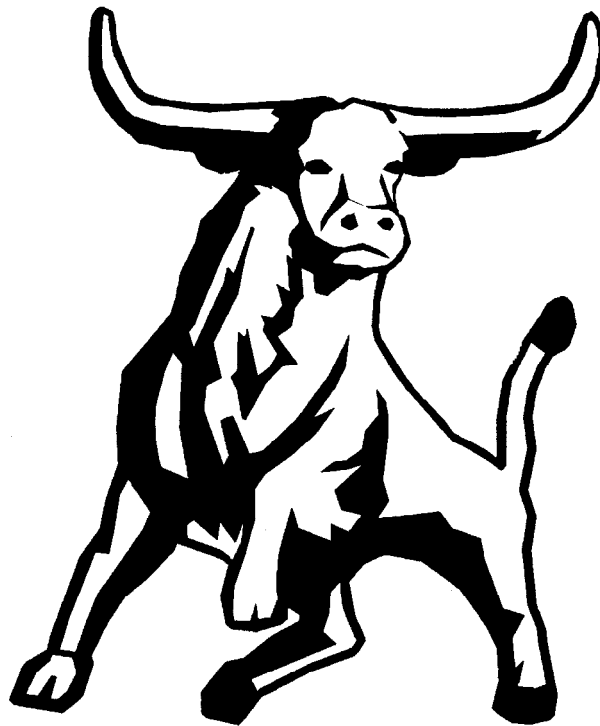


HARPER ISD



Discipline Management Plan  
&  
Student Code of Conduct  
2010-2011

# ACKNOWLEDGMENT

## Student Code of Conduct Acknowledgment

Dear Student and Parent:

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

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

To access the handbook online, please go to our school website at [www.harper.txed.net](http://www.harper.txed.net)

If you would like a hard copy of the handbook, please send a written request with your child and we will provide one for you.

Harper Independent School District requires a written statement from parents if they **DO NOT** wish to have corporal punishment used as a form of discipline.

The student and parent should each sign this page in the space provided below, so that we may know that you have received and reviewed the code of conduct with your child, and then return the page to the student's school.

Thank you.

Pari Whitten

Superintendent

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We acknowledge that we have received a copy of the Harper ISD Student Code of Conduct for the 2010-2011 school year, and understand that students will be held accountable for their behavior and will be subject to the disciplinary consequences outlined in the Student Code of Conduct.

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

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

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

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

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

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

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

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## **STUDENT CODE OF CONDUCT**

### ***Purpose***

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

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

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

This Student Code of Conduct has been adopted by the Harper Board of Trustees and developed with the advice of the district-level committee. This Code provides information to parents and students regarding standards of conduct, consequences of misconduct, and procedures for administering discipline.

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

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

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

## **School District Authority and Jurisdiction**

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

The district has disciplinary authority over a student:

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

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

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

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

The district has the right to revoke the transfer of a nonresident student for violating the district's Code.

## **Standards for Student Conduct**

Each student is expected to:

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

## **General Conduct Violations**

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

The district prohibits the following:

### **Disregard for Authority**

- Failing to comply with directives given by school personnel (insubordination).
- Leaving school grounds or school-sponsored events without permission.
- Disobeying rules for conduct on school buses.
- Refusing to accept discipline management techniques assigned by a teacher or principal.

### **Mistreatment of Others**

- Using profanity or vulgar language or making obscene gestures.
- Fighting or scuffling. (For assault see DAEP Placement and Expulsion)
- Threatening another student or district employee on or off school property.
- Engaging in bullying, harassment, and making hit lists. (See glossary for all three terms)
- Engaging in conduct that constitutes sexual harassment or sexual abuse, whether by word, gesture, or any other conduct, including requests for sexual favors directed toward another student or a district employee.
- Engaging in inappropriate or indecent exposure of private body parts.
- Hazing. (See glossary)
- Causing an individual to act through the use of or threat of force (coercion).
- Committing extortion or blackmail (obtaining money or an object of value from an unwilling person).
- Engaging in inappropriate verbal, physical, or sexual conduct directed toward another student or a district employee.

### **Property Offenses**

- Damaging or vandalizing property owned by others. (For felony criminal mischief see DAEP Placement or Expulsion)
- Defacing or damaging school property—including textbooks, lockers, furniture, and other equipment—with graffiti or by other means.

