school-related activity or event, regardless of time or place. The student will ordinarily remain in the DAEP until the term of removal has been completed, regardless of additional information from an appropriate law enforcement agency.**

***If the student is not being prosecuted for the out-of-school 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 Blackwell 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.

**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 an 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.

**PLACEMENT OF STUDENTS WHO ARE REGISTERED SEX OFFENDERS:** A student who is currently required to register as a sex offender may be removed from the regular classroom and placed in another setting according to the requirements of state law.

A student who is a registered sex offender under any form of court supervision must be placed in the DAEP or a JJAEP in which the District participates, in accordance with the District's agreement with the juvenile board or in accordance with a court order, for at least one semester. If a student who is a registered sex offender under court supervision moves or transfers into the District, the District may require the student to complete an additional semester in the appropriate alternative setting without conducting a review or it may count any time the student has been in an alternative setting toward the mandatory one semester assignment.

A student who is a registered sex offender and who is not under any form of court supervision may be placed in the DAEP or a JJAEP in which the District participates, in accordance with the District's agreement with the juvenile board or in accordance with a court order, for at least one semester or in the regular classroom. However, the District may not place a student in the regular classroom if District officials determine that 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.

At the end of the first semester of placement in an appropriate alternative setting, the District shall convene a committee to review the student's placement. The committee will be composed of a teacher from the student's home campus, the student's parole, probation, or juvenile probation officer, an instructor from the alternative setting, the principal of the home campus or other person designated by the District, and a District counselor. The committee by majority vote will determine a recommendation to be made to the superintendent or designee regarding whether the student should continue placement in the alternative setting or be returned to the regular campus.

The superintendent or designee shall follow the committee's recommendation on placement unless the superintendent or designee determines that the student's presence in the regular classroom (1) threatens the safety of other teachers and students, (2) will be detrimental to the educational process, or (3) is not in the best interest of the District's students. If the superintendent or designee determines that the student should remain in the alternative setting, then before the beginning of the next school year, and any additional school years, the District must convene the committee to review and determine the student's placement, using the same standards set out in this paragraph.

A student who is a registered sex offender not under court supervision who moves or transfers into the District will be placed in the regular classroom or an appropriate alternative setting using the committee recommendation and review process described above.

The student or parent may appeal the District's decision regarding placement by asking for a conference among the superintendent or designee, the parent, and the student. The conference is limited to the factual question of whether the student is or is not a registered sex offender. If the District determines that the student is a registered sex offender, then student will be placed as described above, and that decision is final and cannot be appealed.

An ARD committee will make decisions about placement of a student with disabilities who is a registered sex offender.

## **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 principal or other administrator will tell the student briefly why he or she is being removed to that program and explain that the student will 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 the student is charged with the offense, the principal or other administrator will 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.

***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 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 memorializing 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, i.e., a written removal order.

***What information will be provided to the juvenile authorities?*** When a student is placed in the DAEP for a mandatory placement reason, a copy of the removal order, the child and parent's names and address, name 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.

### **Emergency Placement**

A campus administrator or the superintendent may order a student immediately placed in a disciplinary alternative education program if his or her 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 will be told of the reason for the placement, which must be one of the District's reasons for DAEP placement under this Code.

### **Appeal of DAEP Placement**

**The student remains in the DAEP during all appeals.**

The student or the student's parent or guardian may appeal the decision to place a student in the DAEP only if the placement is to extend beyond 60 days or the end of the next grading period, whichever is earlier. The request for appeal must be in writing and must be received by the Superintendent within five days of the date of the DAEP order. The Superintendent will schedule a conference with the student and the parent to be held within five days, after which a written decision will be issued. If the parent is dissatisfied with the decision of the Superintendent, the student or the student's parent may appeal the decision to the Board of Trustees. The request for appeal must be in writing and must be received by the Superintendent within seven days of the date of the Superintendent's decision. The appeal will be heard at the next regularly scheduled board meeting after the appeal is received and for which proper notice can be posted. Any decision by the Board is final and may not be appealed.

### **Academic Assessment** **and** **120-Day Review of DAEP Status**

***How will the District assess a student's academic growth in DAEP?*** If a student will be assigned to DAEP for a term of 90 school days or more, the District will administer a test approved by the commissioner of education to the student initially on placement and again on the day the student leaves the DAEP, or as near that date as possible.

**What does a review consist of? Who attends?** Both the discipline and the academic status of students assigned to the DAEP will be reviewed at least every 120 calendar days. 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 required to provide all 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.

