



# **Texas**

# **Compilation of School**

# **Discipline Laws and**

# **Regulations**

Prepared: April 3, 2019

## ***Introduction***

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

## ***Notes & Disclaimers***

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of April 2019. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

*Prepared by:*

**Child Trends**

7315 Wisconsin Avenue  
Suite 1200W  
Bethesda, Maryland 20814

**EMT Associates, Inc.**

1631 Creekside Drive  
Suite 100  
Folsom, California 95630



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## **General Provisions**

### **Authority to develop and establish rules of conduct**

#### **LAWS**

##### **§ 37.001. Student code of conduct.**

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must

- (1) Specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, disciplinary alternative education program, or vehicle owned or operated by the district;
- (2) Specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;
- (3) Outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;
- (4) Specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:
  - (A) Self-defense;
  - (B) Intent or lack of intent at the time the student engaged in the conduct;
  - (C) A student's disciplinary history; or
  - (D) A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
- (5) Provide guidelines for setting the length of a term of:
  - (A) A removal under Section 37.006; and
  - (B) An expulsion under Section 37.007;
- (6) Address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;
- (7) Prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions
- (8) Provide, as appropriate for students at each grade level, methods, including options, for:
  - (A) Managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;
  - (B) Disciplining students; and
  - (C) Preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists; and
- (9) Include an explanation of the provisions regarding refusal of entry to or ejection from district property under Section 37.105, including the appeal process established under Section 37.105(h).

(b) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "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 or safety.

(3) "Hit list" means a list of people targeted to be harmed, using:

(A) A firearm, as defined by Section 46.01(3), Penal Code;

(B) A knife, as defined by Section 46.01(7), Penal Code; or

(C) Any other object to be used with intent to cause bodily harm.

(b-1) The methods adopted under Subsection (a)(8) must provide that a student who is enrolled in a special education program under Subchapter A, Chapter 29, may not be disciplined for conduct prohibited in accordance with Subsection (a)(7) until an admission, review, and dismissal committee meeting has been held to review the conduct.

(c) Once the student code of conduct is promulgated, any change or amendment must be approved by the board of trustees.

(d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct.

(e) Except as provided by Section 37.007(e), this subchapter does not require the student code of conduct to specify a minimum term of a removal under Section 37.006 or an expulsion under Section 37.007.

## **REGULATIONS**

### **19 TAC § 129.21. Requirements for student attendance accounting for state funding purposes.**

(a) All public schools in Texas must maintain records to reflect the average daily attendance (ADA) for the allocation of Foundation School Program (FSP) funds and other funds allocated by the Texas Education Agency (TEA). Superintendents, principals, and teachers are responsible to their school boards and to the state to maintain accurate, current attendance records.

(l) Before a district or charter school may count a student in attendance under this section or in attendance when the student was allowed to leave campus during any part of the school day, the local school board or governing body must adopt a policy, or delegate to the superintendent the authority to establish procedures, addressing parental consent for a student to leave campus, and the district or charter school must distribute the policy or procedures to staff and to all parents of students in the district or charter school.

## **Scope**

## **LAWS**

### **§ 37.007. Expulsion for serious offenses**

(i) A student who engages in conduct described by Subsection (a) may be expelled from school by the district in which the student attends school if the student engages in that conduct:

(1) On school property of another district in this state; or

(2) While attending a school-sponsored or school-related activity of a school in another district in this state.

**§ 37.0832. Bullying prevention policies and procedures.**

(a-1) This section applies to:

- (1) Bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;
- (2) Bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and
- (3) Cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying:
  - (A) Interferes with a student's educational opportunities; or
  - (B) Substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity.

**REGULATIONS**

No relevant regulations found.

**Communication of policy**

**LAWS**

**§ 37.001. Student code of conduct.**

- (a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal [...]
- (d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct [...]

**§ 37.018. Information for educators.**

Each school district shall provide each teacher and administrator with a copy of this subchapter and with a copy of the local policy relating to this subchapter.

**§ 37.0832. Bullying prevention policies and procedures.**

- (d) The policy and any necessary procedures adopted under Subsection (c) must be included:
- (1) Annually, in the student and employee school district handbooks; and
  - (2) In the district improvement plan under Section 11.252.
- (e) The procedure for reporting bullying established under Subsection (c) must be posted on the district's Internet website to the extent practicable.

**§ 37.110. Information regarding gang-free zones.**

The superintendent of each public school district and the administrator of each private elementary or secondary school located in the public school district shall ensure that the student handbook for each campus in the public school district includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

**§ 161.325. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.**

(f) The practices and procedures developed under Subsection (d) must be included in:

- (1) The annual student handbook; and
- (2) The district improvement plan under Section 11.252, Education Code.

**REGULATIONS**

**19 TAC § 129.21. Requirements for student attendance accounting for state funding purposes.**

(a) All public schools in Texas must maintain records to reflect the average daily attendance (ADA) for the allocation of Foundation School Program (FSP) funds and other funds allocated by the Texas Education Agency (TEA). Superintendents, principals, and teachers are responsible to their school boards and to the state to maintain accurate, current attendance records.

(l) Before a district or charter school may count a student in attendance under this section or in attendance when the student was allowed to leave campus during any part of the school day, the local school board or governing body must adopt a policy, or delegate to the superintendent the authority to establish procedures, addressing parental consent for a student to leave campus, and the district or charter school must distribute the policy or procedures to staff and to all parents of students in the district or charter school.

## ***In-School Discipline***

### **Use of multi-tiered discipline approaches**

#### **LAWS**

##### **§ 37.144. Graduated sanctions for certain school offenses.**

(a) A school district that commissions peace officers under Section 37.081 may develop a system of graduated sanctions that the school district may require to be imposed on a child before a complaint is filed under Section 37.145 against the child for a school offense that is an offense under Section 37.124 or 37.126 or under Section 42.01(a)(1), (2), (3), (4), or (5), Penal Code. A system adopted under this section must include multiple graduated sanctions. The system may require:

- (1) A warning letter to be issued to the child and the child's parent or guardian that specifically states the child's alleged school offense and explains the consequences if the child engages in additional misconduct;
- (2) A behavior contract with the child that must be signed by the child, the child's parent or guardian, and an employee of the school and that includes a specific description of the behavior that is required or prohibited for the child and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court;
- (3) The performance of school-based community service by the child; and
- (4) The referral of the child to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems.

(b) A referral made under Subsection (a)(4) may include participation by the child's parent or guardian if necessary.

##### **§ 37.145. Complaint.**

If a child fails to comply with or complete graduated sanctions under Section 37.144, or if the school district has not elected to adopt a system of graduated sanctions under that section, the school may file a complaint against the child with a criminal court in accordance with Section 37.146.

##### **§ 37.147. Prosecuting attorneys.**

An attorney representing the state in a court with jurisdiction may adopt rules pertaining to the filing of a complaint under this subchapter that the state considers necessary in order to:

- (1) Determine whether there is probable cause to believe that the child committed the alleged offense;
- (2) Review the circumstances and allegations in the complaint for legal sufficiency; and
- (3) See that justice is done.

#### **REGULATIONS**

No relevant regulations found.

### **Teacher authority to remove students from classrooms**

#### **LAWS**

##### **§ 37.002. Removal by teacher.**

(a) A teacher may send a student to the principal's office to maintain effective discipline in the classroom.

(a) A teacher may send a student to the campus behavior coordinator's office to maintain effective discipline in the classroom. The campus behavior coordinator shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001 that can reasonably be expected to improve the student's behavior before returning the student to the classroom. If the student's behavior does not improve, the campus behavior coordinator shall employ alternative discipline management techniques, including any progressive interventions designated as the responsibility of the campus behavior coordinator in the student code of conduct.

(b) A teacher may remove from class a student:

(1) Who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or

(2) Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

(d) A teacher shall remove from class and send to the principal for placement in a disciplinary alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. If the teacher removed the student from class because the student has engaged in the elements of any offense listed in Section 37.006(a)(2)(B) or Section 37.007(a)(2)(A) or (b)(2)(C) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

#### **§ 37.0022. Removal by school bus driver.**

(a) The driver of a school bus transporting students to or from school or a school-sponsored or school-related activity may send a student to the principal's office to maintain effective discipline on the school bus. The principal shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001.

(b) Section 37.004 applies to any placement under Subsection (a) of a student with a disability who receives special education services.

### **REGULATIONS**

No relevant regulations found.

## **Alternatives to suspension**

### **LAWS**

#### **§ 37.0013. Positive behavior program.**

(a) Each school district and open-enrollment charter school may develop and implement a program, in consultation with campus behavior coordinators employed by the district or school and representatives of

a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by Section 37.005(a) and is not subject to Section 37.005(c). The program must:

- (1) Be age-appropriate and research-based;
- (2) Provide models for positive behavior;
- (3) Promote a positive school environment;
- (4) Provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school suspension, or placement in a disciplinary alternative education program to manage student behavior; and
- (5) Provide behavior management strategies, including:
  - (A) Positive behavioral intervention and support;
  - (B) Trauma-informed practices;
  - (C) Social and emotional learning;
  - (D) A referral for services, as necessary; and
  - (E) Restorative practices.

(b) Each school district and open-enrollment charter school may annually conduct training for staff employed by the district or school on the program adopted under Subsection (a).

## **REGULATIONS**

No relevant regulations found.

## **Use of corporal punishment**

### **LAWS**

#### **§ 37.0011 Use of corporal punishment.**

(a) In this section, "corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include:

- (1) Physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education; or
- (2) The use of restraint as authorized under Section 37.0021.

(b) If the board of trustees of an independent school district adopts a policy under Section 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student's parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline.

(c) To prohibit the use of corporal punishment as a method of student discipline, each school year a student's parent or guardian or other person having lawful control over the student must provide a separate written, signed statement to the board of trustees of the school district in the manner established by the board.

(d) The student's parent or guardian or other person having lawful control over the student may revoke the statement provided to the board of trustees under Subsection (c) at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board.

## **REGULATIONS**

No relevant regulations found.

## **Use of student and locker searches**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

No relevant regulations found.

## **Other in-school disciplinary approaches**

### **LAWS**

#### **§ 37.002. Removal by teacher.**

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

### **REGULATIONS**

No relevant regulations found.

## ***Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements***

### **Grounds for possible suspension or expulsion**

#### **LAWS**

##### **§ 37.005. Suspension.**

- (a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended.
- (b) A suspension under this section may not exceed three school days.
- (c) A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:
- (1) Conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;
  - (2) Conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or
  - (3) Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:
    - (A) Marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;
    - (B) A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
    - (C) An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

##### **§ 37.0052. Placement or expulsion of students who have engaged in certain bullying behavior.**

- (a) In this section:
- (1) "Bullying" has the meaning assigned by Section 37.0832.
  - (2) "Intimate visual material" has the meaning assigned by Section 98B.001, Civil Practice and Remedies Code.
- (b) A student may be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 or expelled if the student:
- (1) Engages in bullying that encourages a student to commit or attempt to commit suicide;
  - (2) Incites violence against a student through group bullying; or
  - (3) Releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- (c) Nothing in this section exempts a school from reporting a finding of intimate visual material of a minor.

##### **§ 37.007. Expulsion for serious offenses.**

- (b) A student may be expelled if the student:
- (1) Engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Cod

(2) While 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 of school property:

(A) Sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(i) Marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(ii) A dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(iii) An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;

(B) Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

(C) Engages in conduct that contains the elements of an offense under Section 22.01(a)(1), Penal Code, against a school district employee or a volunteer as defined by Section 22.053; or

(D) Engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05, Penal Code;

(3) Subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:

(A) Engages in conduct specified by Subsection (a); or

(B) Possesses a firearm, as defined by 18 U.S.C. Section 921;

(4) Engages in conduct that contains the elements of any offense listed in Subsection (a)(2)(A) or (C) or the offense of aggravated robbery under Section 29.03, Penal Code, against another student, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property; or

(5) Engages in conduct that contains the elements of the offense of breach of computer security under Section 33.02, Penal Code, if:

(A) The conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and

(B) The student knowingly:

(i) Alters, damages, or deletes school district property or information; or

(ii) Commits a breach of any other computer, computer network, or computer system.

(c) A student may be expelled if the student, while placed in a disciplinary alternative education program, engages in documented serious misbehavior while on the program campus despite documented behavioral interventions. For purposes of this subsection, "serious misbehavior" means:

(1) Deliberate violent behavior that poses a direct threat to the health or safety of others;

(2) Extortion, meaning the gaining of money or other property by force or threat;

(3) Conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or

(4) Conduct that constitutes the offense of:

(A) Public lewdness under Section 21.07, Penal Code;

(B) Indecent exposure under Section 21.08, Penal Code;

(C) Criminal mischief under Section 28.03, Penal Code;

(D) Personal hazing under Section 37.152; or

(E) Harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

(f) A student who engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, Penal Code, may be expelled at the district's discretion if the conduct is punishable as a felony under that section. The student shall be referred to the authorized officer of the juvenile court regardless of whether the student is expelled.

(i) A student who engages in conduct described by Subsection (a) may be expelled from school by the district in which the student attends school if the student engages in that conduct:

- (1) On school property of another district in this state; or
- (2) While attending a school-sponsored or school-related activity of a school in another district in this state.

**§ 37.0081. Expulsion and placement of certain students in alternative settings.**

(a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) if:

(1) The student:

(A) Has received deferred prosecution under Section 53.03, Family Code, for conduct defined as:

- (i) A felony offense in Title 5, Penal Code; or
- (ii) The felony offense of aggravated robbery under Section 29.03, Penal Code;

(B) Has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

- (i) A felony offense in Title 5, Penal Code; or
- (ii) The felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) Is charged with engaging in conduct defined as:

- (i) A felony offense in Title 5, Penal Code; or
- (ii) The felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) Has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

- (i) A felony offense in Title 5, Penal Code; or
- (ii) The felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) Has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) Has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) Has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

(2) The board or the board's designee determines that the student's presence in the regular classroom:

- (A) Threatens the safety of other students or teachers;
- (B) Will be detrimental to the educational process; or
- (C) Is not in the best interests of the district's students [...]

**§ 37.019. Emergency placement or expulsion.**

(a) This subchapter does not prevent the principal or the principal's designee from ordering the immediate placement of a student in a disciplinary alternative education program if the principal or the principal's

designee reasonably believes the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.

(b) This subchapter does not prevent the principal or the principal's designee from ordering the immediate expulsion of a student if the principal or the principal's designee reasonably believes that action is necessary to protect persons or property from imminent harm.

(c) At the time of an emergency placement or expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a nonemergency basis. Within a reasonable time after the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion, the student shall be accorded the appropriate due process as required under Section 37.009. If the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability.

(d) A principal or principal's designee is not liable in civil damages for an emergency placement under this section.

## **REGULATIONS**

No relevant regulations found.

## **Grounds for mandatory suspension or expulsion**

### **LAWS**

#### **§ 37.007. Expulsion for serious offenses.**

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) Engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of an offense relating to prohibited weapons under Section 46.05, Penal Code;

(2) Engages in conduct that contains the elements of the offense of:

(A) Aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B) Arson under Section 28.02, Penal Code;

(C) Murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;

(D) Indecency with a child under Section 21.11, Penal Code;

(E) Aggravated kidnapping under Section 20.04, Penal Code;

(F) Aggravated robbery under Section 29.03, Penal Code;

(G) Manslaughter under Section 19.04, Penal Code;

(H) Criminally negligent homicide under Section 19.05, Penal Code; or

(I) Continuous sexual abuse of young child or children under Section 21.02, Penal Code; or

(3) Engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

(d) A student shall be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (a), and may be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (b)(2)(C), against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) The superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U.S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;

(2) The district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) The district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

## REGULATIONS

No relevant regulations found.

## Limitations, conditions or exclusions for use of suspension and expulsion

## LAWS

### **§ 37.001. Student code of conduct.**

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must

(1) Specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, disciplinary alternative education program, or vehicle owned or operated by the district;

(2) Specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;

(3) Outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;

(4) Specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice

alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:

- (A) Self-defense;
  - (B) Intent or lack of intent at the time the student engaged in the conduct;
  - (C) A student's disciplinary history; or
  - (D) A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
- (5) Provide guidelines for setting the length of a term of:
- (A) A removal under Section 37.006; and
  - (B) An expulsion under Section 37.007;

**§ 37.005. Suspension.**

(a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended.

(b) A suspension under this section may not exceed three school days.

(c) A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

- (1) Conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;
- (2) Conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or
- (3) Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:
  - (A) Marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;
  - (B) A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
  - (C) An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

**§ 37.007. Expulsion for serious offenses.**

(d) A student shall be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (a), and may be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (b)(2)(C), against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

- (1) The superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U.S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;

(2) The district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) The district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

(f) A student who engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, Penal Code, may be expelled at the district's discretion if the conduct is punishable as a felony under that section. The student shall be referred to the authorized officer of the juvenile court regardless of whether the student is expelled.

(g) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a school district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

(h) Subject to Subsection (e), notwithstanding any other provision of this section, a student who is younger than 10 years of age may not be expelled for engaging in conduct described by this section.

(i) A student who engages in conduct described by Subsection (a) may be expelled from school by the district in which the student attends school if the student engages in that conduct:

(1) On school property of another district in this state; or

(2) While attending a school-sponsored or school-related activity of a school in another district in this state.

(k) A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

(1) At an approved target range facility that is not located on a school campus; and

(2) 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.

(l) Subsection (k) does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity described by that subsection.

#### **§ 37.021. Opportunity to complete courses during in-school and certain other placements.**

(a) If a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative education program, the district shall offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of the removal.

(b) The district may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

#### **REGULATIONS**

No relevant regulations found.

## Administrative procedures related to suspension and expulsion

### LAWS

#### **§ 37.009. Conference; Hearing; Review.**

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.001(a)(2) or 37.006, the campus behavior coordinator or other appropriate administrator shall schedule a conference among the campus behavior coordinator or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the campus behavior coordinator, after consideration of the factors under Section 37.001(a)(4), shall order the placement of the student for a period consistent with the student code of conduct. Before ordering the suspension, expulsion, removal to a disciplinary alternative education program, or placement in a juvenile justice alternative education program of a student, the behavior coordinator must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action. If school district policy allows a student to appeal to the board of trustees or the board's designee a decision of the campus behavior coordinator or other appropriate administrator, other than an expulsion under Section 37.007, the decision of the board or the board's designee is final and may not be appealed. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that the student is a threat to the safety of other students or to district employees.

(b) If a student's placement in a disciplinary alternative education program is to extend beyond 60 days or the end of the next grading period, whichever is earlier, a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district. Any decision of the board or the board's designee under this subsection is final and may not be appealed.

(c) Before it may place a student in a disciplinary alternative education program for a period that extends beyond the end of the school year, the board or the board's designee must determine that:

- (1) The student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or to another individual; or
- (2) The student has engaged in serious or persistent misbehavior that violates the district's student code of conduct.

(d) The board or the board's designee shall set a term for a student's placement in a disciplinary alternative education program. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, 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.

(e) A student placed in a disciplinary alternative education program shall be provided a review of the student's status, including a review of the student's academic status, by the board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required under this subsection to provide a course in the district's disciplinary alternative education program except as required by Section 37.008(l). At the review, the student or the student's parent or guardian must 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 the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent.

(f) Before a student may be expelled under Section 37.007, the board or the board's designee must provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. At the hearing, the student is entitled to be represented by the student's parent or guardian or another adult who can provide guidance to the student and who is not an employee of the school district. If the school 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, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends. Before ordering the expulsion of a student, the board of trustees must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the board concerns a mandatory or discretionary action. If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the school district's central administrative office is located.

(g) The board or the board's designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a disciplinary alternative education program under Section 37.001, 37.002, or 37.006 or expelling the student under Section 37.007.

(h) If the period of an expulsion is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of an expulsion may not exceed one year unless, after a review, 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. After a school district notifies the parents or guardians of a student that the student has been expelled, the parent or guardian shall provide adequate supervision of the student during the period of expulsion.

(i) If a student withdraws from the district before an order for placement in a disciplinary alternative education program or expulsion is entered under this section, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the placement or expulsion that has been served by the student on enrollment in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

(j) If, during the term of a placement or expulsion ordered under this section, a student engages in additional conduct for which placement in a disciplinary alternative education program or expulsion is required or permitted, additional proceedings may be conducted under this section regarding that conduct and the principal or board, as appropriate, may enter an additional order as a result of those proceedings.

### **§ 37.010. Court involvement.**

(a) Not later than the second business day after the date a hearing is held under Section 37.009, the board of trustees of a school district or the board's designee shall deliver a copy of the order placing a student in a disciplinary alternative education program under Section 37.006 or expelling a student under Section 37.007 and any information required under Section 52.04, Family Code, to the authorized officer of the juvenile court in the county in which the student resides. In a county that operates a program under Section 37.011, an expelled student shall to the extent provided by law or by the memorandum of understanding immediately attend the educational program from the date of expulsion, except that in a county with a population greater than 125,000, every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program.

(b) If a student is expelled under Section 37.007(c), the board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Title 3, Family Code.

(c) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding with the district's board of trustees concerning the juvenile probation department's role in supervising and providing other support services for students in disciplinary alternative education programs, a court may not order a student expelled under Section 37.007 to attend a regular classroom, a regular campus, or a school district disciplinary alternative education program as a condition of probation.

(d) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding as described by Subsection (c), if a court orders a student to attend a disciplinary alternative education program as a condition of probation once during a school year and the student is referred to juvenile court again during that school year, the juvenile court may not order the student to attend a disciplinary alternative education program in a district without the district's consent until the student has successfully completed any sentencing requirements the court imposes.

(e) Any placement in a disciplinary alternative education program by a court under this section must prohibit the student from attending or participating in school-sponsored or school-related activities.

(f) If a student is expelled under Section 37.007, on the recommendation of the committee established under Section 37.003 or on its own initiative, a district may readmit the student while the student is completing any court disposition requirements the court imposes. After the student has successfully completed any court disposition requirements the court imposes, including conditions of a deferred prosecution ordered by the court, or such conditions required by the prosecutor or probation department, if the student meets the requirements for admission into the public schools established by this title, a district may not refuse to admit the student, but the district may place the student in the disciplinary alternative education program. Notwithstanding Section 37.002(d), the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

(g) If an expelled student enrolls in another school district, the board of trustees of the district that expelled the student shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a disciplinary alternative education program for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion. A district may take any action permitted by this subsection if the student was expelled by a school district in another state if:

- (1) The out-of-state district provides to the district a copy of the expulsion order; and

(2) The grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

(g-1) If a student was expelled by a school district in another state for a period that exceeds one year and a school district in this state continues the expulsion or places the student in a disciplinary alternative education program under Subsection (g), the district shall reduce the period of the expulsion or placement so that the aggregate period does not exceed one year unless, after a review, 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.

(h) A person is not liable in civil damages for a referral to juvenile court as required by this section.

#### **§ 37.146. Requisites of complaint.**

(a) A complaint alleging the commission of a school offense must, in addition to the requirements imposed by Article 45.019, Code of Criminal Procedure:

- (1) Be sworn to by a person who has personal knowledge of the underlying facts giving rise to probable cause to believe that an offense has been committed; and
- (2) Be accompanied by a statement from a school employee stating:
  - (A) Whether the child is eligible for or receives special services under Subchapter A, Chapter 29; and
  - (B) The graduated sanctions, if required under Section 37.144, that were imposed on the child before the complaint was filed.

(b) After a complaint has been filed under this subchapter, a summons may be issued under Articles 23.04 and 45.057(e), Code of Criminal Procedure.

(c) A complaint under this subchapter may include a recommendation by a school employee that the child attend a teen court program under Article 45.052, Code of Criminal Procedure, if the school employee believes attending a teen court program is in the best interest of the child.