- Stealing from students, staff, or the school.
- Committing or assisting in a robbery or theft even if it does not constitute a felony according to the Texas Penal Code. (For felony robbery and theft see DAEP Placement and Expulsion)

### **Possession of Prohibited Items**

- Possessing or using:
  - fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;
  - a razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
  - a “look-alike” weapon;
  - an air gun or BB gun;
  - ammunition;
  - a stun gun;
  - a pocket knife or any other small knife;
  - mace or pepper spray;
  - pornographic material;
  - tobacco products;
  - matches or a lighter;
  - a laser pointer for other than an approved use; or
  - any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists. (For weapons and firearms see DAEP Placement and Expulsion)

### **Possession of Telecommunications Devices**

- Displaying, turning on, or using a telecommunications device, including a cellular telephone, or other electronic device on school property during the school day.

### **Illegal and Prescription Drugs**

- Possessing or selling seeds or pieces of marijuana in less than a usable amount. (For illegal drugs, alcohol, and inhalants see DAEP Placement and Expulsion)
- Possessing, using, giving, or selling paraphernalia related to any prohibited substance. (See glossary for “paraphernalia”)
- Possessing or selling look-alike drugs or items attempted to be passed off as drugs or contraband.

- Abusing the student's own prescription drug, giving a prescription drug to another student, or possessing or being under the influence of another person's prescription drug on school property or at a school-related event.
- Having or taking prescription drugs or over-the-counter drugs at school other than as provided by district policy.

### **Misuse of Computers and the Internet**

- Violating computer use policies, rules, or agreements signed by the student and/or agreements signed by the student's parent.
- Using the Internet or other electronic communications to threaten students or employees or cause disruption to the educational program.
- Sending or posting electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal.
- Using e-mail or Web sites at school to encourage illegal behavior or threaten school safety.

### **Safety Transgressions**

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

### **Miscellaneous Offenses**

- Violating dress and grooming standards as communicated in the student handbook.
- Cheating or copying the work of another.
- Gambling.
- Falsifying records, passes, or other school-related documents.
- Engaging in actions or demonstrations that substantially disrupt or materially interfere with school activities.
- Repeatedly violating other communicated campus or classroom standards of conduct.

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

### **Discipline Management Techniques**

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

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

### **Students with Disabilities**

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

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

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

### **Techniques**

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

- Verbal (oral or written) correction.
- Cooling-off time or “time-out.”
- Seating changes within the classroom.
- Temporary confiscation of items that disrupt the educational process.
- Rewards or demerits.
- Behavioral contracts.
- Counseling by teachers, counselors, or administrative personnel.
- Parent-teacher conferences.
- Grade reductions for cheating, plagiarism, and as otherwise permitted by policy.

- Detention.
- Sending the student to the office or other assigned area, or to in-school suspension.
- Assignment of school duties such as cleaning or picking up litter.
- Withdrawal of privileges, such as participation in extracurricular activities, eligibility for seeking and holding honorary offices, or membership in school-sponsored clubs and organizations.
- Penalties identified in individual student organizations' extracurricular standards of behavior.
- Withdrawal or restriction of bus privileges.
- School-assessed and school-administered probation.
- Corporal punishment.
- Out-of-school suspension, as specified in the Suspension section of this Code.
- Placement in a DAEP, as specified in the DAEP section of this Code.
- Expulsion, as specified in the Expulsion section of this Code.
- Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the district.
- Other strategies and consequences as determined by school officials.

### **Notification**

The principal or appropriate administrator will notify a student's parent by phone or in writing of any violation that may result in a suspension, placement in a DAEP, or expulsion. Notification will be made within three school days after the administrator becomes aware of the violation.

### **Appeals**

Parental questions or complaints regarding disciplinary measures should be addressed to the teacher or campus administration, as appropriate, and in accordance with policy FNG (LOCAL). A copy of the policy may be obtained from the principal's office or the central administration office or through Policy on Line at the following address: [www.harper.txed.net](http://www.harper.txed.net).

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

## **Removal from the Regular Educational Setting**

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

### **Routine Referral**

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

### **Formal Removal**

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

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

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

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

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

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

### **Returning Student to Classroom**

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

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

# **Suspension**

## **Misconduct**

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

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

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

## **Process**

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

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

The number of days of a student's suspension will be determined by the appropriate administrator, but will not exceed three school days.

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

## **Disciplinary Alternative Education Program (DAEP) Placement**

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

For purposes of DAEP, elementary classification shall be kindergarten-grade 5 and secondary classification shall be grades 6-12.