## **Expulsion**

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**STUDENTS YOUNGER THAN TEN:** Students younger than ten who commit expellable offenses will be placed in an disciplinary alternative education program.

**STUDENTS YOUNGER THAN SIX:** Students younger than six will not be expelled or placed in an disciplinary alternative education program for any reason other than bringing a firearm to school.

Conduct that Warrants Expulsion

**MANDATORY EXPULSION:** A student will be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off school property:

1. Uses, possesses, or exhibits a firearm, an illegal knife or any knife prohibited by local policy, a club, or a prohibited weapon, unless pursuant to written regulations or written authorization of the District;
2. Commits aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, criminally negligent homicide, or continuous sexual abuse of a young child or children;
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of marijuana or a dangerous drug, if the conduct is punishable as a felony.
4. Sells, possesses, gives, or delivers to another person an alcoholic beverage, or commits a serious act or offense while under the influence of alcohol, or uses or is under the influence of an alcoholic beverage, if the conduct is punishable as a felony.

A student will also be expelled if he or she commits any offense listed in items 1-4 above against a District employee or volunteer in retaliation for or as a result of the person's employment or other work in the District, without regard to where the conduct occurs.

Definitions of the above offenses can be found in the Definitions section of the Code of Conduct.

Please note that a student will not be expelled solely because a firearm offense when the use, possession, or exhibition of the firearm occurs at an approved target range facility that is not located on school property while the student is participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Texas Parks & Wildlife Department or a shooting sports organization working with TPWD. Furthermore, the exception stated in this paragraph does not by itself authorize a student to bring a firearm on school property.

**PERMISSIVE EXPULSION FOR CONDUCT ON OR IN PROXIMITY TO SCHOOL:** A student may be expelled, in the discretion of the administration in view of all the facts and circumstances, for any of the following offenses when they occur on or within 300 feet of school property, as measured from any point on the school's real property boundary line:

1. Drug, alcohol, or abusable volatile chemical offenses, regardless of the amount.
2. Assault resulting in bodily injury against a school employee or volunteer.
3. Deadly conduct.
4. Making a false alarm or report of bombing, fire, or other emergency involving a public school.
5. Making a terroristic threat involving a public school.
6. Committing any offense stated in item 1 and 2 under MANDATORY EXPULSION.
7. Committing a serious offense or engaging in persistent misconduct while assigned to the DAEP.

**PERMISSIVE EXPULSION FOR CONDUCT OUTSIDE OF SCHOOL:** A student may be expelled, in the discretion of the administration in view of all the facts and circumstances, for any of the following offenses, regardless where they occur:

1. Intentionally or knowingly damaging personal property, including real estate and tangible personal property belonging to any public school or institution of higher education, and the amount of loss is greater than \$1,500.
2. Intentionally or knowingly damaging the property of any other person without the person's consent, and the amount of loss is greater than \$1,500.
3. Making a false report or alarm or a terroristic threat involving a public school.

4. Assaulting an employee or volunteer in retaliation for or because of the person's relationship with the school and the assault results in bodily injury.
5. Committing aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery against another student.
6. Committing any offense listed at item 1-4 under MANDATORY EXPULSION on the school property of another Texas school district or while attending a school-sponsored or school-related activity of another Texas school district.

**PERMISSIVE EXPULSION TO JJAEP OR DAEP FOR STUDENTS WITH CRIMINAL HISTORIES:** Unless a student would be subject to mandatory expulsion, a student may be expelled and placed in a JJAEP in which the District participates or the DAEP if the student has any criminal history described as follows:

1. Received deferred adjudication under the Family Code for a Title 5 felony offense;
2. Been found to have engaged in delinquent conduct under the Family Code for a Title 5 felony offense;
3. Is charged with engaging in a Title 5 felony offense;
4. Has been referred to a juvenile court for allegedly engaging in a Title 5 felony offense;
5. Has received probation or deferred adjudication for a Title 5 felony offense;
6. Has been convicted of a Title 5 felony offense; or
7. Has been arrested for or charged with a Title 5 felony offense.

A student will be expelled and placed as indicated if the board or its designee determines, after the student has an opportunity for a hearing, that the student has a criminal history as described above and that 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 interests of the District's students. At the hearing, the issues shall be limited to the determination whether or not the student has a criminal history, as described, and the District's determination as indicated.

The decision of the board or its designee is final and may not be appealed.

The student may be expelled and placed in a JJAEP in which the District participates or the DAEP regardless of the date on which the conduct occurred, the location at which the conduct occurred, whether the student was enrolled in the District at the time the conduct occurred, or whether the

student has completed any court disposition requirements associated with the conduct.