### **REGULATIONS**

No relevant regulations found.

## **In-school suspension**

### **LAWS**

#### **§ 37.002. Removal by teacher.**

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

#### **§ 37.021. Opportunity to complete courses during in-school and certain other placements.**

(a) If a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative education program, the district shall offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of the removal.

(b) The district may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

## **REGULATIONS**

No relevant regulations found.

## **Return to school following removal**

### **LAWS**

#### **§ 37.008. Disciplinary alternative education programs.**

(a-1) The agency shall adopt minimum standards for the operation of disciplinary alternative education programs, including standards relating to:

- (1) Student/teacher ratios;
- (2) Student health and safety;
- (3) Reporting of abuse, neglect, or exploitation of students;
- (4) Training for teachers in behavior management and safety procedures; and
- (5) Planning for a student's transition from a disciplinary alternative education program to a regular campus.

### **REGULATIONS**

#### **19 TAC § 103.1201 Standards for the operation of school district disciplinary alternative education programs.**

(k) The transition procedures established for a student who is exiting a DAEP and returning to the student's locally assigned campus shall be implemented and updated annually as needed. The transition procedures shall include:

- (1) An established timeline for the student's transition from the DAEP to the student's locally assigned campus; and
- (2) Written and oral communication from the DAEP staff to the locally assigned campus during the student's assignment to the DAEP, including the student's educational performance and tasks completed.

## **Use of restraint and seclusion**

### **LAWS**

#### **§ 29.022. Video surveillance of special education settings.**

(a) In order to promote student safety, on receipt of a written request authorized under Subsection (a-1), a school district or open-enrollment charter school shall provide equipment, including a video camera, to the school or schools in the district or the charter school campus or campuses specified in the request. A school or campus that receives equipment as provided by this subsection shall place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day, provided that:

(1) A school or campus that receives equipment as a result of the request by a parent or staff member is required to place equipment only in classrooms or settings in which the parent's child is in regular attendance or to which the staff member is assigned, as applicable; and

(2) A school or campus that receives equipment as a result of the request by a board of trustees, governing body, principal, or assistant principal is required to place equipment only in classrooms or settings identified by the requestor, if the requestor limits the request to specific classrooms or settings subject to this subsection.

(a-1) For purposes of Subsection (a):

(1) A parent of a child who receives special education services in one or more self-contained classrooms or other special education settings may request in writing that equipment be provided to the school or campus at which the child receives those services;

(2) A board of trustees or governing body may request in writing that equipment be provided to one or more specified schools or campuses at which one or more children receive special education services in self-contained classrooms or other special education settings;

(3) The principal or assistant principal of a school or campus at which one or more children receive special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the principal's or assistant principal's school or campus; and

(4) A staff member assigned to work with one or more children receiving special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the school or campus at which the staff member works.

(a-2) Each school district or open-enrollment charter school shall designate an administrator at the primary administrative office of the district or school with responsibility for coordinating the provision of equipment to schools and campuses in compliance with this section.

(a-3) A written request must be submitted and acted on as follows:

(1) A parent, staff member, or assistant principal must submit a request to the principal or the principal's designee of the school or campus addressed in the request, and the principal or designee must provide a copy of the request to the administrator designated under Subsection (a-2);

(2) A principal must submit a request by the principal to the administrator designated under Subsection (a-2); and

(3) A board of trustees or governing body must submit a request to the administrator designated under Subsection (a-2), and the administrator must provide a copy of the request to the principal or the principal's designee of the school or campus addressed in the request.

(b) A school or campus that places a video camera in a classroom or other special education setting in accordance with Subsection (a) shall operate and maintain the video camera in the classroom or setting, as long as the classroom or setting continues to satisfy the requirements under Subsection (a), for the remainder of the school year in which the school or campus received the request, unless the requestor withdraws the request in writing. If for any reason a school or campus will discontinue operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request under Subsection (a-1). Not later than the 10th school day before the end of each school year, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year under Subsection (a-1) submits a new request.

(c) Except as provided by Subsection (c-1), video cameras placed under this section must be capable of:

- (1) Covering all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out; and
  - (2) Recording audio from all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out.
- (c-1) The inside of a bathroom or any area in the classroom or other special education setting in which a student's clothes are changed may not be visually monitored, except for incidental coverage of a minor portion of a bathroom or changing area because of the layout of the classroom or setting.
- (d) Before a school or campus activates a video camera in a classroom or other special education setting under this section, the school or campus shall provide written notice of the placement to all school or campus staff and to the parents of each student attending class or engaging in school activities in the classroom or setting.
- (e) Except as provided by Subsection (e-1), a school district or open-enrollment charter school shall retain video recorded from a video camera placed under this section for at least three months after the date the video was recorded.
- (e-1) If a person described by Subsection (i) requests to view a video recording from a video camera placed under this section, a school district or open-enrollment charter school must retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to whether the recording documents an alleged incident. If the recording documents an alleged incident, the district or school shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.
- (f) A school district or open-enrollment charter school may solicit and accept gifts, grants, and donations from any person for use in placing video cameras in classrooms or other special education settings under this section.
- (g) This section does not:
- (1) Waive any immunity from liability of a school district or open-enrollment charter school, or of district or school officers or employees; or
  - (2) Create any liability for a cause of action against a school district or open-enrollment charter school or against district or school officers or employees.
- (h) A school district or open-enrollment charter school may not:
- (1) Allow regular or continual monitoring of video recorded under this section; or
  - (2) Use video recorded under this section for teacher evaluation or for any other purpose other than the promotion of safety of students receiving special education services in a self-contained classroom or other special education setting.
- (i) A video recording of a student made according to this section is confidential and may not be released or viewed except as provided by this subsection or Subsection (i-1) or (j). A school district or open-enrollment charter school shall release a recording for viewing by:
- (1) An employee who is involved in an alleged incident that is documented by the recording and has been reported to the district or school, on request of the employee;
  - (2) A parent of a student who is involved in an alleged incident that is documented by the recording and has been reported to the district or school, on request of the parent;
  - (3) Appropriate Department of Family and Protective Services personnel as part of an investigation under Section 261.406, Family Code;
  - (4) A peace officer, a school nurse, a district or school administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the board of trustees of the school district or the governing body of the open-enrollment charter

school in response to a report of an alleged incident or an investigation of district or school personnel or a report of alleged abuse committed by a student; or

(5) Appropriate agency or State Board for Educator Certification personnel or agents as part of an investigation.

(i-1) A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording is not in violation of Subsection (i).

(j) If a person described by Subsection (i)(4) or (5) who views the video recording believes that the recording documents a possible violation under Subchapter E, Chapter 261, Family Code, the person shall notify the Department of Family and Protective Services for investigation in accordance with Section 261.406, Family Code. If any person described by Subsection (i)(3), (4), or (5) who views the recording believes that the recording documents a possible violation of district or school policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording believed to document a possible violation of district or school policy relating to the neglect or abuse of a student may be used as part of a disciplinary action against district or school personnel and shall be released at the request of the student's parent in a legal proceeding. This subsection does not limit the access of a student's parent to a record regarding the student under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or other law.

(k) The commissioner may adopt rules to implement and administer this section, including rules regarding the special education settings to which this section applies.

(l) A school district or open-enrollment charter school policy relating to the placement, operation, or maintenance of video cameras under this section must:

(1) Include information on how a person may appeal an action by the district or school that the person believes to be in violation of this section or a policy adopted in accordance with this section, including the appeals process under Section 7.057;

(2) Require that the district or school provide a response to a request made under this section not later than the seventh school business day after receipt of the request by the person to whom it must be submitted under Subsection (a-3) that authorizes the request or states the reason for denying the request;

(3) Except as provided by Subdivision (5), require that a school or a campus begin operation of a video camera in compliance with this section not later than the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the request is authorized unless the agency grants an extension of time;

(4) Permit the parent of a student whose admission, review, and dismissal committee has determined that the student's placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed under this section to make a request for the video camera by the later of:

(A) The date on which the current school year ends; or

(B) The 10th school business day after the date of the placement determination by the admission, review, and dismissal committee; and

(5) If a request is made by a parent in compliance with Subdivision (4), unless the agency grants an extension of time, require that a school or campus begin operation of a video camera in compliance with this section not later than the later of:

(A) The 10th school day of the fall semester; or

(B) The 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the date the request is made.

(m) A school district, parent, staff member, or administrator may request an expedited review by the agency of the district's:

- (1) Denial of a request made under this section;
- (2) Request for an extension of time to begin operation of a video camera under Subsection (l)(3) or (5);  
or
- (3) Determination to not release a video recording to a person described by Subsection (i).

(n) If a school district, parent, staff member, or administrator requests an expedited review under Subsection (m), the agency shall notify all other interested parties of the request.

(o) If an expedited review has been requested under Subsection (m), the agency shall issue a preliminary judgment as to whether the district is likely to prevail on the issue under a full review by the agency. If the agency determines that the district is not likely to prevail, the district must fully comply with this section notwithstanding an appeal of the agency's decision. The agency shall notify the requestor and the district, if the district is not the requestor, of the agency's determination.

(p) The commissioner:

- (1) Shall adopt rules relating to the expedited review process under Subsections (m), (n), and (o), including standards for making a determination under Subsection (o); and
- (2) May adopt rules relating to an expedited review process under Subsections (m), (n), and (o) for an open-enrollment charter school.

(q) The agency shall collect data relating to requests made under this section and actions taken by a school district or open-enrollment charter school in response to a request, including the number of requests made, authorized, and denied.

(r) A video recording under this section is a governmental record only for purposes of Section 37.10, Penal Code.

(s) This section applies to the placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.

(t) A video camera placed under this section is not required to be in operation for the time during which students are not present in the classroom or other special education setting.

(u) In this section:

- (1) "Parent" includes a guardian or other person standing in parental relation to a student.
- (2) "School business day" means a day that campus or school district administrative offices are open.
- (3) "Self-contained classroom" does not include a classroom that is a resource room instructional arrangement under Section 42.151.
- (4) "Staff member" means a teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in a self-contained classroom or other special education setting.
- (5) "Time-out" has the meaning assigned by Section 37.0021.

**§ 37.0021. Use of confinement, restraint, seclusion, and time-out.**

(a) It is the policy of this state to treat with dignity and respect all students, including students with disabilities who receive special education services under Subchapter A, Chapter 29. A student with a disability who receives special education services under Subchapter A, Chapter 29, may not be confined

in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

(b) In this section:

(1) "Restraint" means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body.

(2) "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

(A) Is designed solely to seclude a person; and

(B) Contains less than 50 square feet of space.

(3) "Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

(A) That is not locked; and

(B) From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

(4) "Law enforcement duties" means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

(c) A school district employee or volunteer or an independent contractor of a district may not place a student in seclusion. This subsection does not apply to the use of seclusion in a court-ordered placement, other than a placement in an educational program of a school district, or in a placement or facility to which the following law, rules, or regulations apply:

(1) The Children's Health Act of 2000, Pub. L. No. 106-310, any subsequent amendments to that Act, any regulations adopted under that Act, or any subsequent amendments to those regulations;

(2) 40 T.A.C. Sections 720.1001--720.1013; or

(3) 25 T.A.C. Section 412.308(e).

(d) The commissioner by rule shall adopt procedures for the use of restraint and time-out by a school district employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special education services under Subchapter A, Chapter 29. A procedure adopted under this subsection must:

(1) Be consistent with:

(A) Professionally accepted practices and standards of student discipline and techniques for behavior management; and

(B) Relevant health and safety standards; and

(2) Identify any discipline management practice or behavior management technique that requires a district employee or volunteer or an independent contractor of a district to be trained before using that practice or technique.

(e) In the case of a conflict between a rule adopted under Subsection (d) and a rule adopted under Subchapter A, Chapter 29, the rule adopted under Subsection (d) controls.

(f) For purposes of this subsection, "weapon" includes any weapon described under Section 37.007(a)(1). This section does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

(1) The student possesses a weapon; and

(2) The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

- (g) This section and any rules or procedures adopted under this section do not apply to:
- (1) A peace officer performing law enforcement duties, except as provided by Subsection (i);
  - (2) Juvenile probation, detention, or corrections personnel; or
  - (3) An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.
- (h) This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:
- (1) Is employed or commissioned by a school district; or
  - (2) Provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.
- (i) A school district shall report electronically to the agency, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. A report submitted under this subsection must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities.

## **REGULATIONS**

### **19 TAC § 89.1053. Procedures for use of restraint and time-out.**

- (a) Requirement to implement. In addition to the requirements of 34 Code of Federal Regulations (CFR), §300.324(a)(2)(i), school districts and charter schools must implement the provisions of this section regarding the use of restraint and time-out. In accordance with the provisions of Texas Education Code (TEC), §37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out), it is the policy of the state to treat with dignity and respect all students, including students with disabilities who receive special education services under TEC, Chapter 29, Subchapter A.
- (b) Definitions.
- (1) Emergency means a situation in which a student's behavior poses a threat of:
    - (A) Imminent, serious physical harm to the student or others; or
    - (B) Imminent, serious property destruction.
  - (2) Restraint means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of the student's body.
  - (3) Time-out means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:
    - (A) That is not locked; and
    - (B) From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.
- (c) Use of restraint. A school employee, volunteer, or independent contractor may use restraint only in an emergency as defined in subsection (b) of this section and with the following limitations.
- (1) Restraint must be limited to the use of such reasonable force as is necessary to address the emergency.
  - (2) Restraint must be discontinued at the point at which the emergency no longer exists.
  - (3) Restraint must be implemented in such a way as to protect the health and safety of the student and others.

- (4) Restraint must not deprive the student of basic human necessities.
- (d) Training on use of restraint. Training for school employees, volunteers, or independent contractors must be provided according to the following requirements.
- (1) A core team of personnel on each campus must be trained in the use of restraint, and the team must include a campus administrator or designee and any general or special education personnel likely to use restraint.
  - (2) Personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 school days following the use of restraint.
  - (3) Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint.
  - (4) All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint.
- (e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers, or independent contractors must implement the following documentation requirements.
- (1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.
  - (2) On the day restraint is utilized, a good faith effort must be made to verbally notify the parent(s) regarding the use of restraint.
  - (3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.
  - (4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the admission, review, and dismissal (ARD) committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).
  - (5) Written notification to the parent(s) and documentation to the student's special education eligibility folder must include the following:
    - (A) Name of the student;
    - (B) Name of the staff member(s) administering the restraint;
    - (C) Date of the restraint and the time the restraint began and ended;
    - (D) Location of the restraint;
    - (E) Nature of the restraint;
    - (F) A description of the activity in which the student was engaged immediately preceding the use of restraint;
    - (G) The behavior that prompted the restraint;
    - (H) The efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
    - (I) Information documenting parent contact and notification.
- (f) Clarification regarding restraint. The provisions adopted under this section do not apply to the use of physical force or a mechanical device that does not significantly restrict the free movement of all or a portion of the student's body. Restraint that involves significant restriction as referenced in subsection (b) (2) of this section does not include:
- (1) Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;

- (2) Limited physical contact with a student to promote safety (e.g., holding a student's hand), prevent a potentially harmful action (e.g., running into the street), teach a skill, redirect attention, provide guidance to a location, or provide comfort;
  - (3) Limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors, with the expectation that instruction will be reflected in the individualized education program (IEP) as required by 34 CFR, §300.324(a)(2)(i) to promote student learning and reduce and/or prevent the need for ongoing intervention; or
  - (4) Seat belts and other safety equipment used to secure students during transportation.
- (g) Use of time-out. A school employee, volunteer, or independent contractor may use time-out in accordance with subsection (b)(3) of this section with the following limitations.
- (1) Physical force or threat of physical force must not be used to place a student in time-out.
  - (2) Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior.
  - (3) Use of time-out must not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.
- (h) Training on use of time-out. Training for school employees, volunteers, or independent contractors must be provided according to the following requirements.
- (1) General or special education personnel who implement time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out.
  - (2) Newly-identified personnel called upon to implement time-out based on requirements established in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out.
  - (3) Training on the use of time-out must be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, and must address the impact of time-out on the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.
  - (4) All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.
- (i) Documentation on use of time-out. Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.
- (j) Student safety. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.
- (k) Data reporting. With the exception of actions covered by subsection (f) of this section, data regarding the use of restraint must be electronically reported to the Texas Education Agency (TEA) in accordance with reporting standards specified by the TEA.
- (l) Peace officers. The provisions adopted under this section apply to a peace officer only if the peace officer is employed or commissioned by the school district or provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the school district and a local law enforcement agency, except that the data reporting requirements in

subsection (k) of this section apply to the use of restraint by any peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity.

(m) The provisions adopted under this section do not apply to:

- (1) Juvenile probation, detention, or corrections personnel; or
- (2) An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

## **Alternative placements**

### **LAWS**

#### **§ 25.0342. Transfer of students who Are victims of or have engaged in bullying.**

(a) In this section, "bullying" has the meaning assigned by Section 37.0832.

(b) On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, the board of trustees of a school district or the board's designee shall transfer the victim to:

- (1) Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
- (2) A campus in the school district other than the campus to which the victim was assigned at the time the bullying occurred.

(b-1) The board of trustees of a school district may transfer the student who engaged in bullying to:

- (1) Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
- (2) A campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

(b-2) Section 37.004 applies to a transfer under Subsection (b-1) of a student with a disability who receives special education services.

(c) The board of trustees or the board's designee shall verify that a student has been a victim of bullying before transferring the student under this section.

(d) The board of trustees or the board's designee may consider past student behavior when identifying a bully.

(e) The determination by the board of trustees or the board's designee is final and may not be appealed.

(f) A school district is not required to provide transportation to a student who transfers to another campus under Subsection (b)(2).

(g) Section 25.034 does not apply to a transfer under this section.

#### **§ 37.002. Removal by teacher.**

(a) A teacher may send a student to the campus behavior coordinator's office to maintain effective discipline in the classroom. The campus behavior coordinator shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001 that can reasonably be expected to improve the student's behavior before returning the student to the classroom. If the student's behavior does not improve, the campus behavior coordinator shall employ alternative discipline management techniques, including any progressive interventions designated as the responsibility of the campus behavior coordinator in the student code of conduct.

(b) A teacher may remove from class a student:

(1) Who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or

(2) Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

(d) A teacher shall remove from class and send to the principal for placement in a disciplinary alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. If the teacher removed the student from class because the student has engaged in the elements of any offense listed in Section 37.006(a)(2)(B) or Section 37.007(a)(2)(A) or (b)(2)(C) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

#### **§ 37.003. Placement review committee.**

(a) Each school shall establish a three-member committee to determine placement of a student when a teacher refuses the return of a student to the teacher's class and make recommendations to the district regarding readmission of expelled students. Members shall be appointed as follows:

(1) The campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member; and

(2) The principal shall choose one member from the professional staff of a campus.

(b) The teacher refusing to readmit the student may not serve on the committee.

(c) The committee's placement determination regarding a student with a disability who receives special education services under Subchapter A, Chapter 29, is subject to the requirements of the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and federal regulations, state statutes, and agency requirements necessary to carry out federal law or regulations or state law relating to special education.

#### **§ 37.004. Placement of students with disabilities.**

(a) The placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee.

(b) Any disciplinary action regarding a student with a disability who receives special education services that would constitute a change in placement under federal law may be taken only after the student's admission, review, and dismissal committee conducts a manifestation determination review under 20 U.S.C. Section 1415(k)(4) and its subsequent amendments. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations, including laws or regulations requiring the provision of:

(1) Functional behavioral assessments;

(2) Positive behavioral interventions, strategies, and supports;

- (3) Behavioral intervention plans; and
  - (4) The manifestation determination review.
- (c) A student with a disability who receives special education services may not be placed in alternative education programs solely for educational purposes.
- (d) A teacher in an alternative education program under Section 37.008 who has a special education assignment must hold an appropriate certificate or permit for that assignment.

**§ 37.0051. Placement of students committing sexual assault against another student.**

- (a) As provided by Section 25.0341(b)(2), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 or a juvenile justice alternative education program under Section 37.011.
- (b) A limitation imposed by this subchapter on the length of a placement in a disciplinary alternative education program or a juvenile justice alternative education program does not apply to a placement under this section.

**§ 37.006. Removal for certain conduct.**

- (a) A student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student:
- (1) Engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code; or
  - (2) Commits the following 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 of school property:
    - (A) Engages in conduct punishable as a felony;
    - (B) Engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;
    - (C) Sells, gives, or delivers to another person or possesses or uses or is under the influence of:
      - (i) Marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or
      - (ii) A dangerous drug, as defined by Chapter 483, Health and Safety Code;
    - (D) Sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;
    - (E) Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code; or
    - (F) Engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code.
- (b) Except as provided by Section 37.007(d), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct on or off of school property that contains the elements of the offense of retaliation under Section 36.06, Penal Code, against any school employee.
- (c) In addition to Subsections (a) and (b), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

- (1) The student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as:
  - (A) A felony offense in Title 5, Penal Code; or
  - (B) The felony offense of aggravated robbery under Section 29.03, Penal Code;
- (2) A court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:
  - (A) A felony offense in Title 5, Penal Code; or
  - (B) The felony offense of aggravated robbery under Section 29.03, Penal Code; or
- (3) The superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as:
  - (A) A felony offense in Title 5, Penal Code; or
  - (B) The felony offense of aggravated robbery under Section 29.03, Penal Code.
- (d) In addition to Subsections (a), (b), and (c), a student may be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:
  - (1) The superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Section 29.03, Penal Code, or those offenses defined in Title 5, Penal Code; and
  - (2) 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.
- (e) In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense by the Penal Code, the superintendent or the superintendent's designee may consider all available information, including the information furnished under Article 15.27, Code of Criminal Procedure.
- (f) Subject to Section 37.007(e), a student who is younger than 10 years of age shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct described by Section 37.007. An elementary school student may not be placed in a disciplinary alternative education program with any other student who is not an elementary school student.
- (g) The terms of a placement under this section must prohibit the student from attending or participating in a school-sponsored or school-related activity.
- (h) On receipt of notice under Article 15.27(g), Code of Criminal Procedure, the superintendent or the superintendent's designee shall review the student's placement in the disciplinary alternative education program. The student may not be returned to the regular classroom pending the review. The superintendent or the superintendent's designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or superintendent's designee receives notice from the office or official designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or the superintendent's designee may continue the student's placement in the disciplinary alternative education program if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.
- (i) The student or the student's parent or guardian may appeal the superintendent's decision under Subsection (h) to the board of trustees. The student may not be returned to the regular classroom pending the appeal. The board shall, at the next scheduled meeting, review the notice provided under Article 15.27(g), Code of Criminal Procedure, and receive information from the student, the student's

parent or guardian, and the superintendent or superintendent's designee and confirm or reverse the decision under Subsection (h). The board shall make a record of the proceedings. If the board confirms the decision of the superintendent or superintendent's designee, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner under Subsection (j).

(j) Notwithstanding Section 7.057(e), the decision of the board of trustees under Subsection (i) may be appealed to the commissioner as provided by Sections 7.057(b), (c), (d), and (f). The student may not be returned to the regular classroom pending the appeal.

(k) Subsections (h), (i), and (j) do not apply to placements made in accordance with Subsection (a).

(l) Notwithstanding any other provision of this code, other than Section 37.007(e)(2), a student who is younger than six years of age may not be removed from class and placed in a disciplinary alternative education program.

(m) Removal to a disciplinary alternative education program under Subsection (a) is not required if the student is expelled under Section 37.007 for the same conduct for which removal would be required.