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

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

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

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

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

### **General Misconduct**

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

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

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

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

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

in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

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

### **Certain Felonies**

Unless removal is otherwise required by one of the reasons below, in accordance with Education Code 37.0081, a student **may** be placed in a DAEP after an opportunity for a hearing before the board of trustees or its designee, if:

- The student receives deferred prosecution for conduct defined as a felony offense in Title 5 (see glossary) of the Texas Penal Code, or
- The student has been found by a court to have engaged in delinquent conduct for conduct defined as a felony offense in Title 5 of the Texas Penal Code.

The board or the board's designee must 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.

A student's placement in the DAEP as a result of receiving deferred prosecution or delinquent conduct, as described above, may occur regardless of:

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

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

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

- Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school. (See glossary)
- Commits the following offenses on school property or within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:
  - Engages in conduct punishable as a felony.
  - Commits an assault (see glossary) under Penal Code 22.01(a)(1).

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

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

If a student has been convicted of or placed on deferred adjudication for sexual assault or aggravated sexual assault against another student on the same campus, and if the victim or the victim's parents request that the board transfer the offending student to another campus, the offending student shall be transferred to another campus in the district. If there is no other campus in the district serving the grade level of the offending student, the offending student will be transferred to a DAEP.

### **Emergencies**

In an emergency, the principal or the principal’s designee may order the immediate placement of a student in a DAEP for any reason for which placement in a DAEP may be made on a nonemergency basis.

## **Process**

Removals to a DAEP will be made by the Campus Principal.

## **Conference**

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

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

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

## **Placement Order**

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

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

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

## **Length of Placement**

The duration of a student's placement in a DAEP will be determined by the Campus Principal.

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

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

## **Exceeds One Year**

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

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

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

### **Exceeds School Year**

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

For placement in a DAEP to extend beyond the end of the school year, the District Superintendent must determine that:

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

### **Exceeds 60 Days**

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

### **Appeals**

Questions from parents regarding disciplinary measures should be addressed to the campus administration. Appeals regarding the decision to place a student in DAEP should be addressed to the principal's office, in accordance with policy FOC(LEGAL). All other appeals regarding a placement in a DAEP should be addressed to the principal, in accordance with policy FNG(LOCAL). A copy of this policy may be obtained from the principal's office or the central administration office or through Policy On Line at the following address: [www.harper.txed.net](http://www.harper.txed.net)

Disciplinary consequences will not be deferred pending the outcome of an appeal. The decision to place a student in a DAEP cannot be appealed beyond the board.

### **Restrictions during Placement**

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

The district will provide transportation to students in a DAEP for the initial amount of 10 days assigned by the campus principal.

For seniors assigned to a DAEP who are eligible to graduate, the placement in the program will continue through graduation, and the student will not be allowed to participate in the graduation ceremony and related graduation activities.

## **Placement Review**

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

## **Additional Misconduct**

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

## **Notice of Criminal Proceedings**

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

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

If a student was placed in a DAEP for such conduct, on receiving the notice from the prosecutor, the superintendent or designee will review the student's placement and schedule a review with the student's parent not later than the third day after the superintendent or designee receives notice from the prosecutor. The student may not be returned to the regular classroom pending the review.

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

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

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

### **Withdrawal during Process**

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

### **Newly Enrolled Students**

A student assigned to a DAEP in an open-enrollment charter school or another district, including a district in another state (if the behavior committed is a reason for DAEP placement in the receiving district), at the time he or she enrolls in the district will be placed directly into the district's DAEP.

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

### **Emergency Placement**

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

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

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

### **Registered Sex Offenders**

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

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

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

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

### **Review Committee**

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

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

### **Newly Enrolled Student**

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

### **Appeal**

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

## **Certain Felonies**

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

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

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

The date on which the student's conduct occurred,

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

## **Hearing and Required Findings**

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

Threatens the safety of other students or teachers,

6. Will be detrimental to the educational process, or
7. Is not in the best interest of the district's students.

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

## **Length of Placement**

The student is subject to the placement until:

The student graduates from high school,

8. The charges are dismissed or reduced to a misdemeanor offense, or

9. The student completes the term of the placement or is assigned to another program.

### **Newly Enrolled Students**

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

## **Expulsion**

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

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

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

A student **may** be expelled for:

### **Any Location**

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

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

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

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

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

- Engaging in the following conduct while within 300 feet of school property, as measured from any point on the school's real property boundary line:
  - Aggravated assault, sexual assault, or aggravated sexual assault.
  - Arson.(see glossary)
  - Murder, capital murder, or criminal attempt to commit murder or capital murder.
  - Indecency with a child, aggravated kidnapping, manslaughter, criminally negligent homicide, or aggravated robbery.
  - Felony drug- or alcohol-related offense.
  - Use, exhibition, or possession of a firearm (as defined by state law), an illegal knife, a club, or prohibited weapon, or possession of a firearm (as defined by federal law).