A student expelled and placed under these circumstances is subject to that placement until one of the following occurs:

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

The term of placement continues to apply if the student transfers to another Texas school district.

The student will receive the periodic assessment and review during the expulsion and JJAEP or DAEP placement as described above for students assigned to the DAEP.

## **Procedures for Expulsion**

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

1. At least three days prior written notice of the charges and the proposed sanctions so as to afford a reasonable opportunity for preparation, including a written invitation to the student's parent or guardian to attend the expulsion hearing. The notice will also include the date, time, and location of the hearing and the names of adult witnesses who will present evidence at the hearing;
2. Right to a hearing before the Superintendent or a designee;
3. Opportunity to testify and to present evidence and witnesses in his or her defense; and
4. Opportunity to examine the evidence presented by the school administration and to question the administration's witnesses.

**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 the testimony 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. The student may

be expelled based on the Superintendent or designee's reasonable belief that the evidence shows it is more likely than not that the student engaged in the conduct with which he or she was charged.

**EXPULSION ORDER:** The administration will deliver a copy of the order expelling the student to the student's parent or guardian, who is responsible for providing adequate supervision for the student during the period of expulsion.

In addition to notifying the parents, and not later than the second business day after the date an expulsion hearing is held, the administration will deliver a copy of the expulsion order to the authorized officer of the juvenile court in the county in which the student resides. The administration will also provide the child's and parent's names and address, names and addresses of any witnesses, and a complete statement of the circumstances surrounding the conduct to the juvenile board, as required by Family Code § 52.041.

**GUIDELINES FOR TERM OF EXPULSION:** An expulsion may be for as brief a time as one school day up to one full year from the date of the order. The administrator issuing the expulsion order will use his or her best professional judgment, taking into account the factors considered in all disciplinary actions, in setting a term of expulsion.

**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 is 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 this district for the purpose of home schooling, will be required upon return to the District, to complete the term of expulsion 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.

**EFFECT OF TRANSFER INTO DISTRICT:** If a student transfers into this District from another school district in which the student was expelled, Blackwell CISD may continue the expulsion under the terms of the order provided by the sending school district.

If a student transfers into this District from an open-enrollment charter school or from another state and the District receives a copy of the expulsion



order in the records from the other school, the District may enforce the terms of that expulsion order, provided the grounds for expulsion in the open-enrollment charter school or other state are grounds for expulsion in the District.

If a student transfers into this District from another school district in which the student was placed in the juvenile justice alternative education program, this District shall continue the term of expulsion under the previous school's order.

**EFFECT ON CREDITS:** Expelled students will not receive credit for courses not completed because of an expulsion. Students may use correspondence courses or credit by examination, within the limits set by District policy, to earn graduation units. Students are responsible for all costs associated with correspondence courses or credit by examination.

**GRADUATING SENIORS AND EXPULSION:** When a student is expelled during the 12<sup>th</sup> grade, the District will not allow that student to participate in graduation ceremonies. Any decision concerning participation in graduation ceremonies will be made by the student's home campus principal, whose decision is final.

## **Appeal of Expulsion to Board of Trustees**

**A student is expelled during all appeals.**

A decision by the administration to expel a student may be appealed to the Board by filing a written appeal within five days of the date of the expulsion order. The written appeal must state all the bases for appeal. At the next regular meeting after the appeal is received and for which proper notice can be given, the Board will review the complete record of the expulsion, including all written appeals. The Board may choose to take no action after reviewing the record and appeal, which has the effect of sustaining the expulsion. The Board may also choose to schedule an appeal at a future meeting at which the parents may make an oral presentation of the appeal. The Board's decision regarding an oral appeal is final and may not be appealed.

If the Board permits an oral presentation, the administration may also be asked to speak. No new evidence or information, including witnesses or documents, will be permitted or considered. The Board may set reasonable time limitations for presentations.

## **Emergency Expulsion**

A campus administrator or the superintendent may order the immediate expulsion of a student if the administrator reasonably believes that the action is necessary to protect people or property from imminent harm. At the time of the emergency expulsion, the student will 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. Formal due process as explained on page 31 will occur within a reasonable time thereafter.

## **Summer School**

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Our summer school program is not part of the regular school year program. Some students voluntarily attend summer school to earn additional credits, to re-take courses they did not pass in the regular school year, or to complete courses necessary for graduation that were incomplete because of the student's expulsion or placement in DAEP. Other students are required to attend summer school in order to receive intensive instruction in those subjects or areas where the student was not successful on the state assessment instruments.