(n) A principal or other appropriate administrator may but is not required to remove a student to a disciplinary alternative education program for off-campus conduct for which removal is required under this section if the principal or other appropriate administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

(o) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a principal or a principal's designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

#### **§ 37.0061. Funding for alternative education services in juvenile residential facilities.**

A school district that provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board is entitled to count such students in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. If the district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth level, the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between the average Foundation School Program costs per student of the district providing education services and the sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.

#### **§ 37.0062. Instructional requirements for alternative education services in juvenile residential facilities.**

(a) The commissioner shall determine the instructional requirements for education services provided by a school district or open-enrollment charter school in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility operated by a juvenile board or a post-adjudication secure correctional facility operated under contract with the Texas Juvenile Justice Department, including requirements relating to:

- (1) The length of the school day;
- (2) The number of days of instruction provided to students each school year; and

- (3) The curriculum of the educational program.
- (b) The commissioner shall coordinate with the Texas Juvenile Justice Department in determining the instructional requirements for education services provided under Subsection (a):
  - (1) In a pre-adjudication secure detention facility or a post-adjudication secure correctional facility operated by a juvenile board; and
  - (2) In a post-adjudication secure correctional facility operated under contract with the department.
- (c) The commissioner shall adopt rules necessary to administer this section. The rules must ensure that:
  - (1) A student who receives education services in a pre-adjudication secure detention facility described by this section is offered courses that enable the student to maintain progress toward completing high school graduation requirements; and
  - (2) A student who receives education services in a post-adjudication secure correctional facility described by this section is offered, at a minimum, the courses necessary to enable the student to complete high school graduation requirements.
- (d) The Texas Juvenile Justice Department shall coordinate with the commissioner in establishing standards for:
  - (1) Ensuring security in the provision of education services in the facilities; and
  - (2) Providing children in the custody of the facilities access to education services.

**§ 37.007. Expulsion for serious offenses.**

- (e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:
  - (2) The district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and
  - (3) The district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

**§ 37.008. Disciplinary alternative education programs.**

- (a) Each school district shall provide a disciplinary alternative education program that:
  - (1) Is provided in a setting other than a student's regular classroom;
  - (2) Is located on or off of a regular school campus;
  - (3) Provides for the students who are assigned to the disciplinary alternative education program to be separated from students who are not assigned to the program;
  - (4) Focuses on English language arts, mathematics, science, history, and self-discipline;
  - (5) Provides for students' educational and behavioral needs;
  - (6) Provides supervision and counseling; and
  - (7) Employs only teachers who meet all certification requirements established under Subchapter B, Chapter 21.
- (a-1) The agency shall adopt minimum standards for the operation of disciplinary alternative education programs, including standards relating to:
  - (1) Student/teacher ratios;

- (2) Student health and safety;
  - (3) Reporting of abuse, neglect, or exploitation of students;
  - (4) Training for teachers in behavior management and safety procedures; and
  - (5) Planning for a student's transition from a disciplinary alternative education program to a regular campus.
- (b) A disciplinary alternative education program may provide for a student's transfer to:
- (1) A different campus;
  - (2) A school-community guidance center; or
  - (3) A community-based alternative school.
- (c) An off-campus disciplinary alternative education program is not subject to a requirement imposed by this title, other than a limitation on liability, a reporting requirement, or a requirement imposed by this chapter or by Chapter 39 or 39A.
- (d) A school district may provide a disciplinary alternative education program jointly with one or more other districts.
- (e) Each school district shall cooperate with government agencies and community organizations that provide services in the district to students placed in a disciplinary alternative education program.
- (f) A student removed to a disciplinary alternative education program is counted in computing the average daily attendance of students in the district for the student's time in actual attendance in the program.
- (g) A school district shall allocate to a disciplinary alternative education program the same expenditure per student attending the disciplinary alternative education program, including federal, state, and local funds, that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program.
- (h) A school district may not place a student, other than a student suspended as provided under Section 37.005 or expelled as provided under Section 37.007, in an unsupervised setting as a result of conduct for which a student may be placed in a disciplinary alternative education program.
- (i) On request of a school district, a regional education service center may provide to the district information on developing a disciplinary alternative education program that takes into consideration the district's size, wealth, and existing facilities in determining the program best suited to the district.
- (j) If a student placed in a disciplinary alternative education program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The district in which the student enrolls may continue the disciplinary alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement. A district may take any action permitted by this subsection if:
- (1) The student was placed in a disciplinary alternative education program by an open-enrollment charter school under Section 12.131 and the charter school provides to the district a copy of the placement order; or
  - (2) The student was placed in a disciplinary alternative education program by a school district in another state and:

(A) The out-of-state district provides to the district a copy of the placement order; and

(B) The grounds for the placement by the out-of-state district are grounds for placement in the district in which the student is enrolling.

(j-1) If a student was placed in a disciplinary alternative education program by a school district in another state for a period that exceeds one year and a school district in this state in which the student enrolls continues the placement under Subsection (j), the district shall reduce the period of the placement so that the aggregate period does not exceed one year unless, after a review, 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.

(k) A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Section 37.006 or 37.007. A disciplinary alternative education program that provides chemical dependency treatment services must be licensed under Chapter 464, Health and Safety Code.

(l) A school district is required to provide in the district's disciplinary alternative education program a course necessary to fulfill a student's high school graduation requirements only as provided by this subsection. A school district shall offer a student removed to a disciplinary alternative education program an opportunity to complete coursework before the beginning of the next school year. The school district may provide the student an opportunity to complete coursework through any method available, including a correspondence course, distance learning, or summer school. The district may not charge the student for a course provided under this subsection.

(l-1) A school district shall provide the parents of a student removed to a disciplinary alternative education program with written notice of the district's obligation under Subsection (l) to provide the student with an opportunity to complete coursework required for graduation. The notice must:

(1) Include information regarding all methods available for completing the coursework; and

(2) State that the methods are available at no cost to the student.

(m) The commissioner shall adopt rules necessary to evaluate annually the performance of each district's disciplinary alternative education program established under this subchapter. The evaluation required by this section shall be based on indicators defined by the commissioner, but must include student performance on assessment instruments required under Sections 39.023(a) and (c). Academically, the mission of disciplinary alternative education programs shall be to enable students to perform at grade level.

(m-1) The commissioner shall develop a process for evaluating a school district disciplinary alternative education program electronically. The commissioner shall also develop a system and standards for review of the evaluation or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate disciplinary alternative education program data or of failing to comply with disciplinary alternative education program requirements. The commissioner shall notify the board of trustees of a district of any objection the commissioner has to the district's disciplinary alternative education program data or of a violation of a law or rule revealed by the data, including any violation of disciplinary alternative education program requirements, or of any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of disciplinary alternative education program data.

**§ 37.0081. Expulsion and placement of certain students in alternative settings.**

(a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) if:

(1) The student:

(A) Has received deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(i) A felony offense in Title 5, Penal Code; or

(ii) The felony offense of aggravated robbery under Section 29.03, Penal Code;

(B) Has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) A felony offense in Title 5, Penal Code; or

(ii) The felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) Is charged with engaging in conduct defined as:

(i) A felony offense in Title 5, Penal Code; or

(ii) The felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) Has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) A felony offense in Title 5, Penal Code; or

(ii) The felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) Has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) Has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) Has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

(2) The board or the board's designee determines that the student's presence in the regular classroom:

(A) Threatens the safety of other students or teachers;

(B) Will be detrimental to the educational process; or

(C) Is not in the best interests of the district's students.

(a-1) The student must be placed in:

(1) A juvenile justice alternative education program, if the school district is located in a county that operates a juvenile justice alternative education program or the school district contracts with the juvenile board of another county for the provision of a juvenile justice alternative education program; or

(2) A disciplinary alternative education program.

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

(c) The board of trustees or the board's designee may expel the student and order placement in accordance with this section 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.
- (d) Notwithstanding Section 37.009(c) or (d) or any other provision of this subchapter, a student expelled and ordered placed in an alternative setting by the board of trustees or the board's designee is subject to that placement until:
  - (1) The student graduates from high school;
  - (2) The charges described by Subsection (a)(1) are dismissed or reduced to a misdemeanor offense; or
  - (3) The student completes the term of the placement or is assigned to another program.
- (e) A student placed in an alternative setting in accordance with this section is entitled to the periodic review prescribed by Section 37.009(e).
- (f) Subsection (d) continues to apply to the student if the student transfers to another school district in the state.
- (g) The board of trustees shall reimburse a juvenile justice alternative education program in which a student is placed under this section for the actual cost incurred each day for the student while the student is enrolled in the program. For purposes of this subsection:
  - (1) The actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and
  - (2) The juvenile board shall determine the actual cost each day of the program based on the board's annual audit.
- (h) To the extent of a conflict between this section and Section 37.007, Section 37.007 prevails.

**§ 37.0082. Assessment of academic growth of students in disciplinary alternative education programs.**

- (a) To assess a student's academic growth during placement in a disciplinary alternative education program, a school district shall administer to a student placed in a program for a period of 90 school days or longer an assessment instrument approved by the commissioner for that purpose. The instrument shall be administered:
  - (1) Initially on placement of the student in the program; and
  - (2) Subsequently on the date of the student's departure from the program, or as near that date as possible.
- (b) The assessment instrument required by this section:
  - (1) Must be designed to assess at least a student's basic skills in reading and mathematics;
  - (2) May be:
    - (A) Comparable to any assessment instrument generally administered to students placed in juvenile justice alternative education programs for a similar purpose; or
    - (B) Based on an appropriate alternative assessment instrument developed by the agency to measure student academic growth; and
  - (3) Is in addition to the assessment instruments required to be administered under Chapter 39.
- (c) The commissioner shall adopt rules necessary to implement this section.

**§ 37.011. Juvenile justice alternative education program.**

- (a) The juvenile board of a county with a population greater than 125,000 shall develop a juvenile justice alternative education program, subject to the approval of the Texas Juvenile Justice Department. The juvenile board of a county with a population of 125,000 or less may develop a juvenile justice alternative

education program. For the purposes of this subchapter, only a disciplinary alternative education program operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program. A juvenile justice alternative education program in a county with a population of 125,000 or less:

- (1) Is not required to be approved by the department; and
- (2) Is not subject to Subsection (c), (d), (f), or (g).

(a-1) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if:

- (1) The county had a population of 125,000 or less according to the 2000 federal census; and
- (2) The juvenile board of the county enters into, with the approval of the Texas Juvenile Justice Department, a memorandum of understanding with each school district within the county that:
  - (A) Outlines the responsibilities of the board and school districts in minimizing the number of students expelled without receiving alternative educational services; and
  - (B) Includes the coordination procedures required by Section 37.013.

(a-2) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

- (1) Has a population of 180,000 or less;
- (2) Is adjacent to two counties, each of which has a population of more than 1.7 million; and
- (3) Has seven or more school districts located wholly within the county's boundaries.

(a-3) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

- (1) Has a population of more than 200,000 and less than 220,000;
- (2) Has five or more school districts located wholly within the county's boundaries; and
- (3) Has located in the county a juvenile justice alternative education program that, on May 1, 2011, served fewer than 15 students.

(a-4) A school district located in a county considered to be a county with a population of 125,000 or less under Subsection (a-3) shall provide educational services to a student who is expelled from school under this chapter. The district is entitled to count the student in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

- (1) The district's disciplinary alternative education program; or
- (2) A contracted placement with:
  - (A) Another school district;
  - (B) An open-enrollment charter school;
  - (C) An institution of higher education;
  - (D) An adult literacy council; or
  - (E) A community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.

(a-5) For purposes of Subsection (a-4), an educational placement other than a school district's disciplinary alternative education program is subject to the educational and certification requirements applicable to an open-enrollment charter school under Subchapter D, Chapter 12

(b) If a student admitted into the public schools of a school district under Section 25.001(b) is expelled from school for conduct for which expulsion is required under Section 37.007(a), (d), or (e), the juvenile court, the juvenile board, or the juvenile board's designee, as appropriate, shall:

(1) If the student is placed on probation under Section 54.04, Family Code, order the student to attend the juvenile justice alternative education program in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;

(2) If the student is placed on deferred prosecution under Section 53.03, Family Code, by the court, prosecutor, or probation department, require the student to immediately attend the juvenile justice alternative education program in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;

(3) In determining the conditions of the deferred prosecution or court-ordered probation, consider the length of the school district's expulsion order for the student; and

(4) Provide timely educational services to the student in the juvenile justice alternative education program in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student.

(b-1) Subsection (b)(4) does not require that educational services be provided to a student who is not entitled to admission into the public schools of a school district under Section 25.001(b).

(c) A juvenile justice alternative education program shall adopt a student code of conduct in accordance with Section 37.001.

(d) A juvenile justice alternative education program must focus on English language arts, mathematics, science, social studies, and self-discipline. Each school district shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a district school. Each program shall administer assessment instruments under Subchapter B, Chapter 39, and shall offer a high school equivalency program. The juvenile board or the board's designee, with the parent or guardian of each student, shall regularly review the student's academic progress. In the case of a high school student, the board or the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The program is not required to provide a course necessary to fulfill a student's high school graduation requirements other than a course specified by this subsection.

(e) A juvenile justice alternative education program may be provided in a facility owned by a school district. A school district may provide personnel and services for a juvenile justice alternative education program under a contract with the juvenile board.

(f) A juvenile justice alternative education program must operate at least seven hours per day and 180 days per year, except that a program may apply to the Texas Juvenile Justice Department for a waiver of the 180-day requirement. The department may not grant a waiver to a program under this subsection for a number of days that exceeds the highest number of instructional days waived by the commissioner during the same school year for a school district served by the program.

(g) A juvenile justice alternative education program shall be subject to a written operating policy developed by the local juvenile justice board and submitted to the Texas Juvenile Justice Department for review and comment. A juvenile justice alternative education program is not subject to a requirement imposed by this title, other than a reporting requirement or a requirement imposed by this chapter or by Chapter 39 or 39A.

(h) Academically, the mission of juvenile justice alternative education programs shall be to enable students to perform at grade level. For purposes of accountability under Chapters 39 and 39A, a student enrolled in a juvenile justice alternative education program is reported as if the student were enrolled at

the student's assigned campus in the student's regularly assigned education program, including a special education program. Annually the Texas Juvenile Justice Department, with the agreement of the commissioner, shall develop and implement a system of accountability consistent with Chapters 39 and 39A, where appropriate, to assure that students make progress toward grade level while attending a juvenile justice alternative education program. The department shall adopt rules for the distribution of funds appropriated under this section to juvenile boards in counties required to establish juvenile justice alternative education programs. Except as determined by the commissioner, a student served by a juvenile justice alternative education program on the basis of an expulsion required under Section 37.007(a), (d), or (e) is not eligible for Foundation School Program funding under Chapter 42 or 31 if the juvenile justice alternative education program receives funding from the department under this subchapter.

(i) A student transferred to a juvenile justice alternative education program must participate in the program for the full period ordered by the juvenile court unless the student's school district agrees to accept the student before the date ordered by the juvenile court. The juvenile court may not order a period of transfer under this section that exceeds the term of any probation ordered by the juvenile court.

(j) In relation to the development and operation of a juvenile justice alternative education program, a juvenile board and a county and a commissioner's court are immune from liability to the same extent as a school district, and the juvenile board's or county's professional employees and volunteers are immune from liability to the same extent as a school district's professional employees and volunteers.

(k) Each school district in a county with a population greater than 125,000 and the county juvenile board shall annually enter into a joint memorandum of understanding that:

- (1) Outlines the responsibilities of the juvenile board concerning the establishment and operation of a juvenile justice alternative education program under this section;
- (2) Defines the amount and conditions on payments from the school district to the juvenile board for students of the school district served in the juvenile justice alternative education program whose placement was not made on the basis of an expulsion required under Section 37.007(a), (d), or (e);
- (3) Establishes that a student may be placed in the juvenile justice alternative education program if the student engages in serious misbehavior, as defined by Section 37.007(c);
- (4) Identifies and requires a timely placement and specifies a term of placement for expelled students for whom the school district has received a notice under Section 52.041(d), Family Code;
- (5) Establishes services for the transitioning of expelled students to the school district prior to the completion of the student's placement in the juvenile justice alternative education program;
- (6) Establishes a plan that provides transportation services for students placed in the juvenile justice alternative education program;
- (7) Establishes the circumstances and conditions under which a juvenile may be allowed to remain in the juvenile justice alternative education program setting once the juvenile is no longer under juvenile court jurisdiction; and
- (8) Establishes a plan to address special education services required by law.

(l) The school district shall be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b) and (f) but who are not eligible for admission into the juvenile justice alternative education program in accordance with the memorandum of understanding required under this section. The school district may provide the program or the school district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program. The memorandum of understanding shall address the circumstances under which such students who continue to engage in serious misbehavior, as defined by Section 37.007(c), shall be admitted into the juvenile justice alternative education program.

(m) Each school district in a county with a population greater than 125,000 and the county juvenile board shall adopt a joint memorandum of understanding as required by this section not later than September 1 of each school year.

(n) If a student who is ordered to attend a juvenile justice alternative education program moves from one county to another, the juvenile court may request the juvenile justice alternative education program in the county to which the student moves to provide educational services to the student in accordance with the local memorandum of understanding between the school district and juvenile board in the receiving county.

(o) In relation to the development and operation of a juvenile justice alternative education program, a juvenile board and a county and a commissioners court are immune from liability to the same extent as a school district, and the juvenile board's or county's employees and volunteers are immune from liability to the same extent as a school district's employees and volunteers.

(p) If a district elects to contract with the juvenile board for placement in the juvenile justice alternative education program of students expelled under Section 37.007(b), (c), and (f) and the juvenile board and district are unable to reach an agreement in the memorandum of understanding, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator in which each party will pay its pro rata share of the arbitration costs. Each party must submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the school districts shall select an arbitrator, and those two arbitrators shall select an arbitrator who will decide the issues in dispute. An arbitration decision issued under this subsection is enforceable in a court in the county in which the juvenile justice alternative education program is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a juvenile justice alternative education program must provide an amount sufficient based on operation of the juvenile justice alternative education program in accordance with this chapter. In determining the amount to be paid by a school district for an expelled student enrolled in a juvenile justice alternative education program, the arbitrator shall consider the relevant factors, including evidence of:

- (1) The actual average total per student expenditure in the district's alternative education setting;
- (2) The expected per student cost in the juvenile justice alternative education program as described and agreed on in the memorandum of understanding and in compliance with this chapter; and
- (3) The costs necessary to achieve the accountability goals under this chapter.

(q) In accordance with rules adopted by the board of trustees for the Teacher Retirement System of Texas, a certified educator employed by a juvenile board in a juvenile justice alternative education program shall be eligible for membership and participation in the system to the same extent that an employee of a public school district is eligible. The juvenile board shall make any contribution that otherwise would be the responsibility of the school district if the person were employed by the school district, and the state shall make any contribution to the same extent as if the person were employed by a school district.

#### **§ 37.012. Funding of juvenile justice alternative education programs.**

(a) Subject to Section 37.011(n), the school district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Section 37.007 shall, if the student is served by the juvenile justice alternative education program, provide funding to the juvenile board for the portion of the school year for which the juvenile justice alternative education program provides educational services in an amount determined by the memorandum of understanding under Section 37.011(k)(2).

(b) Funds received under this section must be expended on juvenile justice alternative education programs.

(c) The Office of State-Federal Relations shall assist a local juvenile probation department in identifying additional state or federal funds to assist local juvenile probation departments conducting educational or job training programs within juvenile justice alternative education programs.

(d) A school district is not required to provide funding to a juvenile board for a student who is assigned by a court to a juvenile justice alternative education program but who has not been expelled.

(e) Except as otherwise authorized by law, a juvenile justice alternative education program may not require a student or the parent or guardian of a student to pay any fee, including an entrance fee or supply fee, for participating in the program.

**§ 37.019. Emergency placement or expulsion.**

(a) This subchapter does not prevent the principal or the principal's designee from ordering the immediate placement of a student in a disciplinary alternative education program if the principal or the principal's designee reasonably believes the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.

(b) This subchapter does not prevent the principal or the principal's designee from ordering the immediate expulsion of a student if the principal or the principal's designee reasonably believes that action is necessary to protect persons or property from imminent harm.

(c) At the time of an emergency placement or expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a nonemergency basis. Within a reasonable time after the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion, the student shall be accorded the appropriate due process as required under Section 37.009. If the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability.

(d) A principal or principal's designee is not liable in civil damages for an emergency placement under this section.

**§ 37.031. Establishment of pilot program.**

(a) A pilot program is established under this subchapter for placement of high school students in Junior Reserve Officers' Training Corps programs as an alternative, in accordance with Section 37.032, to placement in disciplinary alternative education programs or juvenile justice alternative education programs.

(b) The pilot program applies only to a student enrolled in a high school:

(1) Located in a municipality that:

(A) Has a population of 200,000 or more;

(B) Is located on an international border; and

(C) Has more than 20 percent of the population 18 to 24 years of age who have not graduated from high school, according to the most recent American Community Survey five-year estimates compiled by the United States Census Bureau; and

(2) Designated by the agency under Subsection (c).

(c) The agency shall designate not more than two high schools that are located in a municipality described by Subsection (b)(1) and that offer Junior Reserve Officers' Training Corps programs to participate in the pilot program. The commissioner by rule shall adopt additional criteria that promote positive student educational outcomes for the agency to use in making designations under this subchapter.

(d) The application of this subchapter to a student enrolled in a high school located in a municipality described by Subsection (b)(1) is not affected if, after the high school is designated under Subsection (c), the high school graduation rate in the municipality changes and the municipality no longer meets the requirements of Subsection (b)(1)(C).

#### **§ 37.032. Participation requirements and exceptions.**

(a) Notwithstanding any other provision of Subchapter A and except as provided by Subsection (c), a student subject to this subchapter who is otherwise required or permitted under Subchapter A to be placed in a disciplinary alternative education program or juvenile justice alternative education program may, instead of that placement, choose to participate in a Junior Reserve Officers' Training Corps program if the student meets the initial eligibility requirements for the program.

(b) A student who chooses to participate in a Junior Reserve Officers' Training Corps program as authorized under this subchapter shall continue to attend the student's regularly assigned classes, except that the student's schedule may be modified to the extent necessary to provide for attendance in the program.

(c) This subchapter does not apply if:

- (1) The student is removed from class and placed into another appropriate classroom or into in-school suspension under Section 37.002 or is suspended under Section 37.005;
- (2) The student engages in conduct described by Section 37.006(a)(2)(B) or Section 37.007(a)(2) or (b)(2)(C);
- (3) The continued presence of the student in the regular classroom threatens the safety of other students or teachers; or
- (4) The student engages in conduct for which the student is required to be expelled from the student's regular campus under federal law.

#### **§ 37.033. Student code of conduct.**

(a) In addition to the requirements for the student code of conduct under Section 37.001, the student code of conduct for a school district that includes a school designated under Section 37.031(c) must, consistent with this subchapter and as applied to the designated school:

- (1) Specify conditions that authorize a principal or other appropriate administrator to permit a student to choose to participate in a Junior Reserve Officers' Training Corps program as an alternative to placement in a disciplinary alternative education program or juvenile justice alternative education program;
- (2) Specify that consideration will be given, as a factor in each decision concerning alternative participation in a Junior Reserve Officers' Training Corps program, to:
  - (A) Self-defense;
  - (B) Intent or lack of intent at the time the student engaged in the conduct;
  - (C) A student's disciplinary history; or
  - (D) A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

- (3) Provide guidelines that promote positive student educational outcomes for students choosing to participate in a Junior Reserve Officers' Training Corps program as an alternative to placement in a disciplinary alternative education program or juvenile justice alternative education program;
  - (4) Provide guidelines for setting the length of a term of participation in a Junior Reserve Officers' Training Corps program as an alternative to placement in a disciplinary alternative education program or juvenile justice alternative education program; and
  - (5) Address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in the student's choice to participate in a Junior Reserve Officers' Training Corps program as an alternative to placement in a disciplinary alternative education program or a juvenile justice alternative education program.
- (b) This section does not require the student code of conduct to specify a minimum term of participation in a Junior Reserve Officers' Training Corps program.