### **Property of Another District**

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

### **While in DAEP**

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

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

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

## Federal Law

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

## Texas Penal Code

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

- Manslaughter.
- Criminally negligent homicide.
- Behavior punishable as a felony that involves selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, a dangerous drug, or alcohol; or committing a serious act or offense while under the influence of alcohol.
- Retaliation against a school employee combined with one of the above-listed offenses on or off school property or at a school-related activity.

## **Under Age Ten**

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

## **Emergency**

In an emergency, the principal or the principal's designee may order the immediate expulsion of a student for any reason for which expulsion **may** be made on a nonemergency basis.

## **Process**

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

Until a hearing can be held, the principal may place the student in:

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

## **Hearing**

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

1. Representation by the student's parent or another adult who can provide guidance to the student and who is not an employee of the district,
2. An opportunity to testify and to present evidence and witnesses in the student's defense, and
3. An opportunity to question the district's witnesses.

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

The hearing will be conducted by the board of trustees and the decision to expel will be made by the board. Or, the board of trustees delegates to the Superintendent authority to conduct hearings and expel students.

### **Board Review of Expulsion**

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

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

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

### **Expulsion Order**

After the due process hearing, if the student is expelled, the board or its designee will deliver to the student and the student's parent a copy of the order expelling the student.

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

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

### **Length of Expulsion**

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

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

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

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

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

school. However, the superintendent or other appropriate administrator may modify the length of the expulsion on a case-by-case basis.

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

### **Withdrawal during Process**

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

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

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

### **Additional Misconduct**

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

### **Restrictions during Expulsion**

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

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

### **Newly Enrolled Students**

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

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

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

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

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

### **Emergency Expulsion**

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

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

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

## Glossary

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

**Abuse** is improper or excessive use.

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

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

1. Any vegetation, fence, or structure on open-space land; or
2. Any building, habitation, or vehicle:
  - a) Knowing that it is within the limits of an incorporated city or town;
  - b) Knowing that it is insured against damage or destruction;
  - c) Knowing that it is subject to a mortgage or other security interest;
  - d) Knowing that it is located on property belonging to another;
  - e) Knowing that it has located within it property belonging to another; or
  - f) When the person starting the fire is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.
3. **A crime that involves recklessly starting a fire or causing an explosion while manufacturing or attempting to manufacture a controlled substance and the fire or explosion damages any building, habitation, or vehicle; or**
4. **A crime that involves intentionally starting a fire or causing an explosion and in so doing:**
  - a) **Recklessly damages or destroys a building belonging to another, or**
  - b) **Recklessly causes another person to suffer bodily injury or death.**

**Assault** is defined in part by Texas Penal Code 22.01(a)(1) as intentionally, knowingly, or recklessly causing bodily injury to another.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Harassment** is:

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

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

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

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

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

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

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

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

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

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

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

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

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

- Murder.
- Vandalism.
- Robbery or theft.
- Extortion, coercion, or blackmail.
- Actions or demonstrations that substantially disrupt or materially interfere with school activities.
- Hazing.
- Insubordination.
- Profanity, vulgar language, or obscene gestures.
- Fighting, committing physical abuse, or threatening physical abuse.

- Possession or distribution of pornographic materials.
- Leaving school grounds without permission.
- Sexual harassment of a student or district employee.
- Possession of or conspiracy to possess any explosive or explosive device.
- Falsification of records, passes, or other school-related documents.
- Refusal to accept discipline assigned by the teacher or principal.

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

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

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

1. Cause a reaction of any type by an official or volunteer agency organized to deal with emergencies;
2. Place any person in fear of imminent serious bodily injury;
3. Prevent or interrupt the occupation or use of a building; room, place of assembly, or place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place;
4. Cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;
5. Place the public or a substantial group of the public in fear of serious bodily injury; or
6. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state (including the district).

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

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

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

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