During summer school, all 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 after a parent conference for DAEP removal or expelled after an expulsion hearing if the conduct warrants expulsion. When a student is withdrawn from summer school for conduct that would warrant DAEP removal or expulsion, the summer campus administrator may withdraw the student and defer the assessment of the term of removal or expulsion to be served during the following school year.

# 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.

Penal Code 22.02(a)

"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 36) 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.

Penal Code 22.021

**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.
- (a-2) A person commits an offense if the person intentionally starts a fire or causes an explosion and in so doing:
- (1) recklessly damages or destroys a building belonging to another;
- or
- (2) recklessly causes another person to suffer bodily injury or death.
- (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**

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);

“Bodily injury” is defined as physical pain, illness, or any impairment of physical condition. Penal Code 1.07(8)

## **BULLYING**

Engaging in written or verbal expression or physical conduct that the administration determines:

(1) will have the effect of physically harming a student, damaging a student’s property, or placing a student in reasonable fear of harm to student’s person or of damage to the student’s property; or

(2) is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

Education Code 25.0341 (a)

## **CONDUCT UNDER TEX. GOV’T CODE § 508.149 (A)**

- (2) murder (first or second degree felony);
- (3) capital murder;
- (4) aggravated kidnapping (first or second degree felony);
- (5) harassment of a public servant;
- (6) sexual assault (felony);
- (7) aggravated assault (first or second degree felony);
- (8) aggravated sexual assault (first degree felony);
- (9) injury to a child, elderly individual, or disabled person (first degree felony)
- (10) arson (first degree felony);
- (11) robbery (second degree felony);
- (12) aggravated robbery (first degree felony);
- (13) bribery (first degree felony);

- (14) an offense enhanced because it occurred in a drug-free school zone;
- (15) sexual performance of a child; or
- (16) continuous sexual abuse of a young child or children.

#### **CONTINUOUS SEXUAL ABUSE OF A YOUNG CHILD OR CHILDREN**

A person commits an offense if:

- (1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and
- (2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is a child younger than 14 years of age.

For purposes of this definition, “act of sexual abuse” means any of the following:

- (1) aggravated kidnapping, if with the intent to violate or abuse the victim sexually;
- (2) indecency with a child in a manner other than by touching, including touching through clothing, the breast of a child;
- (3) sexual assault;
- (4) aggravated sexual assault;
- (5) burglary punishable as a felony if with the intent to commit an offense listed in items (1) – (4);
- (6) sexual performance of a child.

Certain affirmative defenses may apply.

Penal Code 21.02

#### **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; anabolic steroid; or prescription medicine provided to any person other than the person for whom the prescription was written.

Policy FNCF Local

#### **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)

### **DATING RELATIONSHIP**

"Dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of the relationship will be determined based on consideration of the (1) the length of the relationship, (2) the nature of the relationship, and (3) the frequency and type of interaction between the persons involved in the relationship. A casual acquaintance or ordinary fraternization in a school or social context does not constitute a "dating relationship."

Family Code 71.0021 (b)-(c)

### **DATING VIOLENCE**

"Dating violence" includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship.

Education Code 37.0831 (b)

### **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, TRANSPORTATION, 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

A person commits an offense if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally exhibits, uses, or threatens to exhibit or use a firearm:

- (1) in or on any property, including a parking lot, parking garage, or other parking area, that is owned by a public school; or
- (2) on a school bus being used to transport children to and from school-sponsored activities of a public school.

Education Code 37.125

### **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.

#### Gang-Free Zones

All District schools and any other property owned, rented, or leased by the District are “gang-free zones.” Certain criminal offenses that occur in, on, or within 1,000 feet of a school or any other property owned, rented, or leased by the District will be enhanced in the criminal justice system to the next highest category of offense if they are determined to be committed by a person who is a member of a criminal street gang, unless the offense is already punishable as a first degree felony.

Affected offenses include (1) murder, capital murder, arson, aggravated robbery, robbery, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, and assault resulting in bodily injury; (2) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons; (3) obscene display or distribution, obscenity, sale, distribution, or display of harmful material to a minor, sexual performance by a child, employment harmful to children, possession or promotion of child pornography when a child younger than 18 years of age is depicted or involved in the offense.

Penal Code 72.028; Subchapter B, Chapter 43, Penal Code

#### **GRAFFITI**

A person commits an offense if, without the effective consent of the owner, the person intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings on the tangible property of the owner with (1) paint; (2) an indelible marker; or (3) an etching or engraving device.

Penal Code 28.08 (a)

## **HARASSMENT**

“Harassment” means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student’s physical or emotional health and safety.