**§ 37.034. Determination regarding certain conduct.**

Section 37.006(e) applies to this subchapter.

**§ 37.035. Notice to parents.**

- (a) Before a student may participate in a Junior Reserve Officers' Training Corps program as authorized under this subchapter, the school district shall notify the student's parent or guardian of the student's proposed placement. The notice must include the reason for the proposed placement.
- (b) A noncustodial parent may request in writing that a school district or school, for the remainder of the school year in which the request is received, provide that parent with a copy of any written notification relating to the student's placement as authorized under this subchapter that is generally provided by the district or school to a student's parent or guardian.

**§ 37.036. Term of placement.**

- (a) The board of trustees of the school district or the board's designee shall set a term for a student's participation in a Junior Reserve Officers' Training Corps program as authorized under this subchapter. The term must be for a period consistent with the guidelines adopted under the student code of conduct in accordance with Section 37.033(a)(4). If the period of placement is inconsistent with the guidelines adopted under the student code of conduct, the notice under Section 37.035(a) must provide an explanation of the inconsistency.
- (b) Before a student may participate in a Junior Reserve Officers' Training Corps program as authorized under this subchapter for a period that extends beyond the end of a school year, the board of trustees or the board's designee must determine that the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct. The period of participation may not exceed one year unless, after review, the board or the board's designee determines that extended placement is in the best interest of the student.

**§ 37.037. Notice to educators.**

- (a) The board of trustees of the school district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who is participating in a Junior Reserve Officers' Training Corps program as authorized under this subchapter.
- (b) Each educator shall keep the information received under this section confidential from any person not entitled to the information under this section, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law.

(c) The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this section or Section 37.038.

**§ 37.038. Transfer of student under pilot program.**

(a) If a student participating in a Junior Reserve Officers' Training Corps program as authorized under this subchapter enrolls in another school district before the expiration of the designated period of participation, the board of trustees of the school district in which the student was participating in the program shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order.

(b) Each educator shall keep the information received under this section confidential from any person not entitled to the information under this section, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law.

(c) Subject to Subsection (d), the school district in which the student enrolls may continue the Junior Reserve Officers' Training Corps program placement under the terms of the order or may allow the student to attend regular classes without completing the designated period of participation.

(d) If the school the student attends in the school district in which the student enrolls does not offer a Junior Reserve Officers' Training Corps program, the student may be placed in a disciplinary alternative education program or a juvenile justice alternative education program under the procedures provided by this subchapter for the remainder of the term set under Section 37.036.

**§ 37.039. Procedure for addressing failure to complete designated period of participation or subsequent conduct after program participation.**

A student who chooses to participate in a Junior Reserve Officers' Training Corps program as authorized under this subchapter is subject to the provisions of Subchapter A relating to removal from class and placement in a disciplinary alternative education program or juvenile justice alternative education program if the student:

(1) Except as provided by Section 37.038(c), fails to complete the designated period of participation under the terms of an order as authorized by this section; or

(2) After completion of any participation in a Junior Reserve Officers' Training Corps program as authorized under this subchapter, engages in subsequent conduct requiring or permitting the student to be removed from class and placed in a disciplinary alternative education program or juvenile justice alternative education program under Subchapter A.

**§ 37.040. Applicability to subchapter a.**

Sections 37.002, 37.006, and 37.007 are subject to this subchapter.

**§ 37.041. Review of program; report.**

Not later than January 1, 2019, the commissioner shall review the pilot program established under this subchapter and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a written report regarding the progress made by the pilot program in improving student educational outcomes.

**§ 37.042. Expiration.**

This subchapter expires September 1, 2019.

## REGULATIONS

### **19 TAC § 89.1052. Discretionary placements in Juvenile Justice Alternative Education Programs (JJAEP).**

(a) This section applies only to the expulsion of a student with a disability under:

- (1) Texas Education Code (TEC), §37.007(b), (c), or (f); or
- (2) TEC, §37.007(d), as a result of conduct that contains the elements of any offense listed in TEC, §37.007(b)(2)(C), against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district.

(b) In a county with a Juvenile Justice Alternative Education Program (JJAEP), a local school district must invite the administrator of the JJAEP or the administrator's designee to an admission, review, and dismissal (ARD) committee meeting convened to discuss the expulsion of a student with a disability under one of the provisions listed in subsection (a) of this section, relating to offenses for which a school district may expel a student. The school district must provide written notice of the meeting at least five school days before the meeting or a shorter timeframe agreed to by the student's parents. A copy of the student's current individualized education program (IEP) must be provided to the JJAEP representative with the notice. If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means, including conference telephone calls. The JJAEP representative may participate in the meeting to the extent that the meeting relates to the student's placement in the JJAEP and implementation of the student's current IEP in the JJAEP.

(c) For a student with a disability who was expelled under one of the provisions listed in subsection (a) of this section and placed in the JJAEP, an ARD committee meeting must be convened to reconsider placement of the student in the JJAEP if the JJAEP provides written notice to the school district of specific concerns that the student's educational or behavioral needs cannot be met in the JJAEP. The school district must invite the JJAEP administrator or the administrator's designee to the meeting and must provide written notice of the meeting at least five school days before the meeting or a shorter timeframe agreed to by the student's parents. If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means, including conference telephone calls. The JJAEP representative may participate in the meeting to the extent that the meeting relates to the student's continued placement in the JJAEP.

### **19 TAC § 103.1201 Standards for the operation of school district disciplinary alternative education programs.**

(a) A disciplinary alternative education program (DAEP) established in conformance with the Tex. Educ. Code (TEC), § 37.008, and this section is defined as an educational and self-discipline alternative instructional program, adopted by local policy, for students in elementary through high school grades who are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP.

(b) Each school district participating in a shared services arrangement (SSA) for DAEP services shall be responsible for ensuring that the board-approved district improvement plan and the improvement plans for each campus required by the TEC, § 11.251 and § 11.252, include the performance of the DAEP student group for the respective district. The identified objectives for the improvement plans shall include:

- (1) Student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services;
- (2) Attendance rates;

- (3) Pre- and post-assessment results;
- (4) Dropout rates;
- (5) Graduation rates; and
- (6) Recidivism rates.

(c) A DAEP may be located on-campus or off-campus in adherence with requirements specified in § 129.1025 of this title (relating to Adoption By Reference: Student Attendance Accounting Handbook). For reporting purposes, the DAEP shall use the county-district-campus number of the student's locally assigned campus (the campus the student would be attending if the student was not attending the DAEP).

(d) An individual school district or an SSA may contract with third parties for DAEP services. The district must require and ensure compliance with district responsibilities that are transferred to the third-party provider.

(e) The campus of accountability for student performance must be the student's locally assigned campus, including when the individual school district or SSA contracts with a third party for DAEP services.

(f) Each school district shall provide an academic and self-discipline program that leads to graduation and includes instruction in each student's currently enrolled foundation curriculum necessary to meet the student's individual graduation plan, including special education services.

(1) A student's four-year graduation plan (minimum, recommended, or distinguished achievement--advanced) may not be altered when the student is assigned to a DAEP. A student must be offered an opportunity 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, including correspondence or distance learning opportunities or summer school. A district may not charge for a course required under this section.

(2) The school day for a DAEP shall be at least seven hours but no more than ten hours in length each day, including intermissions and recesses as required under the TEC, § 25.082(a).

(3) Notwithstanding the TEC, § 37.008(a)(3), summer programs provided by the district may serve students assigned to a DAEP in conjunction with other students, as determined by local policy.

(g) A DAEP program serving a student with a disability who receives special education services shall provide educational services that will support the student in meeting the goals identified in the individualized education program (IEP) established by a duly-constituted admission, review, and dismissal (ARD) committee, in accordance with the TEC, § 37.004, and federal requirements.

(h) Each school district is responsible for the safety and supervision of the students assigned to the DAEP; however, the immunity from the liability established in the TEC, § 22.0511, shall not be impacted.

(1) The certified teacher-to-student ratio in a DAEP shall be one teacher for each 15 students in elementary through high school grades. Elementary grade students assigned to the DAEP shall be separated from secondary grade students assigned to the DAEP. The designation of elementary and secondary will be determined by adopted local policy.

(2) The DAEP staff shall be prepared and trained to respond to health issues and emergencies.

(3) Students in the DAEP shall be separated from students in a juvenile justice alternative education program (JJAEP) and students who are not assigned to the DAEP.

(4) Each district shall establish a board-approved policy for discipline and intervention measures to prevent and intervene against unsafe behavior and include disciplinary actions that do not jeopardize students' physical health and safety, harm emotional well-being, or discourage physical activity.

(i) Staff at each DAEP shall participate in training programs on education, behavior management, and safety procedures that focus on positive and proactive behavior management strategies. The training programs must also target prevention and intervention that include:

- (1) Training on the education and discipline of students with disabilities who receive special education services;
  - (2) Instruction in social skills and problem-solving skills that addresses diversity, dating violence, anger management, and conflict resolution to teach students how to interact with teachers, family, peers, authority figures, and the general public; and
  - (3) Annual training on established procedures for reporting abuse, neglect, or exploitation of students.
- (j) Procedures for each DAEP shall be developed and implemented for newly-entering students and their parents or guardians on the expectations of the DAEP, including written contracts between students, parents or guardians, and the DAEP that formalize expectations and establish the students' individual plans for success.
- (k) The transition procedures established for a student who is exiting a DAEP and returning to the student's locally assigned campus shall be implemented and updated annually as needed. The transition procedures shall include:
- (1) An established timeline for the student's transition from the DAEP to the student's locally assigned campus; and
  - (2) Written and oral communication from the DAEP staff to the locally assigned campus during the student's assignment to the DAEP, including the student's educational performance and tasks completed.

**19 TAC § 103.1203. Assessment of academic growth of students in disciplinary alternative education programs.**

- (a) Each school district shall be responsible for administering a pre- and post-assessment for each student assigned to the district's disciplinary alternative education program (DAEP) for a period of 90 school days or longer as required by the Tex. Educ. Code (TEC), § 37.0082. Released state assessments for reading and mathematics for the appropriate grade may be used. A school district may apply for approval of an assessment that includes the Texas Essential Knowledge and Skills (TEKS) for reading and mathematics for the student's assigned grade. The commissioner of education will publish on the Texas Education Agency website a list of assessments approved for use in each school year.
- (b) The grade level of an assessment shall be based upon the academic grade completed prior to the student being assigned to a DAEP if placement occurs in the fall or first semester of the academic school year. If placement occurs in the spring or second semester of the academic school year, the student shall be administered an assessment based on the current grade level.
- (c) Each school district shall provide an academic report to the student's locally assigned campus, which shall include the pre- and post-assessment results of the student's basic skills in reading and mathematics, within ten days of the student completing the post-assessment.
- (d) Procedures for administering the pre- and post-assessment shall be developed and implemented in accordance with local school district policy.
- (e) A student in the district's DAEP must also be assessed under the requirements of the TEC, Chapter 39.

For information on placement of student sex offenders, see Tex. Educ. Code § 37.301 through 313.

## ***Disciplinary Approaches Addressing Specific Infractions and Conditions***

### **Firearms (as required by the Gun-Free Schools Act)**

#### **LAWS**

##### **§ 37.007. Expulsion for serious offenses.**

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) Engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of an offense relating to prohibited weapons under Section 46.05, Penal Code;

(b) A student may be expelled if the student:

(3) Subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:

(A) Engages in conduct specified by Subsection (a); or

(B) Possesses a firearm, as defined by 18 U.S.C. Section 921;

(k) A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

(1) At an approved target range facility that is not located on a school campus; and

(2) 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.

(l) Subsection (k) does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity described by that subsection.

##### **§ 37.125. Exhibition, use, or threat of exhibition or use of firearms.**

(a) 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:

(1) Exhibits or uses a firearm:

(A) In or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or

(B) On a school bus being used to transport children to or from school-sponsored activities of a private or public school;

(2) Threatens to exhibit or use a firearm in or on property described by Subdivision (1)(A) or on a bus described by Subdivision (1)(B) and was in possession of or had immediate access to the firearm; or

(3) Threatens to exhibit or use a firearm in or on property described by Subdivision (1)(A) or on a bus described by Subdivision (1)(B).

(b) An offense under Subsection (a)(1) or (2) is a third degree felony.

(c) An offense under Subsection (a)(3) is a Class A misdemeanor.

**§ 46.03. Places weapons prohibited.**

(a) A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon listed in Section 46.05(a):

(1) On the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, whether the school or educational institution is public or private, unless:

(A) Pursuant to written regulations or written authorization of the institution; or

(B) The person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code, and no other weapon to which this section applies, on the premises of an institution of higher education or private or independent institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution;

(2) On the premises of a polling place on the day of an election or while early voting is in progress;

(3) On the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court;

(4) On the premises of a racetrack;

(5) In or into a secured area of an airport; or

(6) Within 1,000 feet of premises the location of which is designated by the Texas Department of Criminal Justice as a place of execution under Article 43.19, Code of Criminal Procedure, on a day that a sentence of death is set to be imposed on the designated premises and the person received notice that:

(A) Going within 1,000 feet of the premises with a weapon listed under this subsection was prohibited; or

(B) Possessing a weapon listed under this subsection within 1,000 feet of the premises was prohibited.

(a-1) A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a location-restricted knife:

(1) On the premises of a business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code;

(2) On the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the person is a participant in the event and a location-restricted knife is used in the event;

(3) On the premises of a correctional facility;

(4) On the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing facility licensed under Chapter 242, Health and Safety Code, unless the person has written authorization of the hospital or nursing facility administration, as appropriate;

(5) On the premises of a mental hospital, as defined by Section 571.003, Health and Safety Code, unless the person has written authorization of the mental hospital administration;

(6) In an amusement park; or

(7) On the premises of a church, synagogue, or other established place of religious worship.

(b) It is a defense to prosecution under Subsections (a)(1)-(4) that the actor possessed a firearm while in the actual discharge of his official duties as a member of the armed forces or national guard or a guard employed by a penal institution, or an officer of the court.

(c) In this section:

(1) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(2) "Amusement park" and "premises" have the meanings assigned by Section 46.035.

(3) "Secured area" means an area of an airport terminal building to which access is controlled by the inspection of persons and property under federal law.

(d) It is a defense to prosecution under Subsection (a)(5) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as:

(1) A member of the armed forces or national guard;

(2) A guard employed by a penal institution; or

(3) A security officer commissioned by the Texas Private Security Board if:

(A) The actor is wearing a distinctive uniform; and

(B) The firearm or club is in plain view; or

(4) A security officer who holds a personal protection authorization under Chapter 1702, Occupations Code, provided that the officer is either:

(A) Wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's firearm in plain view; or

(B) Not wearing the uniform of a security officer and carrying the officer's firearm in a concealed manner.

(e) It is a defense to prosecution under Subsection (a)(5) that the actor checked all firearms as baggage in accordance with federal or state law or regulations before entering a secured area.

(e-1) It is a defense to prosecution under Subsection (a)(5) that the actor:

(1) Possessed, at the screening checkpoint for the secured area, a concealed handgun that the actor was licensed to carry under Subchapter H, Chapter 411, Government Code; and

(2) Exited the screening checkpoint for the secured area immediately upon completion of the required screening processes and notification that the actor possessed the handgun.

(e-2) A peace officer investigating conduct that may constitute an offense under Subsection (a)(5) and that consists only of an actor's possession of a concealed handgun that the actor is licensed to carry under Subchapter H, Chapter 411, Government Code, may not arrest the actor for the offense unless:

(1) The officer advises the actor of the defense available under Subsection (e-1) and gives the actor an opportunity to exit the screening checkpoint for the secured area; and

(2) The actor does not immediately exit the checkpoint upon completion of the required screening processes.

(f) Except as provided by Subsection (e-1), it is not a defense to prosecution under this section that the actor possessed a handgun and was licensed to carry a handgun under Subchapter H, Chapter 411, Government Code.

(g) Except as provided by Subsection (g-1), an offense under this section is a felony of the third degree.

(g-1) If the weapon that is the subject of the offense is a location-restricted knife, an offense under this section is a Class C misdemeanor, except that the offense is a felony of the third degree if the offense is committed under Subsection (a)(1).

(h) It is a defense to prosecution under Subsection (a)(4) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as a security officer commissioned by the Texas Board of Private Investigators and Private Security Agencies, if:

- (1) The actor is wearing a distinctive uniform; and
- (2) The firearm or club is in plain view.

(i) It is an exception to the application of Subsection (a)(6) that the actor possessed a firearm or club:

- (1) While in a vehicle being driven on a public road; or
- (2) At the actor's residence or place of employment.

## **REGULATIONS**

No relevant regulations found.

## **Other weapons**

### **LAWS**

#### **§ 37.005. Suspension.**

(a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended.

(b) A suspension under this section may not exceed three school days.

(c) A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

- (1) Conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;
- (2) Conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or
- (3) Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:
  - (A) Marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;
  - (B) A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
  - (C) An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

#### **§ 37.007. Expulsion for serious offenses.**

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

- (1) Engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of an offense relating to prohibited weapons under Section 46.05, Penal Code;

## **REGULATIONS**

No relevant regulations found.

## Students with chronic disciplinary issues

### LAWS

No relevant laws found.

### REGULATIONS

No relevant regulations found.

## Attendance and truancy

### LAWS

#### **§ 25.001. Admission.**

(a) A person who, on the first day of September of any school year, is at least five years of age and under 21 years of age, or is at least 21 years of age and under 26 years of age and is admitted by a school district to complete the requirements for a high school diploma is entitled to the benefits of the available school fund for that year. Any other person enrolled in a prekindergarten class under Section 29.153 or Subchapter E-1, Chapter 29, is entitled to the benefits of the available school fund.

(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought, and may admit a person who is at least 21 years of age and under 26 years of age for the purpose of completing the requirements for a high school diploma, if:

- (1) The person and either parent of the person reside in the school district;
- (2) The person does not reside in the school district but a parent of the person resides in the school district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person;
- (3) The person and the person's guardian or other person having lawful control of the person under a court order reside within the school district;
- (4) The person has established a separate residence under Subsection (d);
- (5) The person is homeless, as defined by 42 U.S.C. Section 11302, regardless of the residence of the person, of either parent of the person, or of the person's guardian or other person having lawful control of the person;
- (6) The person is a foreign exchange student placed with a host family that resides in the school district by a nationally recognized foreign exchange program, unless the school district has applied for and been granted a waiver by the commissioner under Subsection (e);
- (7) The person resides at a residential facility located in the district;
- (8) The person resides in the school district and is 18 years of age or older or the person's disabilities of minority have been removed; or
- (9) The person does not reside in the school district but the grandparent of the person:
  - (A) Resides in the school district; and
  - (B) Provides a substantial amount of after-school care for the person as determined by the board.

(b-1) A person who is 21 years of age or older and is admitted by a school district for the purpose stated in Subsection (b) is not eligible for placement in a disciplinary alternative education program or a juvenile justice alternative education program if the person engages in conduct that would require or authorize

such placement for a student under the age of 21. If the student engages in conduct that would otherwise require such placement, the district shall revoke admission of the student into the public schools of the district.

(b-2) A person who is 21 years of age or older who is admitted by a school district to complete the requirements for a high school diploma and who has not attended school in the three preceding school years may not be placed with a student who is 18 years of age or younger in a classroom setting, a cafeteria, or another district-sanctioned school activity. Nothing in this subsection prevents a student described by this subsection from attending a school-sponsored event that is open to the public as a member of the public.

(c) The board of trustees of a school district or the board's designee may require evidence that a person is eligible to attend the public schools of the district at the time the board or its designee considers an application for admission of the person. The board of trustees or its designee shall establish minimum proof of residency acceptable to the district. The board of trustees or its designee may make reasonable inquiries to verify a person's eligibility for admission.

(d) For a person under the age of 18 years to establish a residence for the purpose of attending the public schools separate and apart from the person's parent, guardian, or other person having lawful control of the person under a court order, it must be established that the person's presence in the school district is not for the primary purpose of participation in extracurricular activities. The board of trustees shall determine whether an applicant for admission is a resident of the school district for purposes of attending the public schools and may adopt reasonable guidelines for making a determination as necessary to protect the best interests of students. The board of trustees is not required to admit a person under this subsection if the person:

(1) Has engaged in conduct or misbehavior within the preceding year that has resulted in:

(A) Removal to a disciplinary alternative education program; or

(B) Expulsion;

(2) Has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct; or

(3) Has been convicted of a criminal offense and is on probation or other conditional release.

(e) A school district may request that the commissioner waive the requirement that the district admit a foreign exchange student who meets the conditions of Subsection (b)(6). The commissioner shall respond to a district's request not later than the 60th day after the date of receipt of the request. The commissioner shall grant the request and issue a waiver effective for a period not to exceed three years if the commissioner determines that admission of a foreign exchange student would:

(1) Create a financial or staffing hardship for the district;

(2) Diminish the district's ability to provide high quality educational services for the district's domestic students; or

(3) Require domestic students to compete with foreign exchange students for educational resources.

(f) A child placed in foster care by an agency of the state or by a political subdivision shall be permitted to attend the public schools in the district in which the foster parents reside free of any charge to the foster parents or the agency. A durational residence requirement may not be used to prohibit that child from fully participating in any activity sponsored by the school district.

(g) A student who was enrolled in a primary or secondary public school before the student entered the conservatorship of the Department of Family and Protective Services and who is placed at a residence outside the attendance area for the school or outside the school district is entitled to continue to attend the school in which the student was enrolled immediately before entering conservatorship until the

student successfully completes the highest grade level offered by the school at the time of placement without payment of tuition. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of the department for the duration of the student's enrollment in the school.

(g-1) If a student who is in the conservatorship of the department is enrolled in a primary or secondary public school, other than the school in which the student was enrolled at the time the student was placed in the conservatorship of the department, the student is entitled to continue to attend that school without payment of tuition until the student successfully completes the highest grade level offered by the school at the time of enrollment in the school, even if the child's placement is changed to a residence outside the attendance area for that school or outside the school district. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of the department for the duration of the student's enrollment in the school.

(h) In addition to the penalty provided by Section 37.10, Penal Code, a person who knowingly falsifies information on a form required for enrollment of a student in a school district is liable to the district if the student is not eligible for enrollment in the district but is enrolled on the basis of the false information. The person is liable, for the period during which the ineligible student is enrolled, for the greater of:

- (1) The maximum tuition fee the district may charge under Section 25.038; or
- (2) The amount the district has budgeted for each student as maintenance and operating expenses.

(i) A school district may include on an enrollment form notice of the penalties provided by Section 37.10, Penal Code, and of the liability provided by Subsection (h) for falsifying information on the form.

(j) For the purposes of this subchapter, the board of trustees of a school district by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under an order of a court.

#### **§ 25.085. Compulsory student attendance.**

(a) A child who is required to attend school under this section shall attend school each school day for the entire period the program of instruction is provided.

(b) Unless specifically exempted by Section 25.086, a child who is at least six years of age, or who is younger than six years of age and has previously been enrolled in first grade, and who has not yet reached the child's 19th birthday shall attend school.

(c) On enrollment in prekindergarten or kindergarten, a child shall attend school.

(d) Unless specifically exempted by Section 25.086, a student enrolled in a school district must attend:

- (1) An extended-year program for which the student is eligible that is provided by the district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Section 29.084;
- (2) An accelerated reading instruction program to which the student is assigned under Section 28.006(g);
- (3) An accelerated instruction program to which the student is assigned under Section 28.0211;
- (4) A basic skills program to which the student is assigned under Section 29.086; or
- (5) A summer program provided under Section 37.008(l) or Section 37.021.

(e) A person who voluntarily enrolls in school or voluntarily attends school after the person's 19th birthday shall attend school each school day for the entire period the program of instruction is offered. A school district may revoke for the remainder of the school year the enrollment of a person who has more than five absences in a semester that are not excused under Section 25.087, except a school district may not revoke the enrollment of a person under this subsection on a day on which the person is physically

present at school. A person whose enrollment is revoked under this subsection may be considered an unauthorized person on school district grounds for purposes of Section 37.107.

(f) The board of trustees of a school district may adopt a policy requiring a person described by Subsection (e) who is under 21 years of age to attend school until the end of the school year. Section 65.003(a), Family Code, does not apply to a person subject to a policy adopted under this subsection. Sections 25.093 and 25.095 do not apply to the parent of a person subject to a policy adopted under this subsection.

(g) After the third unexcused absence of a person described by Subsection (e), a school district shall issue a warning letter to the person that states the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester.

(h) As an alternative to revoking a person's enrollment under Subsection (e), a school district may impose a behavior improvement plan described by Section 25.0915(a-1)(1).

**§ 25.0915. Truancy prevention measures.**

(a) A school district shall adopt truancy prevention measures designed to:

- (1) Address student conduct related to truancy in the school setting before the student engages in conduct described by Section 65.003(a), Family Code; and
- (2) Minimize the need for referrals to truancy court for conduct described by Section 65.003(a), Family Code.

(a-1) As a truancy prevention measure under Subsection (a), a school district shall take one or more of the following actions:

(1) Impose:

(A) A behavior improvement plan on the student that must be signed by an employee of the school, that the school district has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:

- (i) A specific description of the behavior that is required or prohibited for the student;
- (ii) the period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or
- (iii) The penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or

(B) School-based community service; or

(2) Refer the student to counseling, mediation, mentoring, a teen court program, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy.

(a-2) A referral made under Subsection (a-1)(2) may include participation by the child's parent or guardian if necessary.

(a-3) A school district shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

- (1) Pregnancy;
- (2) Being in the state foster program;
- (3) Homelessness; or
- (4) Being the principal income earner for the student's family.

(a-4) If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Section 25.0951(a), the school district shall initiate truancy prevention measures under this section on the student.

- (b) Each referral to truancy court for conduct described by Section 65.003(a), Family Code, must:
- (1) Be accompanied by a statement from the student's school certifying that:
    - (A) The school applied the truancy prevention measures adopted under Subsection (a) or (a-4) to the student; and
    - (B) The truancy prevention measures failed to meaningfully address the student's school attendance; and
  - (2) Specify whether the student is eligible for or receives special education services under Subchapter A, Chapter 29.
- (c) A truancy court shall dismiss a petition filed by a truant conduct prosecutor under Section 65.054, Family Code, if the court determines that the school district's referral:
- (1) Does not comply with Subsection (b);
  - (2) Does not satisfy the elements required for truant conduct;
  - (3) Is not timely filed, unless the school district delayed the referral under Section 25.0951(d); or
  - (4) Is otherwise substantively defective.
- (d) Except as provided by Subsection (e), a school district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus. At least annually, the truancy prevention facilitator shall meet to discuss effective truancy prevention measures with a case manager or other individual designated by a truancy court to provide services to students of the school district in truancy cases.
- (e) Instead of employing a truancy prevention facilitator, a school district may designate an existing district employee or juvenile case manager to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus.
- (f) The agency shall adopt rules:
- (1) Creating minimum standards for truancy prevention measures adopted by a school district under this section; and
  - (2) Establishing a set of best practices for truancy prevention measures.
- (g) The agency shall adopt rules to provide for sanctions for a school district found to be not in compliance with this section.

**§ 25.093. Parent contributing to nonattendance.**

- (a) If a warning is issued as required by Section 25.095(a), the parent with criminal negligence fails to require the child to attend school as required by law, and the child has absences for the amount of time specified under Section 65.003(a), Family Code, the parent commits an offense.
- (b) The attendance officer or other appropriate school official shall file a complaint against the parent in:
- (1) The constitutional county court of the county in which the parent resides or in which the school is located, if the county has a population of 1.75 million or more;
  - (2) A justice court of any precinct in the county in which the parent resides or in which the school is located; or
  - (3) A municipal court of the municipality in which the parent resides or in which the school is located.
- (c) An offense under Subsection (a) is a misdemeanor, punishable by fine only, in an amount not to exceed:
- (1) \$100 for a first offense;

- (2) \$200 for a second offense;
- (3) \$300 for a third offense;
- (4) \$400 for a fourth offense; or
- (5) \$500 for a fifth or subsequent offense.

(c-1) Each day the child remains out of school may constitute a separate offense. Two or more offenses under Subsection (a) may be consolidated and prosecuted in a single action. If the court orders deferred disposition under Article 45.051, Code of Criminal Procedure, the court may require the defendant to provide personal services to a charitable or educational institution as a condition of the deferral.

(d) A fine collected under this section shall be deposited as follows:

- (1) One-half shall be deposited to the credit of the operating fund of, as applicable:
  - (A) The school district in which the child attends school;
  - (B) The open-enrollment charter school the child attends; or
  - (C) The juvenile justice alternative education program that the child has been ordered to attend; and
- (2) One-half shall be deposited to the credit of:
  - (A) The general fund of the county, if the complaint is filed in the justice court or the constitutional county court; or
  - (B) The general fund of the municipality, if the complaint is filed in municipal court.

(e) At the trial of any person charged with violating this section, the attendance records of the child may be presented in court by any authorized employee of the school district or open-enrollment charter school, as applicable.

(f) The court in which a conviction, deferred adjudication, or deferred disposition for an offense under Subsection (a) occurs may order the defendant to attend a program for parents of students with unexcused absences that provides instruction designed to assist those parents in identifying problems that contribute to the students' unexcused absences and in developing strategies for resolving those problems if a program is available.

(g) If a parent refuses to obey a court order entered under this section, the court may punish the parent for contempt of court under Section 21.002, Government Code.

(h) It is an affirmative defense to prosecution for an offense under Subsection (a) that one or more of the absences required to be proven under Subsection (a) was excused by a school official or should be excused by the court. The burden is on the defendant to show by a preponderance of the evidence that the absence has been or should be excused. A decision by the court to excuse an absence for purposes of this section does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

(i) In this section, "parent" includes a person standing in parental relation.

**§ 25.094. Failure to attend school.**

(a) An individual commits an offense if the individual:

- (1) Is 12 years of age or older and younger than 18 years of age;
- (2) Is required to attend school under Section 25.085; and
- (3) Fails to attend school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period.

(b) An offense under this section may be prosecuted in:

- (1) The constitutional county court of the county in which the individual resides or in which the school is located, if the county has a population of 1.75 million or more;

- (2) A justice court of any precinct in the county in which the individual resides or in which the school is located; or
- (3) A municipal court in the municipality in which the individual resides or in which the school is located.
- (c) On a finding by the county, justice, or municipal court that the individual has committed an offense under Subsection (a) or on a finding by a juvenile court in a county with a population of less than 100,000 that the individual has engaged in conduct that violates Subsection (a), the court may enter an order that includes one or more of the requirements listed in Article 45.054, Code of Criminal Procedure, as added by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001.
- (d) If the county, justice, or municipal court believes that a child has violated an order issued under Subsection (c), the court may proceed as authorized by Article 45.050, Code of Criminal Procedure.
- (d-1) Pursuant to an order of the county, justice, or municipal court based on an affidavit showing probable cause to believe that an individual has committed an offense under this section, a peace officer may take the individual into custody. A peace officer taking an individual into custody under this subsection shall:
- (1) Promptly notify the individual's parent, guardian, or custodian of the officer's action and the reason for that action; and
  - (2) Without unnecessary delay:
    - (A) Release the individual to the individual's parent, guardian, or custodian or to another responsible adult, if the person promises to bring the individual to the county, justice, or municipal court as requested by the court; or
    - (B) Bring the individual to a county, justice, or municipal court with venue over the offense.
- (e) An offense under this section is a Class C misdemeanor.
- (f) It is an affirmative defense to prosecution under this section that one or more of the absences required to be proven under Subsection (a) were excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute an offense under this section. The burden is on the defendant to show by a preponderance of the evidence that the absence has been excused or that the absence was involuntary. A decision by the court to excuse an absence for purposes of this section does not affect the ability of the school district to determine whether to excuse the absence for another purpose.
- (g) It is an affirmative defense to prosecution under this section that one or more of the absences required to be proven under Subsection (a) was involuntary. The burden is on the defendant to show by a preponderance of the evidence that the absence was involuntary.

**§ 25.095. Warning notices.**

- (a) A school district or open-enrollment charter school shall notify a student's parent in writing at the beginning of the school year that if the student is absent from school on 10 or more days or parts of days within a six-month period in the same school year:
- (1) The student's parent is subject to prosecution under Section 25.093; and
  - (2) The student is subject to referral to a truancy court for truant conduct under Section 65.003(a), Family Code.
- (b) A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:
- (1) Inform the parent that:
    - (A) It is the parent's duty to monitor the student's school attendance and require the student to attend school; and

- (B) The student is subject to truancy prevention measures under Section 25.0915; and
- (2) Request a conference between school officials and the parent to discuss the absences.
- (c) The fact that a parent did not receive a notice under Subsection (a) or (b) does not create a defense under Section 25.093 or under Section 65.003(a), Family Code.
- (d) In this section, "parent" includes a person standing in parental relation.

**§ 25.0951. School district complaint or referral for failure to attend school.**

- (a) If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a school district shall within 10 school days of the student's 10th absence refer the student to a truancy court for truant conduct under Section 65.003(a), Family Code.
- (b) If a student fails to attend school without excuse as specified by Subsection (a), a school district may file a complaint against the student's parent in a county, justice, or municipal court for an offense under Section 25.093 if the school district provides evidence of the parent's criminal negligence. In this subsection, "parent" includes a person standing in parental relation.
- (c) A court shall dismiss a complaint made by a school district under Subsection (b) that:
  - (1) Does not comply with this section;
  - (2) Does not allege the elements required for the offense;
  - (3) Is not timely filed, unless the school district delayed the referral under Subsection (d); or
  - (4) Is otherwise substantively defective.
- (d) Notwithstanding Subsection (a), a school district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if the school district:
  - (1) Is applying truancy prevention measures to the student under Section 25.0915; and
  - (2) Determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

**§ 25.0952. Procedures applicable to school attendance-related offenses.**

In a proceeding based on a complaint under Section 25.093, the court shall, except as otherwise provided by this chapter, use the procedures and exercise the powers authorized by Chapter 45, Code of Criminal Procedure.

**REGULATIONS**

**19 TAC § 129.21. Requirements for student attendance accounting for state funding purposes.**

- (a) All public schools in Texas must maintain records to reflect the average daily attendance (ADA) for the allocation of Foundation School Program (FSP) funds and other funds allocated by the Texas Education Agency (TEA). Superintendents, principals, and teachers are responsible to their school boards and to the state to maintain accurate, current attendance records.
- (l) Before a district or charter school may count a student in attendance under this section or in attendance when the student was allowed to leave campus during any part of the school day, the local school board or governing body must adopt a policy, or delegate to the superintendent the authority to establish procedures, addressing parental consent for a student to leave campus, and the district or charter school must distribute the policy or procedures to staff and to all parents of students in the district or charter school.

## Substance use

### LAWS

#### **§ 37.005. Suspension.**

- (a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended.
- (b) A suspension under this section may not exceed three school days.
- (c) A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:
- (1) Conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;
  - (2) Conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or
  - (3) Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:
    - (A) Marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;
    - (B) A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
    - (C) An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

#### **§ 37.007. Expulsion for serious offenses.**

- (b) A student may be expelled if the student:
- (b) A student may be expelled if the student:
- (1) Engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code;
  - (2) While 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 of school property:
    - (A) Sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:
      - (i) Marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;
      - (ii) A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
      - (iii) An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;
    - (B) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

#### **§ 37.016. Report of drug offenses; Liability.**

A teacher, school administrator, or school employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property:

- (1) Marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code;
- (2) A dangerous drug, as defined by Chapter 483, Health and Safety Code;
- (3) An abusable glue or aerosol paint, as defined by Chapter 485, Health and Safety Code, or a volatile chemical, as listed in Chapter 484, Health and Safety Code, if the substance is used or sold for the purpose of inhaling its fumes or vapors; or
- (4) An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

**§ 37.122. Possession of intoxicants on public school grounds.**

(a) A person commits an offense if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

- (1) On the grounds or in a building of a public school; or
- (2) Entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school of this state is being held.

(b) An officer of this state who sees a person violating this section shall immediately seize the intoxicating beverage and, within a reasonable time, deliver it to the county or district attorney to be held as evidence until the trial of the accused possessor.

(c) An offense under this section is a Class C misdemeanor.

**REGULATIONS**

No relevant regulations found.

**Bullying, harassment, or hazing**

**LAWS**

**§ 129A.001. Definition.**

In this chapter, "cyberbullying" has the meaning assigned by Section 37.0832(a), Education Code.

**§ 129A.002. Injunctive relief.**

(a) A recipient of cyberbullying behavior who is younger than 18 years of age at the time the cyberbullying occurs or a parent of or person standing in parental relation to the recipient may seek injunctive relief under this chapter against the individual who was cyberbullying the recipient or, if the individual is younger than 18 years of age, against a parent of or person standing in parental relation to the individual.

(b) A court may issue a temporary restraining order, temporary injunction, or permanent injunction appropriate under the circumstances to prevent any further cyberbullying, including an order or injunction:

- (1) Enjoining a defendant from engaging in cyberbullying; or
- (2) Compelling a defendant who is a parent of or person standing in parental relation to an individual who is younger than 18 years of age to take reasonable actions to cause the individual to cease engaging in cyberbullying.

(c) A plaintiff in an action for injunctive relief brought under this section is entitled to a temporary restraining order on showing that the plaintiff is likely to succeed in establishing that the individual was cyberbullying the recipient. The plaintiff is not required to plead or prove that, before notice can be served and a hearing can be held, immediate and irreparable injury, loss, or damage is likely to result from past or future cyberbullying by the individual against the recipient.

(d) A plaintiff is entitled to a temporary or permanent injunction under this section on showing that the individual was cyberbullying the recipient.

(e) A court granting a temporary restraining order or temporary injunction under this section may, on motion of either party or sua sponte, order the preservation of any relevant electronic communication. The temporary restraining order or temporary injunction is not required to:

- (1) Define the injury or state why it is irreparable;
- (2) State why the order was granted without notice; or
- (3) Include an order setting the cause for trial on the merits with respect to the ultimate relief requested.

**§ 129A.003. Promulgation of forms.**

(a) The supreme court shall, as the court finds appropriate, promulgate forms for use as an application for initial injunctive relief by individuals representing themselves in suits involving cyberbullying and instructions for the proper use of each form or set of forms.

(b) The forms and instructions:

- (1) Must be written in language that is easily understood by the general public;
- (2) Shall be made readily available to the general public in the manner prescribed by the supreme court; and
- (3) Must be translated into the Spanish language.

(c) The Spanish language translation of a form must:

- (1) State:
  - (A) That the Spanish language translated form is to be used solely for the purpose of assisting in understanding the form and may not be submitted to the court; and
  - (B) That the English language version of the form must be submitted to the court; or
- (2) Be incorporated into the English language version of the form in a manner that is understandable to both the court and members of the general public.

(d) Each form and its instructions must clearly and conspicuously state that the form is not a substitute for the advice of an attorney.

(e) The attorney general and the clerk of a court shall inform members of the general public of the availability of a form promulgated by the supreme court under this section as appropriate and make the form available free of charge.

(f) A court shall accept a form promulgated by the supreme court under this section unless the form has been completed in a manner that causes a substantive defect that cannot be cured.

**§ 129A.004. Inapplicability.**

(a) An action filed under this chapter may not be joined with an action filed under Title 1, 4, or 5, Family Code.

(b) Chapter 27 does not apply to an action under this chapter.

**§ 129A.005. Certain conduct excepted.**

This chapter does not apply to a claim brought against an interactive computer service, as defined by 47 U.S.C. Section 230, for cyberbullying.

**§ 25.0342. Transfer of students who are victims of or have engaged in bullying.**

(a) In this section, "bullying" has the meaning assigned by Section 37.0832.

(b) On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, the board of trustees of a school district or the board's designee shall transfer the victim to:

- (1) Another classroom at the campus to which the victim was assigned at the time the bullying occurred;  
or
  - (2) A campus in the school district other than the campus to which the victim was assigned at the time the bullying occurred.
- (b-1) The board of trustees of a school district may transfer the student who engaged in bullying to:
- (1) Another classroom at the campus to which the victim was assigned at the time the bullying occurred;  
or
  - (2) A campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.
- (b-2) Section 37.004 applies to a transfer under Subsection (b-1) of a student with a disability who receives special education services.
- (c) The board of trustees or the board's designee shall verify that a student has been a victim of bullying before transferring the student under this section.
- (d) The board of trustees or the board's designee may consider past student behavior when identifying a bully.
- (e) The determination by the board of trustees or the board's designee is final and may not be appealed.
- (f) A school district is not required to provide transportation to a student who transfers to another campus under Subsection (b)(2).
- (g) Section 25.034 does not apply to a transfer under this section.

**§ 37.0052. Placement or expulsion of students who have engaged in certain bullying behavior.**

- (a) In this section:
- (1) "Bullying" has the meaning assigned by Section 37.0832.
  - (2) "Intimate visual material" has the meaning assigned by Section 98B.001, Civil Practice and Remedies Code.
- (b) A student may be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 or expelled if the student:
- (1) Engages in bullying that encourages a student to commit or attempt to commit suicide;
  - (2) Incites violence against a student through group bullying; or
  - (3) Releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.
- (c) Nothing in this section exempts a school from reporting a finding of intimate visual material of a minor.

**§ 37.083. Discipline management programs; Sexual harassment policies.**

- (a) Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under Section 11.252. The program must provide for prevention of and education concerning unwanted physical or verbal aggression and sexual harassment in school, on school grounds, and in school vehicles.
- (b) Each school district may develop and implement a sexual harassment policy to be included in the district improvement plan under Section 11.252

**§ 37.0832. Bullying prevention policies and procedures.**

- (a) In this section:

(1) "Bullying":

(A) Means a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that satisfies the applicability requirements provided by Subsection (a-1), and that:

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

(ii) Is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;

(iii) Materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or

(iv) Infringes on the rights of the victim at school; and

(B) Includes cyberbullying.

(2) "Cyberbullying" means bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.

(a-1) This section applies to:

(1) Bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;

(2) Bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and

(3) Cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying:

(A) Interferes with a student's educational opportunities; or

(B) Substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 522 (S.B. 179), Sec. 15, eff. September 1, 2017.

(c) The board of trustees of each school district shall adopt a policy, including any necessary procedures, concerning bullying that:

(1) Prohibits the bullying of a student;

(2) Prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;

(3) Establishes a procedure for providing notice of an incident of bullying to:

(A) A parent or guardian of the alleged victim on or before the third business day after the date the incident is reported; and

(B) A parent or guardian of the alleged bully within a reasonable amount of time after the incident;

(4) Establishes the actions a student should take to obtain assistance and intervention in response to bullying;

(5) Sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;

- (6) Establishes procedures for reporting an incident of bullying, including procedures for a student to anonymously report an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;
  - (7) Prohibits the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying; and
  - (8) Requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).
- (d) The policy and any necessary procedures adopted under Subsection (c) must be included:
- (1) Annually, in the student and employee school district handbooks; and
  - (2) In the district improvement plan under Section 11.252.
- (e) The procedure for reporting bullying established under Subsection (c) must be posted on the district's Internet website to the extent practicable.
- (f) Each school district may establish a district-wide policy to assist in the prevention and mediation of bullying incidents between students that:
- (1) Interfere with a student's educational opportunities; or
  - (2) Substantially disrupt the orderly operation of a classroom, school, or school-sponsored or school-related activity.

**§ 37.152. Personal hazing offense.**

- (a) A person commits an offense if the person:
- (1) engages in hazing;
  - (2) Solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing;
  - (3) Recklessly permits hazing to occur; or
  - (4) Has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or has firsthand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge in writing to the dean of students or other appropriate official of the institution.
- (b) The offense of failing to report is a Class B misdemeanor.
- (c) Any other offense under this section that does not cause serious bodily injury to another is a Class B misdemeanor.
- (d) Any other offense under this section that causes serious bodily injury to another is a Class A misdemeanor.
- (e) Any other offense under this section that causes the death of another is a state jail felony.
- (f) Except if an offense causes the death of a student, in sentencing a person convicted of an offense under this section, the court may require the person to perform community service, subject to the same conditions imposed on a person placed on community supervision under Chapter 42A, Code of Criminal Procedure, for an appropriate period of time in lieu of confinement in county jail or in lieu of a part of the time the person is sentenced to confinement in county jail.

**§ 37.153. Organization hazing offense.**

- (a) An organization commits an offense if the organization condones or encourages hazing or if an officer or any combination of members, pledges, or alumni of the organization commits or assists in the commission of hazing.

(b) An offense under this section is a misdemeanor punishable by:

- (1) A fine of not less than \$ 5,000 nor more than \$ 10,000; or
- (2) If the court finds that the offense caused personal injury, property damage, or other loss, a fine of not less than \$ 5,000 nor more than double the amount lost or expenses incurred because of the injury, damage, or loss.

**§ 37.154. Consent not a defense.**

It is not a defense to prosecution of an offense under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

**§ 37.155. Immunity from prosecution available.**

In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution. Any person reporting a specific hazing incident involving a student in an educational institution to the dean of students or other appropriate official of the institution is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the report. Immunity extends to participation in any judicial proceeding resulting from the report. A person reporting in bad faith or with malice is not protected by this section.

**§ 37.156. Offenses in addition to other penal provisions.**

This subchapter does not affect or repeal any penal law of this state. This subchapter does not limit or affect the right of an educational institution to enforce its own penalties against hazing.

**§ 37.157. Reporting by medical authorities.**

A doctor or other medical practitioner who treats a student who may have been subjected to hazing activities:

- (1) May report the suspected hazing activities to police or other law enforcement officials; and
- (2) Is immune from civil or other liability that might otherwise be imposed or incurred as a result of the report, unless the report is made in bad faith or with malice.

**§ 37.217. Community education relating to Internet safety.**

(a) The center, in cooperation with the attorney general, shall develop a program that provides instruction concerning Internet safety, including instruction relating to:

- (3) The prevention, detection, and reporting of bullying or threats occurring over the Internet.

**§ 42.07. Harassment.**

(a) A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person:

- (1) Initiates communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene;
- (2) Threatens, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;
- (3) Conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury;

- (4) causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another;
- (5) Makes a telephone call and intentionally fails to hang up or disengage the connection;
- (6) Knowingly permits a telephone under the person's control to be used by another to commit an offense under this section; or
- (7) Sends repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another.

(b) In this section:

(1) "Electronic communication" means a transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system. The term includes:

(A) A communication initiated through the use of electronic mail, instant message, network call, a cellular or other type of telephone, a computer, a camera, text message, a social media platform or application, an Internet website, any other Internet-based communication tool, or facsimile machine; and

(B) A communication made to a pager.

(2) "Family" and "household" have the meaning assigned by Chapter 71, Family Code.

(3) "Obscene" means containing a patently offensive description of or a solicitation to commit an ultimate sex act, including sexual intercourse, masturbation, cunnilingus, fellatio, or anilingus, or a description of an excretory function.