Education Code 37.001 (b) (1)

## **HARASSMENT OF PUBLIC SERVANT**

A person commits an offense if, with the intent to assault, harass, or alarm, the person causes another person the actor knows to be a public servant to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of the public servant’s official power or performance of an official duty.

Penal Code 22.11 (a)(2)

## **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

#### **HIT LIST**

“Hit list” means 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.

Education Code 37.001(b)(2)

#### **INDECENCY WITH A CHILD**

- (a) A person commits an offense if, with a child younger than 17 years of age, 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.
  - (3) was the spouse of the child 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**

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 causes 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 (b)

## **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) and:
  - (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

### **Online Harassment**

- (a) A person commits an offense if the person uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site:
  - (1) without obtaining the other's consent; and

(2) with the intent to harm, defraud, intimidate, or threaten any person.

(b) A person commits an offense if the person sends an electronic mail, instant message, text message, or similar communication that reference a name, domain address, phone number, or other item of identifying information belonging to any person:

(1) without obtaining the other person's consent;

(2) with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication; and

(3) with the intent to harm or defraud any person.

Penal Code 33.07

"Identifying information" (A) means name, social security number, date of birth, and government-issued identification number; (B) unique biometric data, including the individual's fingerprint, voice print, and retina or iris image; (C) unique electronic identification number, address, and routing code, financial institution account number; and (D) telecommunication identifying information or access device.

Penal Code 32.51

#### **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

#### **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 ¼ 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 ½ 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 (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, but not a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife). 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)

### **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**

A person commits an offense if he 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

## **SELF-DEFENSE**

(a) Except as provided in Subsection (b), a person is justified in using force against another when and to the degree he reasonably believes the force is immediately necessary to protect himself against the other's use or attempted use of unlawful force.

(b) The use of force against another is not justified:

(1) in response to verbal provocation alone;

(2) to resist an arrest or search that the actor knows is being made by a peace officer, or by a person acting in a peace officer's presence and at his direction, even though the arrest or search is unlawful, unless the resistance is justified under Subsection (c);

(3) if the actor consented to the exact force used or attempted by the other;

(4) if the actor provoked the other's use or attempted use of unlawful force, unless:

(A) the actor abandons the encounter, or clearly communicates to the other his intent to do so reasonably believing he cannot safely abandon the encounter; and

(B) the other nevertheless continues or attempts to use unlawful force against the actor; or

(5) if the actor sought an explanation from or discussion with the other person concerning the actor's differences with the other person while the actor was:

(A) carrying a weapon in violation of Section 46.02; or

(B) possessing or transporting a weapon in violation of Section 46.05.

Penal Code 9.31 (a)-(b)

**SERIOUS OFFENSE** [See pages 20 -- 22]

## **SEXUAL ASSAULT**

“Sexual assault” is defined as intentionally or knowingly causing physical sexual contact or sexual penetration of a child at any time or 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

**TITLE 5 FELONY OFFENSE**

<b>Chapter</b>	<b>§ and Offense</b>	<b>A felony when:</b>
19	19.02 Murder	always
	19.03 Capital Murder	always
	19.04 Manslaughter	always
	19.05 Criminally Negligent Homicide	state jail felony
20	20.02 Unlawful Restraint	the actor recklessly exposes the victim to substantial risk of serious bodily injury
	20.03 Kidnapping	always
	20.04 Aggravated Kidnapping	always
21	21.02 Continuous Sexual Abuse of a Young Child or Children	always
	21.06 Homosexual Conduct	never
	21.07 Public Lewdness	never
	21.08 Indecent Exposure	never
	21.11 Indecency with a Child	always
	21.15 Improper Photography or Visual Recording	state jail felony
22	22.01 Assault	against a person the actor knows is a public servant while servant lawfully discharging an official duty or in retaliation or on account of an exercise of official power
	22.011 Sexual Assault	always
	22.015 Coercing Gang Membership	always
	22.02 Aggravated Assault	always
	22.021 Aggravated Sexual Assault	always
	22.04 Injury to a Child, Elderly Individual, or Disabled Individual	always
	22.041 Abandoning or Endangering Child	always
	22.05 Deadly Conduct	knowingly discharge a firearm at or in direction one or more individuals or a habitation, building, or vehicle and is reckless as to whether it is occupied
	22.07 Terroristic Threat	cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service
	22.08 Aiding Suicide	causes suicide or attempted suicide that results in

	serious bodily injury
22.09 Tampering with Consumer Product	always
22.10 Leaving a Child in a Vehicle	never
22.11 Harassment of Public Servant	state jail felony

**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 the 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.

**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.