(c) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if:

(1) The actor has previously been convicted under this section; or

(2) The offense was committed under Subsection (a)(7) and:

(A) The offense was committed against a child under 18 years of age with the intent that the child:

(i) Commit suicide; or

(ii) Engage in conduct causing serious bodily injury to the child; or

(B) The actor has previously violated a temporary restraining order or injunction issued under Chapter 129A, Civil Practice and Remedies Code.

## REGULATIONS

No relevant regulations found.

## Other special infractions or conditions

### LAWS

#### **§ 37.082. Possession of paging devices.**

(a) The board of trustees of a school district may adopt a policy prohibiting a student from possessing a paging device while on school property or while attending a school-sponsored or school-related activity on or off school property. The policy may establish disciplinary measures to be imposed for violation of the prohibition and may provide for confiscation of the paging device.

(b) The policy may provide for the district to:

(1) Dispose of a confiscated paging device in any reasonable manner after having provided the student's parent and the company whose name and address or telephone number appear on the device 30 days' prior notice of its intent to dispose of that device. The notice shall include the serial number of the device and may be made by telephone, telegraph, or in writing; and

(2) Charge the owner of the device or the student's parent an administrative fee not to exceed \$15 before it releases the device.

(c) In this section, "paging device" means a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor. The term does not include an amateur radio under the control of an operator who holds an amateur radio station license issued by the Federal Communications Commission.

#### **§ 37.0831. Dating violence policies.**

(a) Each school district shall adopt and implement a dating violence policy to be included in the district improvement plan under Section 11.252.

(b) A dating violence policy must:

(1) Include a definition of dating violence that 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, as defined by Section 71.0021, Family Code; and

(2) Address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

#### **§ 37.110. Information regarding gang-free zones.**

The superintendent of each public school district and the administrator of each private elementary or secondary school located in the public school district shall ensure that the student handbook for each campus in the public school district includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

#### **§ 37.121. Fraternities, sororities, secret societies, and gangs.**

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

(1) Is a member of, pledges to become a member of, joins, or solicits another person to join or pledge to become a member of a public school fraternity, sorority, secret society, or gang; or

(2) Is not enrolled in a public school and solicits another person to attend a meeting of a public school fraternity, sorority, secret society, or gang or a meeting at which membership in one of those groups is encouraged.

(b) A school district board of trustees or an educator shall recommend placing in a disciplinary alternative education program any student under the person's control who violates Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) In this section, "public school fraternity, sorority, secret society, or gang" means an organization composed wholly or in part of students of public primary or secondary schools that seeks to perpetuate itself by taking in additional members from the students enrolled in school on the basis of the decision of its membership rather than on the free choice of a student in the school who is qualified by the rules of the school to fill the special aims of the organization. The term does not include an agency for public welfare, including Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, or other similar educational organizations sponsored by state or national education authorities.

**§ 37.123. Disruptive activities.**

- (a) A person commits an offense if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of any private or public school.
- (b) For purposes of this section, disruptive activity is:
  - (1) Obstructing or restraining the passage of persons in an exit, entrance, or hallway of a building without the authorization of the administration of the school;
  - (2) Seizing control of a building or portion of a building to interfere with an administrative, educational, research, or other authorized activity;
  - (3) Preventing or attempting to prevent by force or violence or the threat of force or violence a lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur;
  - (4) Disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or
  - (5) Obstructing or restraining the passage of a person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats of force or violence the ingress or egress of a person to or from the property or campus without the authorization of the administration of the school.
- (c) An offense under this section is a Class B misdemeanor.
- (d) Any person who is convicted the third time of violating this section is ineligible to attend any institution of higher education receiving funds from this state before the second anniversary of the third conviction.
- (e) This section may not be construed to infringe on any right of free speech or expression guaranteed by the constitution of the United States or of this state.

**§ 37.124. Disruption of classes.**

- (a) A person other than a primary or secondary grade student enrolled in the school commits an offense if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities.
- (b) An offense under this section is a Class C misdemeanor.
- (c) In this section:
  - (1) "Disrupting the conduct of classes or other school activities" includes:
    - (A) Emitting noise of an intensity that prevents or hinders classroom instruction;
    - (B) Enticing or attempting to entice a student away from a class or other school activity that the student is required to attend;
    - (C) Preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend; and
    - (D) Entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or the use of loud or profane language, disrupting class activities.
  - (2) "Public property" includes a street, highway, alley, public park, or sidewalk.
  - (3) "School property" includes a public school campus or school grounds on which a public school is located and any grounds or buildings used by a school for an assembly or other school-sponsored activity.
- (d) It is an exception to the application of Subsection (a) that, at the time the person engaged in conduct prohibited under that subsection, the person was a student in the sixth grade or a lower grade level.

**§ 37.126. Disruption of transportation.**

(a) Except as provided by Section 37.125, a person other than a primary or secondary grade student commits an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children:

- (1) To or from school on a vehicle owned or operated by a county or independent school district; or
- (2) To or from an activity sponsored by a school on a vehicle owned or operated by a county or independent school district.

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

(c) It is an exception to the application of Subsection (a)(1) that, at the time the person engaged in conduct prohibited under that subdivision, the person was a student in the sixth grade or a lower grade level.

**§ 37.151. Definitions.**

In this subchapter:

- (1) "Educational institution" includes a public or private high school.
- (2) "Pledge" means any person who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in an organization.
- (3) "Pledging" means any action or activity related to becoming a member of an organization.
- (4) "Student" means any person who:
  - (A) Is registered in or in attendance at an educational institution;
  - (B) Has been accepted for admission at the educational institution where the hazing incident occurs; or
  - (C) Intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.
- (5) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, club, or service, social, or similar group, whose members are primarily students.
- (6) "Hazing" means any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student, that endangers the mental or physical health or safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in an organization. The term includes:
  - (A) Any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;
  - (B) 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;
  - (C) Any activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
  - (D) Any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame, or humiliation, 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 in this subdivision; and

(E) Any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code.

**REGULATIONS**

No relevant regulations found.

## ***Prevention and Behavioral Interventions (Non-Punitive)***

### **Prevention**

#### **LAWS**

##### **§ 11.252. District-Level planning and decision-making.**

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the achievement indicators adopted under Sections 39.053(c)(1)-(4). The district improvement plan must include provisions for:

- (3) Strategies for improvement of student performance that include:
  - (A) Instructional methods for addressing the needs of student groups not achieving their full potential;
  - (B) Methods for addressing the needs of students for special programs, including:
    - (i) Suicide prevention programs, in accordance with Subchapter O-1, Chapter 161, Health and Safety Code, which includes a parental or guardian notification procedure;
    - (ii) Conflict resolution programs;
    - (iii) Violence prevention programs; [...]
  - (C) Dropout reduction;
  - (D) Integration of technology in instructional and administrative programs;
  - (E) Discipline management;

##### **§ 28.002. Required curriculum.**

(a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:

- (2) An enrichment curriculum that includes:
  - (B) Health, with emphasis on:
    - (i) Physical health, including the importance of proper nutrition and exercise; and
    - (ii) Mental health, including instruction about mental health conditions and substance abuse;

(r) In adopting the essential knowledge and skills for the health curriculum under Subsection (a)(2)(B), the State Board of Education shall adopt essential knowledge and skills that address the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking, alcohol poisoning, and other forms of substance abuse. The agency shall compile a list of evidence-based substance abuse awareness programs from which a school district shall choose a program to use in the district's middle school, junior high school, and high school health curriculum. In this subsection, "evidence-based substance abuse awareness program" means a program, practice, or strategy that has been proven to effectively prevent substance abuse among students, as determined by evaluations that are evidence-based

(s) In this subsection, "bullying" has the meaning assigned by Section 37.0832 and "harassment" has the meaning assigned by Section 37.001. In addition to any other essential knowledge and skills the State Board of Education adopts for the health curriculum under Subsection (a)(2)(B), the board shall adopt for the health curriculum, in consultation with the Texas School Safety Center, essential knowledge and skills that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment.

(w) In adopting the essential knowledge and skills for the health curriculum under Subsection (a)(2)(B), the State Board of Education shall adopt essential knowledge and skills that address the dangers, causes, consequences, signs, symptoms, and treatment of nonmedical use of prescription drugs. The agency shall compile a list of evidence-based prescription drug misuse awareness programs from which a school district may choose a program to use in the district's middle school, junior high school, and high school health curriculums. In this subsection, an "evidence-based prescription drug misuse awareness program" means a program, practice, or strategy that has been proven to effectively prevent nonmedical use of prescription drugs among students, as determined by evaluations that use valid and reliable measures and that are published in peer-reviewed journals.

**§ 28.004. Local school health advisory council and health education instruction.**

- (a) The board of trustees of each school district shall establish a local school health advisory council to assist the district in ensuring that local community values are reflected in the district's health education instruction.
- (b) A school district must consider the recommendations of the local school health advisory council before changing the district's health education curriculum or instruction.
- (c) The local school health advisory council's duties include recommending:
- (1) The number of hours of instruction to be provided in health education;
  - (2) Policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, Type 2 diabetes, and mental health concerns through coordination of:
    - (A) Health education;
    - (B) Physical education and physical activity;
    - (C) Nutrition services;
    - (D) Parental involvement;
    - (E) Instruction to prevent the use of e-cigarettes, as defined by Section 161.081, Health and Safety Code, and tobacco;
    - (F) School health services;
    - (G) Counseling and guidance services;
    - (H) A safe and healthy school environment; and
    - (I) School employee wellness;
  - (3) Appropriate grade levels and methods of instruction for human sexuality instruction;
  - (4) Strategies for integrating the curriculum components specified by Subdivision (2) with the following elements in a coordinated school health program for the district:
    - (A) School health services;
    - (B) Counseling and guidance services;
    - (C) A safe and healthy school environment; and
    - (D) School employee wellness; and
  - (5) If feasible, joint use agreements or strategies for collaboration between the school district and community organizations or agencies.
- (d) The board of trustees shall appoint at least five members to the local school health advisory council. A majority of the members must be persons who are parents of students enrolled in the district and who are not employed by the district. One of those members shall serve as chair or co-chair of the council. The

board of trustees also may appoint one or more persons from each of the following groups or a representative from a group other than a group specified under this subsection:

- (1) Public school teachers;
- (2) Public school administrators;
- (3) District students;
- (4) Health care professionals;
- (5) The business community;
- (6) Law enforcement;
- (7) Senior citizens;
- (8) The clergy;
- (9) Nonprofit health organizations; and
- (10) Local domestic violence programs.

(d-1) The local school health advisory council shall meet at least four times each year.

(e) Any course materials and instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus or acquired immune deficiency syndrome shall be selected by the board of trustees with the advice of the local school health advisory council and must:

- (1) Present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;
- (2) Devote more attention to abstinence from sexual activity than to any other behavior;
- (3) Emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus or acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;
- (4) Direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with human immunodeficiency virus or acquired immune deficiency syndrome; and
- (5) Teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content.

(f) A school district may not distribute condoms in connection with instruction relating to human sexuality.

(g) A school district that provides human sexuality instruction may separate students according to sex for instructional purposes.

(h) The board of trustees shall determine the specific content of the district's instruction in human sexuality, in accordance with Subsections (e), (f), and (g).

(i) Before each school year, a school district shall provide written notice to a parent of each student enrolled in the district of the board of trustees' decision regarding whether the district will provide human sexuality instruction to district students. If instruction will be provided, the notice must include:

- (1) A summary of the basic content of the district's human sexuality instruction to be provided to the student, including a statement informing the parent of the instructional requirements under state law;
- (2) A statement of the parent's right to:
  - (A) Review curriculum materials as provided by Subsection (j); and
  - (B) Remove the student from any part of the district's human sexuality instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and

- (3) Information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council established under Subsection (a).
- (i-1) A parent may use the grievance procedure adopted under Section 26.011 concerning a complaint of a violation of Subsection (i).
- (j) A school district shall make all curriculum materials used in the district's human sexuality instruction available for reasonable public inspection.
- (k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website:
- (1) A statement of the policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Section 28.002(l);
  - (2) A statement of:
    - (A) The number of times during the preceding year the district's school health advisory council has met;
    - (B) Whether the district has adopted and enforces policies to ensure that district campuses comply with agency vending machine and food service guidelines for restricting student access to vending machines; and
    - (C) Whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of e-cigarettes, as defined by Section 38.006, and tobacco products by students and others on school campuses or at school-sponsored or school-related activities; and
  - (3) A statement providing notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year.
- (l) The local school health advisory council shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The council must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The council shall ensure that local community values are reflected in any policy recommendation made to the district under this subsection.
- (l-1) The local school health advisory council shall establish a physical activity and fitness planning subcommittee to consider issues relating to student physical activity and fitness and make policy recommendations to increase physical activity and improve fitness among students.
- (m) In addition to performing other duties, the local school health advisory council shall submit to the board of trustees, at least annually, a written report that includes:
- (1) Any council recommendation concerning the school district's health education curriculum and instruction or related matters that the council has not previously submitted to the board;
  - (2) Any suggested modification to a council recommendation previously submitted to the board;
  - (3) A detailed explanation of the council's activities during the period between the date of the current report and the date of the last prior written report; and
  - (4) Any recommendations made by the physical activity and fitness planning subcommittee.
- (n) Any joint use agreement that a school district and community organization or agency enter into based on a recommendation of the local school health advisory council under Subsection (c)(5) must address liability for the school district and community organization or agency in the agreement.

**§ 30.106. Reading and behavior plan.**

(a) Because learning and behavior are inextricably linked and learning and improved behavior correlate with decreased recidivism rates, the Texas Juvenile Justice Department shall not only fulfill the department's duties under state and federal law to provide general and special educational services to students in department educational programs but also shall implement a comprehensive plan to improve the reading skills and behavior of those students.

(c) To increase the positive social behaviors of students in department educational programs and to create an educational environment that facilitates learning, the department shall:

(1) Adopt system-wide classroom and individual positive behavior supports that incorporate a continuum of prevention and intervention strategies that:

(A) Are based on current behavioral research; and

(B) Are systematically and individually applied to students consistent with the demonstrated level of need;

(2) Require each teacher and other educational staff member in a department educational program to be trained in implementing the positive behavior support system adopted under Subdivision (1); and

(3) Adopt valid assessment techniques to evaluate the effectiveness of the positive behavior support system according to the following criteria:

(A) Documentation of school-related disciplinary referrals, disaggregated by the type, location, and time of infraction and by subgroups designated under department rule;

(B) Documentation of school-related disciplinary actions, including time-out, placement in security, and use of restraints and other aversive control measures, disaggregated by subgroups designated under department rule;

(C) Validated measurement of systemic positive behavioral support interventions; and

(D) The number of minutes students are out of the regular classroom because of disciplinary reasons.

(d) The department shall consult with faculty from institutions of higher education who have expertise in reading instruction for adolescents, in juvenile corrections, and in positive behavior supports to develop and implement the plan under Subsections (b) and (c).

**§ 37.0013. Positive behavior program.**

(a) Each school district and open-enrollment charter school may develop and implement a program, in consultation with campus behavior coordinators employed by the district or school and representatives of a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by Section 37.005(a) and is not subject to Section 37.005(c). The program must:

(1) Be age-appropriate and research-based;

(2) Provide models for positive behavior;

(3) promote a positive school environment;

(4) Provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school suspension, or placement in a disciplinary alternative education program to manage student behavior; and

(5) Provide behavior management strategies, including:

(A) Positive behavioral intervention and support;

(B) Trauma-informed practices;

(C) Social and emotional learning;

(D) A referral for services, as necessary; and

(E) Restorative practices.

(b) Each school district and open-enrollment charter school may annually conduct training for staff employed by the district or school on the program adopted under Subsection (a).

**§ 37.083. Discipline management programs; Sexual harassment policies.**

(a) Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under Section 11.252. The program must provide for prevention of and education concerning unwanted physical or verbal aggression and sexual harassment in school, on school grounds, and in school vehicles [...]

**§ 37.201. Definition.**

In this subchapter, "center" means the Texas School Safety Center.

**§ 37.202. Purpose.**

The purpose of the center is to serve as:

- (1) A central location for school safety and security information, including research, training, and technical assistance related to successful school safety and security programs;
- (2) A central registry of persons providing school safety and security consulting services in the state; and
- (3) A resource for the prevention of youth violence and the promotion of safety in the state.

**§ 37.205. Safety training programs.**

The center shall conduct for school districts a safety training program that includes:

- (1) Development of a positive school environment and proactive safety measures designed to address local concerns;
- (2) School safety courses for law enforcement officials, with a focus on school district police officers and school resource officers;
- (3) Discussion of school safety issues with parents and community members; and
- (4) Assistance in developing a multihazard emergency operations plan for adoption under Section 37.108.

**§ 37.218. Programs on dangers of students sharing visual material depicting minor engaged in sexual conduct.**

(a) In this section:

- (1) "Bullying" has the meaning assigned by Section 37.0832.
- (2) "Cyberbullying" has the meaning assigned by Section 37.0832.
- (3) "Harassment" has the meaning assigned by Section 37.001.
- (4) "Sexual conduct" has the meaning assigned by Section 43.25, Penal Code.

(b) The center, in consultation with the office of the attorney general, shall develop programs for use by school districts that address:

- (1) The possible legal consequences, including criminal penalties, of sharing visual material depicting a minor engaged in sexual conduct;
- (2) Other possible consequences of sharing visual material depicting a minor engaged in sexual conduct, including:

- (A) Negative effects on relationships;
  - (B) Loss of educational and employment opportunities; and
  - (C) Possible removal, if applicable, from certain school programs or extracurricular activities;
- (3) The unique characteristics of the Internet and other communications networks that could affect visual material depicting a minor engaged in sexual conduct, including:
- (A) Search and replication capabilities; and
  - (B) A potentially worldwide audience;
- (4) The prevention of, identification of, responses to, and reporting of incidents of bullying; and
- (5) The connection between bullying, cyberbullying, harassment, and a minor sharing visual material depicting a minor engaged in sexual conduct.
- (c) Each school district shall annually provide or make available information on the programs developed under Subsection (b) to parents and students in a grade level the district considers appropriate. Each district shall provide or make available the information by any means the district considers appropriate.

**§ 161.325. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.**

- (a) The department, in coordination with the Texas Education Agency and regional education service centers, shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified under Subsection (a-1) for implementation in public elementary, junior high, middle, and high schools within the general education setting. Each school district may select from the list a program or programs appropriate for implementation in the district.
- (a-1) The list must include programs and practices in the following areas:
- (1) Early mental health intervention;
  - (2) Building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
  - (3) Substance abuse prevention;
  - (4) Substance abuse intervention;
  - (5) Suicide prevention;
  - (6) trauma-informed practices;
  - (7) Positive school climates; and
  - (8) Positive behavior supports.
- (a-2) The department, the Texas Education Agency, and each regional education service center shall make the list easily accessible on their websites.
- (a-3) For purposes of Subsection (a-1), "school climate" means the quality and character of school life, including interpersonal relationships, teaching and learning practices, and organizational structures, as experienced by students enrolled in the school district, parents of those students, and personnel employed by the district.
- (b) The suicide prevention programs on the list must include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:
- (1) Recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying;
  - (2) Recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance,

depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and

(3) Intervene effectively with students described by Subdivision (1) or (2) by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian.

(c) In developing the list of best practice-based programs and research-based practices, the department and the Texas Education Agency shall consider:

(1) Any existing suicide prevention method developed by a school district; and

(2) Any Internet or online course or program developed in this state or another state that is based on best practices recognized by the Substance Abuse and Mental Health Services Administration or the Suicide Prevention Resource Center.

(c-1) Except as otherwise provided by this subsection, each school district shall provide training described in the components set forth under Subsection (b) for teachers, counselors, principals, and all other appropriate personnel. A school district is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. A school district may implement a program on the list to satisfy the requirements of this subsection.

(c-2) If a school district provides the training under Subsection (c-1):

(1) A school district employee described under that subsection must participate in the training at least one time; and

(2) The school district shall maintain records that include the name of each district employee who participated in the training.

(d) A school district may develop practices and procedures concerning each area listed in Subsection (a-1), including mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention, that:

(1) Include a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);

(2) Include a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);

(3) Establish that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention; and

(4) Set out available counseling alternatives for a parent or guardian to consider when their child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention.

(e) The practices and procedures developed under Subsection (d) must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

(f) The practices and procedures developed under Subsection (d) must be included in:

(1) The annual student handbook; and

(2) The district improvement plan under Section 11.252, Education Code.

(g) The department may accept donations for purposes of this section from sources without a conflict of interest. The department may not accept donations for purposes of this section from an anonymous source.

(h) Expired.

(i) Nothing in this section is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Practices and procedures developed in accordance with this section are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. Nothing in this section shall be construed as giving school districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

## **REGULATIONS**

No relevant regulations found.

## **Behavioral interventions and student support services**

### **LAWS**

#### **§ 21.462. Resources regarding students with mental health needs.**

The agency, in coordination with the Health and Human Services Commission, shall establish and maintain an Internet website to provide resources for school district or open-enrollment charter school employees regarding working with students with mental health conditions. The agency must include on the Internet website information about:

- (1) Grief-informed and trauma-informed practices;
- (2) Building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
- (3) Positive behavior interventions and supports; and
- (4) A safe and supportive school climate.

#### **§ 25.0915. Truancy prevention measures.**

(a) A school district shall adopt truancy prevention measures designed to:

- (1) Address student conduct related to truancy in the school setting before the student engages in conduct described by Section 65.003(a), Family Code; and
- (2) Minimize the need for referrals to truancy court for conduct described by Section 65.003(a), Family Code.

(a-1) As a truancy prevention measure under Subsection (a), a school district shall take one or more of the following actions:

- (1) Impose:
  - (A) A behavior improvement plan on the student that must be signed by an employee of the school, that the school district has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:
    - (i) A specific description of the behavior that is required or prohibited for the student;
    - (ii) The period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or

(iii) The penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or

(B) School-based community service; or

(2) Refer the student to counseling, mediation, mentoring, a teen court program, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy.

(a-2) A referral made under Subsection (a-1)(2) may include participation by the child's parent or guardian if necessary.

(a-3) A school district shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

(1) Pregnancy;

(2) Being in the state foster program;

(3) Homelessness; or

(4) Being the principal income earner for the student's family.

(a-4) If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Section 25.0951(a), the school district shall initiate truancy prevention measures under this section on the student.

(b) Each referral to truancy court for conduct described by Section 65.003(a), Family Code, must:

(1) Be accompanied by a statement from the student's school certifying that:

(A) The school applied the truancy prevention measures adopted under Subsection (a) or (a-4) to the student; and

(B) The truancy prevention measures failed to meaningfully address the student's school attendance; and

(2) Specify whether the student is eligible for or receives special education services under Subchapter A, Chapter 29.

(c) A truancy court shall dismiss a petition filed by a truant conduct prosecutor under Section 65.054, Family Code, if the court determines that the school district's referral:

(1) Does not comply with Subsection (b);

(2) Does not satisfy the elements required for truant conduct;

(3) Is not timely filed, unless the school district delayed the referral under Section 25.0951(d); or

(4) Is otherwise substantively defective.

(d) Except as provided by Subsection (e), a school district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus. At least annually, the truancy prevention facilitator shall meet to discuss effective truancy prevention measures with a case manager or other individual designated by a truancy court to provide services to students of the school district in truancy cases.

(e) Instead of employing a truancy prevention facilitator, a school district may designate an existing district employee or juvenile case manager to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus.

(f) The agency shall adopt rules:

(1) Creating minimum standards for truancy prevention measures adopted by a school district under this section; and

(2) Establishing a set of best practices for truancy prevention measures.

(g) The agency shall adopt rules to provide for sanctions for a school district found to be not in compliance with this section.

**§ 29.081. Compensatory, intensive, and accelerated instruction.**

(d) For purposes of this section, "student at risk of dropping out of school" includes each student who is under 26 years of age and who:

(1) Was not advanced from one grade level to the next for one or more school years;

(2) If the student is in grade 7, 8, 9, 10, 11, or 12, did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;

(3) Did not perform satisfactorily on an assessment instrument administered to the student under Subchapter B, Chapter 39, and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;

(4) If the student is in prekindergarten, kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;

(5) is pregnant or is a parent;

(6) Has been placed in an alternative education program in accordance with Section 37.006 during the preceding or current school year;

(7) Has been expelled in accordance with Section 37.007 during the preceding or current school year;

(8) Is currently on parole, probation, deferred prosecution, or other conditional release;

(9) Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;

(10) Is a student of limited English proficiency, as defined by Section 29.052;

(11) Is in the custody or care of the Department of Family and Protective Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;

(12) Is homeless, as defined by 42 U.S.C. Section 11302, and its subsequent amendments; or

(13) Resided in the preceding school year or resides in the current school year in a residential placement facility in the district, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, cottage home operation, specialized child-care home, or general residential operation.

(d-1) Notwithstanding Subsection (d)(1), a student is not considered a student at risk of dropping out of school if the student did not advance from prekindergarten or kindergarten to the next grade level only as the result of the request of the student's parent.

(e) A school district may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The program may be offered:

(1) At a campus; or

(2) Through the use of an Internet online program that leads to a high school diploma and prepares the student to enter the workforce.

(e-1) A campus-based dropout recovery education program must:

- (1) Provide not less than four hours of instructional time per day;
  - (2) Employ as faculty and administrators persons with baccalaureate or advanced degrees;
  - (3) Provide at least one instructor for each 28 students;
  - (4) Perform satisfactorily according to performance indicators and accountability standards adopted for alternative education programs by the commissioner; and
  - (5) Comply with this title and rules adopted under this title except as otherwise provided by this subsection.
- (e-2) An Internet online dropout recovery education program must:
- (1) Include as a part of its curriculum credentials, certifications, or other course offerings that relate directly to employment opportunities in the state;
  - (2) Employ as faculty and administrators persons with baccalaureate or advanced degrees;
  - (3) Provide an academic coach and local advocate for each student;
  - (4) Use an individual learning plan to monitor each student's progress;
  - (5) Establish satisfactory requirements for the monthly progress of students according to standards set by the commissioner;
  - (6) Provide a monthly report to the student's school district regarding the student's progress;
  - (7) Perform satisfactorily according to performance indicators and accountability standards adopted for alternative education programs by the commissioner; and
  - (8) Comply with this title and rules adopted under this title except as otherwise provided by this subsection.
- (f) The commissioner shall include students in attendance in a program under Subsection (e) in the computation of the district's average daily attendance for funding purposes.
- (g) In addition to students described by Subsection (d), a student who satisfies local eligibility criteria adopted by the board of trustees of a school district may receive instructional services under this section. The number of students receiving services under this subsection during a school year may not exceed 10 percent of the number of students described by Subsection (d) who received services from the district during the preceding school year.

**§ 30.106. Reading and behavior plan.**

- (a) Because learning and behavior are inextricably linked and learning and improved behavior correlate with decreased recidivism rates, the Texas Juvenile Justice Department shall not only fulfill the department's duties under state and federal law to provide general and special educational services to students in department educational programs but also shall implement a comprehensive plan to improve the reading skills and behavior of those students.
- (c) To increase the positive social behaviors of students in department educational programs and to create an educational environment that facilitates learning, the department shall:
- (1) Adopt system-wide classroom and individual positive behavior supports that incorporate a continuum of prevention and intervention strategies that:
    - (A) Are based on current behavioral research; and
    - (B) Are systematically and individually applied to students consistent with the demonstrated level of need;
  - (2) require each teacher and other educational staff member in a department educational program to be trained in implementing the positive behavior support system adopted under Subdivision (1); and

(3) Adopt valid assessment techniques to evaluate the effectiveness of the positive behavior support system according to the following criteria:

(A) Documentation of school-related disciplinary referrals, disaggregated by the type, location, and time of infraction and by subgroups designated under department rule;

(B) Documentation of school-related disciplinary actions, including time-out, placement in security, and use of restraints and other aversive control measures, disaggregated by subgroups designated under department rule;

(C) Validated measurement of systemic positive behavioral support interventions; and

(D) The number of minutes students are out of the regular classroom because of disciplinary reasons.

(d) The department shall consult with faculty from institutions of higher education who have expertise in reading instruction for adolescents, in juvenile corrections, and in positive behavior supports to develop and implement the plan under Subsections (b) and (c).

(e) A student in a department educational program may not be released on parole from the department unless the student participates, to the extent required by department rule, in the positive behavior support system under Subsection (c). A student in a department educational program who exhibits deficits in reading on the assessments adopted under Subsection (b)(1) must also participate in reading instruction to the extent required by this section and by department rule before the student may be released on parole.

**§ 37.0013. Positive behavior program.**

(a) Each school district and open-enrollment charter school may develop and implement a program, in consultation with campus behavior coordinators employed by the district or school and representatives of a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by Section 37.005(a) and is not subject to Section 37.005(c). The program must:

(1) Be age-appropriate and research-based;

(2) Provide models for positive behavior;

(3) Promote a positive school environment;

(4) Provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school suspension, or placement in a disciplinary alternative education program to manage student behavior; and

(5) Provide behavior management strategies, including:

(A) Positive behavioral intervention and support;

(B) Trauma-informed practices;

(C) Social and emotional learning;

(D) A referral for services, as necessary; and

(E) Restorative practices.

(b) Each school district and open-enrollment charter school may annually conduct training for staff employed by the district or school on the program adopted under Subsection (a).

**§ 37.051. Establishment.**

Each school district may establish a school-community guidance center designed to locate and assist children with problems that interfere with education, including juvenile offenders and children with severe behavioral problems or character disorders. Each center shall coordinate the efforts of school district personnel, local police departments, school attendance officers, and probation officers in working with

students, dropouts, and parents in identifying and correcting factors that adversely affect the education of the children.

**§ 37.052. Cooperative programs.**

The board of trustees of a school district may develop cooperative programs with state youth agencies for children found to have engaged in delinquent conduct.

**§ 37.053. Cooperation of governmental agencies.**

(a) Each governmental agency that is concerned with children and that has jurisdiction in the school district shall cooperate with the school-community guidance centers on the request of the superintendent of the district and shall designate a liaison to work with the centers in identifying and correcting problems affecting school-age children in the district.

(b) The governmental agency may establish or finance a school-community guidance center jointly with the school district according to terms approved by the governing body of each entity participating in the joint establishment or financing of the center.

**§ 37.054. Parental notice, consent, and access to information.**

(a) Before a student is admitted to a school-community guidance center, the administrator of the center must notify the student's parent or guardian that the student has been assigned to attend the center.

(b) The notification must include:

- (1) The reason that the student has been assigned to the center;
- (2) A statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and
- (3) A statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

(c) If, after notification, a parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

(d) A parent or guardian of a student attending a center is entitled to inspect:

- (1) Any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and
- (2) The results of any treatment, testing, or guidance method involving the student.

(e) The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

**§ 37.055. Parental involvement.**

(a) On admitting a student to a school-community guidance center, a representative of the school district, the student, and the student's parent shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

- (1) A statement of the student's behavioral and learning objectives;
- (2) A requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and
- (3) The parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting other objectives, defined by the district, to aid student remediation.

(b) The superintendent of the school district may obtain a court order from a district court in the school district requiring a parent to comply with an agreement made under this section. A parent who violates a court order issued under this subsection may be punished for contempt of court.

(c) In this section, "parent" includes a legal guardian.

**§ 37.056. Court supervision.**

(a) In this section, "court" means a juvenile court or alternate juvenile court designated under Chapter 51, Family Code. The court may delegate responsibility under this section to a referee appointed under Section 51.04, Family Code.

(b) If a representative of the school district, the student, and the parent or guardian for any reason fail to reach an agreement under Section 37.055, the court may, on the request of any party and after a hearing, enter an order establishing the responsibilities and duties of each of the parties as the court considers appropriate.

(c) The court may compel attendance at any hearing held under this section through any legal process, including subpoena and habeas corpus.

(d) If the parties reach an agreement under Section 37.055, and if the written agreement so provides, the court may enter an order that incorporates the terms of the agreement.

(e) Any party who violates an order issued under this section may be punished for contempt of court.

(f) A school district may enter into an agreement to share the costs incurred by a county under this section.

**§ 161.325. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.**

(a) The department, in coordination with the Texas Education Agency and regional education service centers, shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified under Subsection (a-1) for implementation in public elementary, junior high, middle, and high schools within the general education setting. Each school district may select from the list a program or programs appropriate for implementation in the district.

(a-1) The list must include programs and practices in the following areas:

- (1) Early mental health intervention;
- (2) Building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
- (3) Substance abuse prevention;
- (4) Substance abuse intervention;
- (5) Suicide prevention;
- (6) Trauma-informed practices;
- (7) Positive school climates; and
- (8) Positive behavior supports.

(a-2) The department, the Texas Education Agency, and each regional education service center shall make the list easily accessible on their websites.

(a-3) For purposes of Subsection (a-1), "school climate" means the quality and character of school life, including interpersonal relationships, teaching and learning practices, and organizational structures, as experienced by students enrolled in the school district, parents of those students, and personnel employed by the district.

(b) The suicide prevention programs on the list must include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

- (1) Recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying;
- (2) Recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and
- (3) Intervene effectively with students described by Subdivision (1) or (2) by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian.

(c) In developing the list of best practice-based programs and research-based practices, the department and the Texas Education Agency shall consider:

- (1) Any existing suicide prevention method developed by a school district; and
- (2) Any Internet or online course or program developed in this state or another state that is based on best practices recognized by the Substance Abuse and Mental Health Services Administration or the Suicide Prevention Resource Center.

(c-1) Except as otherwise provided by this subsection, each school district shall provide training described in the components set forth under Subsection (b) for teachers, counselors, principals, and all other appropriate personnel. A school district is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. A school district may implement a program on the list to satisfy the requirements of this subsection.

(c-2) If a school district provides the training under Subsection (c-1):

- (1) A school district employee described under that subsection must participate in the training at least one time; and
- (2) The school district shall maintain records that include the name of each district employee who participated in the training.

(d) A school district may develop practices and procedures concerning each area listed in Subsection (a-1), including mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention, that:

- (1) Include a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);
- (2) Include a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);
- (3) Establish that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention; and
- (4) Set out available counseling alternatives for a parent or guardian to consider when their child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention.

(e) The practices and procedures developed under Subsection (d) must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of

identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

(f) The practices and procedures developed under Subsection (d) must be included in:

- (1) The annual student handbook; and
- (2) The district improvement plan under Section 11.252, Education Code.

(g) The department may accept donations for purposes of this section from sources without a conflict of interest. The department may not accept donations for purposes of this section from an anonymous source.

(h) Expired.

(i) Nothing in this section is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Practices and procedures developed in accordance with this section are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. Nothing in this section shall be construed as giving school districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

## **REGULATIONS**

No relevant regulations found.

## **Professional development**

### **LAWS**

#### **§ 21.044. Educator preparation.**

(c-1) Any minimum academic qualifications for a certificate specified under Subsection (a) that require a person to possess a bachelor's degree must also require that the person receive, as part of the training required to obtain that certificate, instruction regarding mental health, substance abuse, and youth suicide. The instruction required must:

- (1) Be provided through a program selected from the list of recommended best practice-based programs and research-based practices established under Section 161.325, Health and Safety Code; and
- (2) Include effective strategies for teaching and intervening with students with mental or emotional disorders, including de-escalation techniques and positive behavioral interventions and supports.

#### **§ 21.054. Continuing education.**

(d) Continuing education requirements for a classroom teacher must provide that not more than 25 percent of the training required every five years include instruction regarding:

- (1) Collecting and analyzing information that will improve effectiveness in the classroom;
- (2) Recognizing early warning indicators that a student may be at risk of dropping out of school;
- (3) Digital learning, digital teaching, and integrating technology into classroom instruction;
- (4) Educating diverse student populations, including:
  - (A) Students who are eligible to participate in special education programs under Subchapter A, Chapter 29;
  - (B) Students who are eligible to receive educational services required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794);

- (C) Students with mental health conditions or who engage in substance abuse;
- (D) Students who are educationally disadvantaged;
- (E) Students of limited English proficiency; and
- (F) Students at risk of dropping out of school; and

(d-2) Continuing education requirements for a classroom teacher may include instruction regarding how grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma.

(e) Continuing education requirements for a principal must provide that not more than 25 percent of the training required every five years include instruction regarding:

- (1) Effective and efficient management, including:
  - (A) Collecting and analyzing information;
  - (B) Making decisions and managing time; and
  - (C) Supervising student discipline and managing behavior;
- (2) Recognizing early warning indicators that a student may be at risk of dropping out of school;
- (3) Digital learning, digital teaching, and integrating technology into campus curriculum and instruction;
- (4) Educating diverse student populations, including:
  - (A) Students who are eligible to participate in special education programs under Subchapter A, Chapter 29;
  - (B) Students who are eligible to receive educational services required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794);
  - (C) Students with mental health conditions or who engage in substance abuse;
  - (D) Students who are educationally disadvantaged;
  - (E) Students of limited English proficiency; and
  - (F) Students at risk of dropping out of school; and

(e-2) Continuing education requirements for a principal may include instruction regarding how grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma

(f) Continuing education requirements for a counselor must provide that not more than 25 percent of training required every five years include instruction regarding:

- (1) Assisting students in developing high school graduation plans;
- (2) Implementing dropout prevention strategies;
- (3) Informing students concerning:
  - (A) College admissions, including college financial aid resources and application procedures; and
  - (B) Career opportunities; and
- (4) Counseling students concerning mental health conditions and substance abuse.

**§ 21.451. Staff development requirements.**

(d) The staff development:

- (1) May include training in:
  - (A) Recognizing signs of mental health conditions and substance abuse;
  - (B) Technology;
  - (C) Conflict resolution;

(D) Positive behavior intervention and support strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Chapter 37; and

(E) Preventing, identifying, responding to, and reporting incidents of bullying;

(2) subject to Subsection (e) and to Section 21.3541 and rules adopted under that section, must include training that is evidence-based, as defined by Section 8101, Every Student Succeeds Act (20 U.S.C. Section 7801), and that:

(A) Relates to instruction of students with disabilities; and

(B) Is designed for educators, including classroom teachers, who work primarily outside the area of special education; and

(3) Must include suicide prevention training that must be provided:

(A) On an annual basis, as part of a new employee orientation, to all new school district and open-enrollment charter school educators, including classroom teachers; and

(B) To existing school district and open-enrollment charter school educators, including classroom teachers, on a schedule adopted by the agency by rule.

(d-1) The suicide prevention training required by Subsection (d)(3) must use a best practice-based program recommended by the Health and Human Services Commission in coordination with the agency under Section 38.301.

(d-2) The suicide prevention training required by Subsection (d)(3) may be satisfied through independent review of suicide prevention training material that:

(1) Complies with the guidelines developed by the agency; and

(2) Is offered online.

(d-3) The digital learning training provided by Subsection (d)(1)(E) must:

(1) Discuss basic technology proficiency expectations and methods to increase an educator's digital literacy; and

(2) Assist an educator in the use of digital technology in learning activities that improve teaching, assessment, and instructional practices.

(e) A school district is required to provide the training described by Subsection (d)(2) to an educator who works primarily outside the area of special education only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student receiving instruction from the educator. A district may determine the time and place at which the training is delivered.

(f) In developing or maintaining the training required by Subsection (d)(2), a school district must consult with persons with expertise in research-based practices for students with disabilities. Persons who may be consulted under this subsection include colleges, universities, private and nonprofit organizations, regional education service centers, qualified district personnel, and any other persons identified as qualified by the district. This subsection applies to all training required by Subsection (d)(2), regardless of whether the training is provided at the campus or district level.

(g) The staff development may include instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.

### **§ 30.106. Reading and behavior plan.**

(a) Because learning and behavior are inextricably linked and learning and improved behavior correlate with decreased recidivism rates, the Texas Juvenile Justice Department shall not only fulfill the department's duties under state and federal law to provide general and special educational services to

students in department educational programs but also shall implement a comprehensive plan to improve the reading skills and behavior of those students.

(c) To increase the positive social behaviors of students in department educational programs and to create an educational environment that facilitates learning, the department shall:

(2) require each teacher and other educational staff member in a department educational program to be trained in implementing the positive behavior support system adopted under Subdivision (1); and

**§ 37.0013. Positive behavior program.**

(a) Each school district and open-enrollment charter school may develop and implement a program, in consultation with campus behavior coordinators employed by the district or school and representatives of a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by Section 37.005(a) and is not subject to Section 37.005(c). The program must:

- (1) Be age-appropriate and research-based;
- (2) Provide models for positive behavior;
- (3) Promote a positive school environment;
- (4) Provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school suspension, or placement in a disciplinary alternative education program to manage student behavior; and
- (5) Provide behavior management strategies, including:
  - (A) Positive behavioral intervention and support;
  - (B) Trauma-informed practices;
  - (C) Social and emotional learning;
  - (D) A referral for services, as necessary; and
  - (E) Restorative practices.

(b) Each school district and open-enrollment charter school may annually conduct training for staff employed by the district or school on the program adopted under Subsection (a).

**§ 161.325. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.**

(c-1) Except as otherwise provided by this subsection, each school district shall provide training described in the components set forth under Subsection (b) for teachers, counselors, principals, and all other appropriate personnel. A school district is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. A school district may implement a program on the list to satisfy the requirements of this subsection.

(c-2) If a school district provides the training under Subsection (c-1):

- (1) A school district employee described under that subsection must participate in the training at least one time; and
- (2) The school district shall maintain records that include the name of each district employee who participated in the training.

## REGULATIONS

### **19 TAC 89.1053. Procedures for use of restraint and time-out.**

(h) Training on use of time-out. Training for school employees, volunteers, or independent contractors must be provided according to the following requirements.

- (1) General or special education personnel who implement time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out.
- (2) Newly-identified personnel called upon to implement time-out based on requirements established in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out.
- (3) Training on the use of time-out must be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, and must address the impact of time-out on the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.
- (4) All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.

## ***Monitoring and Accountability***

### **Formal incident reporting of conduct violations**

#### **LAWS**

##### **§ 37.020. Reports relating to expulsions and disciplinary alternative education program placements.**

- (a) In the manner required by the commissioner, each school district shall annually report to the commissioner the information required by this section.
- (b) For each placement in a disciplinary alternative education program established under Section 37.008, the district shall report:
- (1) Information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;
  - (2) Information indicating whether the placement was based on:
    - (A) Conduct violating the student code of conduct adopted under Section 37.001;
    - (B) Conduct for which a student may be removed from class under Section 37.002(b);
    - (C) Conduct for which placement in a disciplinary alternative education program is required by Section 37.006; or
    - (D) Conduct occurring while a student was enrolled in another district and for which placement in a disciplinary alternative education program is permitted by Section 37.008(j);
  - (3) The number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and
  - (4) The number of placements that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).
- (c) For each expulsion under Section 37.007, the district shall report:
- (1) Information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;
  - (2) Information indicating whether the expulsion was based on:
    - (A) Conduct for which expulsion is required under Section 37.007, including information specifically indicating whether a student was expelled on the basis of Section 37.007(e); or
    - (B) Conduct for which expulsion is permitted under Section 37.007;
  - (3) The number of full or partial days the student was expelled;
  - (4) Information indicating whether:
    - (A) The student was placed in a juvenile justice alternative education program under Section 37.011;
    - (B) The student was placed in a disciplinary alternative education program; or
    - (C) The student was not placed in a juvenile justice or other disciplinary alternative education program; and
  - (5) The number of expulsions that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).
- (d) For each placement in a Junior Reserve Officers' Training Corps program under Subchapter A-1, the district shall report:

- (1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;
  - (2) Information indicating whether the placement was based on:
    - (A) Conduct violating the student code of conduct adopted under Section 37.001;
    - (B) Conduct for which placement in a disciplinary alternative education program or juvenile justice alternative education program is otherwise required or permitted by this subchapter; or
    - (C) Conduct occurring while a student was enrolled in another district and for which placement in a Junior Reserve Officers' Training Corps program is permitted by Section 37.038;
  - (3) The number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program;
  - (4) The number of placements that were inconsistent with the guidelines included in the student code of conduct under Section 37.033(a)(4);
  - (5) Information regarding the academic performance of the student on assessment instruments required under Section 39.023, as applicable, during the year preceding, during the year of, and during the year following placement in the program, to the extent available; and
  - (6) Information indicating whether the student dropped out of school, to the extent available.
- (e) Subsection (d) and this subsection expire September 1, 2019.

**§ 39.306. Performance report.**

- (a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:
  - (1) Campus performance objectives established under Section 11.253 and the progress of each campus toward those objectives, which shall be available to the public;
  - (2) Information indicating the district's accreditation status and identifying each district campus awarded a distinction designation under Subchapter G or considered an unacceptable campus under Chapter 39A;
  - (3) The district's current special education compliance status with the agency;
  - (4) A statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);
  - (5) Information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students;
  - (6) The findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.); and
  - (7) Information received under Section 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner.
- (b) Supplemental information to be included in the reports shall be determined by the board of trustees. Performance information in the annual reports on the indicators described by Sections 39.053 and 39.301 and descriptive information required by this section shall be provided by the agency.
- (c) The board of trustees shall hold a hearing for public discussion of the report. The board of trustees shall give notice of the hearing to property owners in the district and parents of and other persons standing in parental relation to a district student. The notification must include notice to a newspaper of general circulation in the district and notice to electronic media serving the district. After the hearing the

report shall be widely disseminated within the district in a manner to be determined under rules adopted by the commissioner.

(d) The report must also include a comparison provided by the agency of:

(1) The performance of each campus to its previous performance and to state-established standards; and

(2) The performance of each district to its previous performance and to state-established standards.

(d-1) The report must also include the number of school counselors providing counseling services at each campus.

(e) The report may include the following information:

(1) Student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;

(2) Financial information, including revenues and expenditures;

(3) Staff information, including number and type of staff by sex, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover;

(4) Program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and

(5) The number of students placed in a disciplinary alternative education program under Chapter 37.

(f) The commissioner by rule shall authorize the combination of this report with other reports and financial statements and shall restrict the number and length of reports that school districts, school district employees, and school campuses are required to prepare.

(g) The report must include a statement of the amount, if any, of the school district's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents.

## **REGULATIONS**

### **19 TAC § 89.1053. Procedures for use of restraint and time-out.**

(e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers, or independent contractors must implement the following documentation requirements.

(1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.

(2) On the day restraint is utilized, a good faith effort must be made to verbally notify the parent(s) regarding the use of restraint.

(3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.

(4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the admission, review, and dismissal (ARD) committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).

(5) Written notification to the parent(s) and documentation to the student's special education eligibility folder must include the following:

(A) Name of the student;

(B) Name of the staff member(s) administering the restraint;

- (C) Date of the restraint and the time the restraint began and ended;
- (D) Location of the restraint;
- (E) Nature of the restraint;
- (F) A description of the activity in which the student was engaged immediately preceding the use of restraint;
- (G) The behavior that prompted the restraint;
- (H) The efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
- (I) Information documenting parent contact and notification.

(i) Documentation on use of time-out. Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

(k) Data reporting. With the exception of actions covered by subsection (f) of this section, data regarding the use of restraint must be electronically reported to the Texas Education Agency (TEA) in accordance with reporting standards specified by the TEA.

**19 TAC § 100.1211. Students.**

(c) Notice of expulsion or withdrawal. A charter holder shall notify the school district in which the student resides within three business days of any action expelling or withdrawing a student from the charter school.

**Parental notification**

**LAWS**

**§ 25.095. Warning notices**

(a) A school district or open-enrollment charter school shall notify a student's parent in writing at the beginning of the school year that if the student is absent from school on 10 or more days or parts of days within a six-month period in the same school year:

- (1) The student's parent is subject to prosecution under Section 25.093; and
- (2) The student is subject to referral to a truancy court for truant conduct under Section 65.003(a), Family Code.

(b) A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

- (1) Inform the parent that:
  - (A) It is the parent's duty to monitor the student's school attendance and require the student to attend school; and
  - (B) The student is subject to truancy prevention measures under Section 25.0915; and
- (2) Request a conference between school officials and the parent to discuss the absences.

(c) The fact that a parent did not receive a notice under Subsection (a) or (b) does not create a defense under Section 25.093 or under Section 65.003(a), Family Code.

(d) In this section, "parent" includes a person standing in parental relation.

**§ 37.0012. Designation of campus behavior coordinator.**

(a) A person at each campus must be designated to serve as the campus behavior coordinator. The person designated may be the principal of the campus or any other campus administrator selected by the principal.

(d) The campus behavior coordinator shall promptly notify a student's parent or guardian as provided by this subsection if under this subchapter the student is placed into in-school or out-of-school suspension, placed in a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer. A campus behavior coordinator must comply with this subsection by:

- (1) Promptly contacting the parent or guardian by telephone or in person; and
- (2) Making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.

(e) If a parent or guardian entitled to notice under Subsection (d) has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, a campus behavior coordinator shall mail written notice of the action to the parent or guardian at the parent's or guardian's last known address.

(f) If a campus behavior coordinator is unable or not available to promptly provide notice under Subsection (d), the principal or other designee shall provide the notice.

**§ 37.0091. Notice to noncustodial parent.**

(a) A noncustodial parent may request in writing that a school district or school, for the remainder of the school year in which the request is received, provide that parent with a copy of any written notification relating to student misconduct under Section 37.006 or 37.007 that is generally provided by the district or school to a student's parent or guardian.

(b) A school district or school may not unreasonably deny a request authorized by Subsection (a).

(c) Notwithstanding any other provision of this section, a school district or school shall comply with any applicable court order of which the district or school has knowledge.

**§ 37.054. Parental notice, consent, and access to information.**

(a) Before a student is admitted to a school-community guidance center, the administrator of the center must notify the student's parent or guardian that the student has been assigned to attend the center.

(b) The notification must include:

- (1) The reason that the student has been assigned to the center;
- (2) A statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and
- (3) A statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

(c) If, after notification, a parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

(d) A parent or guardian of a student attending a center is entitled to inspect:

- (1) Any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and
- (2) The results of any treatment, testing, or guidance method involving the student.

(e) The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

**§ 37.055. Parental involvement.**

(a) On admitting a student to a school-community guidance center, a representative of the school district, the student, and the student's parent shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

- (1) A statement of the student's behavioral and learning objectives;
- (2) A requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and
- (3) The parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting other objectives, defined by the district, to aid student remediation.

(b) The superintendent of the school district may obtain a court order from a district court in the school district requiring a parent to comply with an agreement made under this section. A parent who violates a court order issued under this subsection may be punished for contempt of court.

(c) In this section, "parent" includes a legal guardian.

**§ 37.144. Graduated sanctions for certain school offenses.**

(a) A school district that commissions peace officers under Section 37.081 may develop a system of graduated sanctions that the school district may require to be imposed on a child before a complaint is filed under Section 37.145 against the child for a school offense that is an offense under Section 37.124 or 37.126 or under Section 42.01(a)(1), (2), (3), (4), or (5), Penal Code. A system adopted under this section must include multiple graduated sanctions. The system may require:

- (1) a warning letter to be issued to the child and the child's parent or guardian that specifically states the child's alleged school offense and explains the consequences if the child engages in additional misconduct;
- (2) a behavior contract with the child that must be signed by the child, the child's parent or guardian, and an employee of the school and that includes a specific description of the behavior that is required or prohibited for the child and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court;

**REGULATIONS**

**19 TAC § 89.1053. Procedures for use of restraint and time-out.**

(e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers, or independent contractors must implement the following documentation requirements.

- (1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.
- (2) On the day restraint is utilized, a good faith effort must be made to verbally notify the parent(s) regarding the use of restraint.
- (3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.
- (4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the admission, review, and dismissal (ARD) committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).

(5) Written notification to the parent(s) and documentation to the student's special education eligibility folder must include the following:

- (A) Name of the student;
- (B) Name of the staff member(s) administering the restraint;
- (C) Date of the restraint and the time the restraint began and ended;
- (D) Location of the restraint;
- (E) Nature of the restraint;
- (F) A description of the activity in which the student was engaged immediately preceding the use of restraint;
- (G) The behavior that prompted the restraint;
- (H) The efforts made to de-escalate the situation and alternatives to restraint that were attempted;  
and
- (I) Information documenting parent contact and notification.

## **Reporting and referrals between schools and law enforcement**

### **LAWS**

#### **§ 15.27. Notification to schools required.**

(a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or before the next school day, whichever is earlier. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or before the next school day, whichever is earlier. If the individual is a student, the superintendent or the superintendent's designee shall immediately notify all instructional and support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is given, the head of the law enforcement agency or the person designated by the head of the agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. The written notification must include the facts contained in the oral notification, the name of the person who was orally notified, and the date and time of the oral notification. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. The information contained in the notice shall be considered by the superintendent or the superintendent's designee in making such a determination.

(a-1) The superintendent or a person designated by the superintendent in the school district shall send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice under Subsection (a).

(b) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication and whether the student is required to register as a sex offender under Chapter 62. Oral notification must be given within 24 hours of the time of the order or before the next school day, whichever is earlier. The superintendent shall, within 24 hours of receiving notification from the office of the prosecuting attorney, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender under Chapter 62.

(c) A parole, probation, or community supervision office, including a community supervision and corrections department, a juvenile probation department, the paroles division of the Texas Department of Criminal Justice, and the Texas Juvenile Justice Department, having jurisdiction over a student described by Subsection (a), (b), or (e) who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, referral to a juvenile court, conviction, or adjudication occurred shall within 24 hours of learning of the student's transfer or reenrollment, or before the next school day, whichever is earlier, notify the superintendent or a person designated by the superintendent of the school district to which the student transfers or is returned or, in the case of a private school, the principal or a school employee designated by the principal of the school to which the student transfers or is returned of the arrest or referral in a manner similar to that provided for by Subsection (a) or (e)(1), or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2). The superintendent of the school district to which the student transfers or is returned or, in the case of a private school, the principal of the school to which the student transfers or is returned shall, within 24 hours of receiving notification under this subsection or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1240, Sec. 5, eff. June 15, 2007.

(e)(1) A law enforcement agency that arrests, or refers to a juvenile court under Chapter 52, Family Code, an individual who the law enforcement agency knows or believes is enrolled as a student in a private primary or secondary school shall make the oral and written notifications described by Subsection (a) to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(2) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a private primary or secondary school, the office of prosecuting attorney shall make the oral and written notifications described by Subsection (b) of this article to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(3) The principal of a private school in which the student is enrolled or a school employee designated by the principal shall send to a school employee having direct supervisory responsibility over the student the information contained in the confidential notice, for the same purposes as described by Subsection (a-1) of this article.

(f) A person who receives information under this article may not disclose the information except as specifically authorized by this article. A person who intentionally violates this article commits an offense. An offense under this subsection is a Class C misdemeanor.

(g) The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a disciplinary alternative education program under Section 37.006, Education Code, if:

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

(h) This article applies to any felony offense and the following misdemeanors:

- (1) An offense under Section 20.02, 21.08, 22.01, 22.05, 22.07, or 71.02, Penal Code;
- (2) The unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Chapter 481, Health and Safety Code; or
- (3) The unlawful possession of any of the weapons or devices listed in Sections 46.01(1)-(14) or (16), Penal Code, or a weapon listed as a prohibited weapon under Section 46.05, Penal Code.

(i) A person may substitute electronic notification for oral notification where oral notification is required by this article. If electronic notification is substituted for oral notification, any written notification required by this article is not required.

(j) The notification provisions of this section concerning a person who is required to register as a sex offender under Chapter 62 do not lessen the requirement of a person to provide any additional notification prescribed by that chapter.

(k) Oral or written notice required under this article must include all pertinent details of the offense or conduct, including details of any:

- (1) Assaultive behavior or other violence;
- (2) Weapons used in the commission of the offense or conduct; or
- (3) Weapons possessed during the commission of the offense or conduct.

(l) If a school district board of trustees learns of a failure by the superintendent of the district or a district principal to provide a notice required under Subsection (a), (a-1), or (b), the board of trustees shall report the failure to the State Board for Educator Certification. If the governing body of a private primary or secondary school learns of a failure by the principal of the school to provide a notice required under Subsection (e), and the principal holds a certificate issued under Subchapter B, Chapter 21, Education Code, the governing body shall report the failure to the State Board for Educator Certification.

(m) If the superintendent of a school district in which the student is enrolled learns of a failure of the head of a law enforcement agency or a person designated by the head of the agency to provide a notification under Subsection (a), the superintendent or principal shall report the failure to notify to the Texas Commission on Law Enforcement.

(n) If a juvenile court judge or official designated by the juvenile board learns of a failure by the office of the prosecuting attorney to provide a notification required under Subsection (b) or (g), the official shall report the failure to notify to the elected prosecuting attorney responsible for the operation of the office.

(o) If the supervisor of a parole, probation, or community supervision department officer learns of a failure by the officer to provide a notification under Subsection (c), the supervisor shall report the failure to notify to the director of the entity that employs the officer.

**§ 129A.001. Definition.**

In this chapter, "cyberbullying" has the meaning assigned by Section 37.0832(a), Education Code.

**§ 129A.002. Injunctive relief.**

(a) A recipient of cyberbullying behavior who is younger than 18 years of age at the time the cyberbullying occurs or a parent of or person standing in parental relation to the recipient may seek injunctive relief under this chapter against the individual who was cyberbullying the recipient or, if the individual is younger than 18 years of age, against a parent of or person standing in parental relation to the individual.

(b) A court may issue a temporary restraining order, temporary injunction, or permanent injunction appropriate under the circumstances to prevent any further cyberbullying, including an order or injunction:

- (1) Enjoining a defendant from engaging in cyberbullying; or
- (2) Compelling a defendant who is a parent of or person standing in parental relation to an individual who is younger than 18 years of age to take reasonable actions to cause the individual to cease engaging in cyberbullying.

(c) A plaintiff in an action for injunctive relief brought under this section is entitled to a temporary restraining order on showing that the plaintiff is likely to succeed in establishing that the individual was cyberbullying the recipient. The plaintiff is not required to plead or prove that, before notice can be served and a hearing can be held, immediate and irreparable injury, loss, or damage is likely to result from past or future cyberbullying by the individual against the recipient.

(d) A plaintiff is entitled to a temporary or permanent injunction under this section on showing that the individual was cyberbullying the recipient.

(e) A court granting a temporary restraining order or temporary injunction under this section may, on motion of either party or sua sponte, order the preservation of any relevant electronic communication. The temporary restraining order or temporary injunction is not required to:

- (1) Define the injury or state why it is irreparable;
- (2) State why the order was granted without notice; or
- (3) Include an order setting the cause for trial on the merits with respect to the ultimate relief requested.

**§ 129A.003. Promulgation of forms.**

(a) The supreme court shall, as the court finds appropriate, promulgate forms for use as an application for initial injunctive relief by individuals representing themselves in suits involving cyberbullying and instructions for the proper use of each form or set of forms.

(b) The forms and instructions:

- (1) Must be written in language that is easily understood by the general public;
- (2) Shall be made readily available to the general public in the manner prescribed by the supreme court; and
- (3) Must be translated into the Spanish language.

(c) The Spanish language translation of a form must:

- (1) State:
  - (A) That the Spanish language translated form is to be used solely for the purpose of assisting in understanding the form and may not be submitted to the court; and
  - (B) That the English language version of the form must be submitted to the court; or
- (2) Be incorporated into the English language version of the form in a manner that is understandable to both the court and members of the general public.

(d) Each form and its instructions must clearly and conspicuously state that the form is not a substitute for the advice of an attorney.

(e) The attorney general and the clerk of a court shall inform members of the general public of the availability of a form promulgated by the supreme court under this section as appropriate and make the form available free of charge.

(f) A court shall accept a form promulgated by the supreme court under this section unless the form has been completed in a manner that causes a substantive defect that cannot be cured.

**§ 129A.004. Inapplicability.**

(a) An action filed under this chapter may not be joined with an action filed under Title 1, 4, or 5, Family Code.

(b) Chapter 27 does not apply to an action under this chapter.

**§ 129A.005. Certain conduct excepted.**

This chapter does not apply to a claim brought against an interactive computer service, as defined by 47 U.S.C. Section 230, for cyberbullying.

**§ 37.006. Removal for certain conduct.**

(h) On receipt of notice under Article 15.27(g), Code of Criminal Procedure, the superintendent or the superintendent's designee shall review the student's placement in the disciplinary alternative education program. The student may not be returned to the regular classroom pending the review. The superintendent or the superintendent's designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or superintendent's designee receives notice from the office or official designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or the superintendent's designee may continue the student's placement in the disciplinary alternative education program if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

(o) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a principal or a principal's designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

**§ 37.010. Court involvement.**

(a) Not later than the second business day after the date a hearing is held under Section 37.009, the board of trustees of a school district or the board's designee shall deliver a copy of the order placing a student in a disciplinary alternative education program under Section 37.006 or expelling a student under Section 37.007 and any information required under Section 52.04, Family Code, to the authorized officer of the juvenile court in the county in which the student resides. In a county that operates a program under Section 37.011, an expelled student shall to the extent provided by law or by the memorandum of understanding immediately attend the educational program from the date of expulsion, except that in a county with a population greater than 125,000, every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program.

(b) If a student is expelled under Section 37.007(c), the board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Title 3, Family Code.

**§ 37.013. Coordination between school districts and juvenile boards.**

The board of trustees of the school district or the board's designee shall at the call of the president of the board of trustees regularly meet with the juvenile board for the county in which the district's central administrative office is located or the juvenile board's designee concerning supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs. Matters for discussion shall include service by probation officers at the disciplinary alternative education program site, recruitment of volunteers to serve as mentors and provide tutoring services, and coordination with other social service agencies.

**§ 37.015. Reports to local law enforcement; Liability.**

(a) The principal of a public or private primary or secondary school, or a person designated by the principal under Subsection (d), shall notify any school district police department and the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, whether or not the activity is investigated by school security officers:

- (1) Conduct that may constitute an offense listed under Section 508.149, Government Code;
- (2) Deadly conduct under Section 22.05, Penal Code;
- (3) A terroristic threat under Section 22.07, Penal Code;
- (4) The use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana under Chapter 481, Health and Safety Code;
- (5) The possession of any of the weapons or devices listed under Sections 46.01(1)--(14) or Section 46.01(16), Penal Code;
- (6) Conduct that may constitute a criminal offense under Section 71.02, Penal Code; or
- (7) Conduct that may constitute a criminal offense for which a student may be expelled under Section 37.007(a), (d), or (e).

(b) A person who makes a notification under this section shall include the name and address of each student the person believes may have participated in the activity.

(c) A notification is not required under Subsection (a) if the person reasonably believes that the activity does not constitute a criminal offense.

(d) The principal of a public or private primary or secondary school may designate a school employee who is under the supervision of the principal to make the reports required by this section.

(e) The person who makes the notification required under Subsection (a) shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

(f) A person is not liable in civil damages for reporting in good faith as required by this section.

**§ 37.0151. Report to local law enforcement regarding certain conduct constituting assault or harassment; liability.**

(a) The principal of a public primary or secondary school, or a person designated by the principal under Subsection (c), may make a report to any school district police department, if applicable, or the police department of the municipality in which the school is located or, if the school is not in a municipality, the

sheriff of the county in which the school is located if, after an investigation is completed, the principal has reasonable grounds to believe that a student engaged in conduct that constitutes an offense under Section 22.01 or 42.07(a)(7), Penal Code.

(b) A person who makes a report under this section may include the name and address of each student the person believes may have participated in the conduct.

(c) The principal of a public primary or secondary school may designate a school employee, other than a school counselor, who is under the supervision of the principal to make the report under this section.

(d) A person who is not a school employee but is employed by an entity that contracts with a district or school to use school property is not required to make a report under this section and may not be designated by the principal of a public primary or secondary school to make a report. A person who voluntarily makes a report under this section is immune from civil or criminal liability.

(e) A person who takes any action under this section is immune from civil or criminal liability or disciplinary action resulting from that action.

(f) Notwithstanding any other law, this section does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action for an act under this section.

(g) A school district and school personnel and school volunteers are immune from suit resulting from an act under this section, including an act under related policies and procedures.

(h) An act by school personnel or a school volunteer under this section, including an act under related policies and procedures, is the exercise of judgment or discretion on the part of the school personnel or school volunteer and is not considered to be a ministerial act for purposes of liability of the school district or the district's employees.

#### **§ 37.017. Destruction of certain records.**

Information received by a school district under Article 15.27, Code of Criminal Procedure, may not be attached to the permanent academic file of the student who is the subject of the report. The school district shall destroy the information at the end of the school year in which the report was filed.

#### **§ 37.084. Interagency sharing of records**

(a) A school district superintendent or the superintendent's designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Section 58.0051, Family Code.

(b) The commissioner may enter into an interagency agreement to share educational information for research and analytical purposes with the:

- (1) Texas Juvenile Justice Department; and
- (2) Texas Department of Criminal Justice.

(c) This section does not require or authorize release of student-level information except in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.

#### **§ 37.146. Requisites of complaint.**

(a) A complaint alleging the commission of a school offense must, in addition to the requirements imposed by Article 45.019, Code of Criminal Procedure:

- (1) Be sworn to by a person who has personal knowledge of the underlying facts giving rise to probable cause to believe that an offense has been committed; and
- (2) Be accompanied by a statement from a school employee stating:
  - (A) Whether the child is eligible for or receives special services under Subchapter A, Chapter 29; and

(B) The graduated sanctions, if required under Section 37.144, that were imposed on the child before the complaint was filed.

(b) After a complaint has been filed under this subchapter, a summons may be issued under Articles 23.04 and 45.057(e), Code of Criminal Procedure.

(c) A complaint under this subchapter may include a recommendation by a school employee that the child attend a teen court program under Article 45.052, Code of Criminal Procedure, if the school employee believes attending a teen court program is in the best interest of the child.

#### **§ 42.07. Harassment.**

(a) A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person:

- (1) Initiates communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene;
- (2) Threatens, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;
- (3) Conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury;
- (4) Causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another;
- (5) Makes a telephone call and intentionally fails to hang up or disengage the connection;
- (6) Knowingly permits a telephone under the person's control to be used by another to commit an offense under this section; or
- (7) Sends repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another.

(b) In this section:

- (1) "Electronic communication" means a transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system. The term includes:
  - (A) A communication initiated through the use of electronic mail, instant message, network call, a cellular or other type of telephone, a computer, a camera, text message, a social media platform or application, an Internet website, any other Internet-based communication tool, or facsimile machine; and
  - (B) A communication made to a pager.

(2) "Family" and "household" have the meaning assigned by Chapter 71, Family Code.

(3) "Obscene" means containing a patently offensive description of or a solicitation to commit an ultimate sex act, including sexual intercourse, masturbation, cunnilingus, fellatio, or anilingus, or a description of an excretory function.

(c) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if:

- (1) The actor has previously been convicted under this section; or
- (2) The offense was committed under Subsection (a)(7) and:

- (A) The offense was committed against a child under 18 years of age with the intent that the child:
- (i) Commit suicide; or
  - (ii) Engage in conduct causing serious bodily injury to the child; or
- (B) The actor has previously violated a temporary restraining order or injunction issued under Chapter 129A, Civil Practice and Remedies Code.

## REGULATIONS

No relevant regulations found.

## Disclosure of school records

## LAWS

### **§ 29.022. Video surveillance of special education settings.**

(a) In order to promote student safety, on receipt of a written request authorized under Subsection (a-1), a school district or open-enrollment charter school shall provide equipment, including a video camera, to the school or schools in the district or the charter school campus or campuses specified in the request. A school or campus that receives equipment as provided by this subsection shall place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day, provided that:

- (1) A school or campus that receives equipment as a result of the request by a parent or staff member is required to place equipment only in classrooms or settings in which the parent's child is in regular attendance or to which the staff member is assigned, as applicable; and
- (2) A school or campus that receives equipment as a result of the request by a board of trustees, governing body, principal, or assistant principal is required to place equipment only in classrooms or settings identified by the requestor, if the requestor limits the request to specific classrooms or settings subject to this subsection.

(a-1) For purposes of Subsection (a):

- (1) a parent of a child who receives special education services in one or more self-contained classrooms or other special education settings may request in writing that equipment be provided to the school or campus at which the child receives those services;
- (2) a board of trustees or governing body may request in writing that equipment be provided to one or more specified schools or campuses at which one or more children receive special education services in self-contained classrooms or other special education settings;
- (3) the principal or assistant principal of a school or campus at which one or more children receive special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the principal's or assistant principal's school or campus; and
- (4) a staff member assigned to work with one or more children receiving special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the school or campus at which the staff member works.

(a-2) Each school district or open-enrollment charter school shall designate an administrator at the primary administrative office of the district or school with responsibility for coordinating the provision of equipment to schools and campuses in compliance with this section.

(a-3) A written request must be submitted and acted on as follows:

- (1) A parent, staff member, or assistant principal must submit a request to the principal or the principal's designee of the school or campus addressed in the request, and the principal or designee must provide a copy of the request to the administrator designated under Subsection (a-2);
  - (2) A principal must submit a request by the principal to the administrator designated under Subsection (a-2); and
  - (3) A board of trustees or governing body must submit a request to the administrator designated under Subsection (a-2), and the administrator must provide a copy of the request to the principal or the principal's designee of the school or campus addressed in the request.
- (b) A school or campus that places a video camera in a classroom or other special education setting in accordance with Subsection (a) shall operate and maintain the video camera in the classroom or setting, as long as the classroom or setting continues to satisfy the requirements under Subsection (a), for the remainder of the school year in which the school or campus received the request, unless the requestor withdraws the request in writing. If for any reason a school or campus will discontinue operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request under Subsection (a-1). Not later than the 10th school day before the end of each school year, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year under Subsection (a-1) submits a new request.
- (c) Except as provided by Subsection (c-1), video cameras placed under this section must be capable of:
- (1) Covering all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out; and
  - (2) Recording audio from all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out.
- (c-1) The inside of a bathroom or any area in the classroom or other special education setting in which a student's clothes are changed may not be visually monitored, except for incidental coverage of a minor portion of a bathroom or changing area because of the layout of the classroom or setting.
- (d) Before a school or campus activates a video camera in a classroom or other special education setting under this section, the school or campus shall provide written notice of the placement to all school or campus staff and to the parents of each student attending class or engaging in school activities in the classroom or setting.
- (e) Except as provided by Subsection (e-1), a school district or open-enrollment charter school shall retain video recorded from a video camera placed under this section for at least three months after the date the video was recorded.
- (e-1) If a person described by Subsection (i) requests to view a video recording from a video camera placed under this section, a school district or open-enrollment charter school must retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to whether the recording documents an alleged incident. If the recording documents an alleged incident, the district or school shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.
- (f) A school district or open-enrollment charter school may solicit and accept gifts, grants, and donations from any person for use in placing video cameras in classrooms or other special education settings under this section.
- (g) This section does not:

- (1) Waive any immunity from liability of a school district or open-enrollment charter school, or of district or school officers or employees; or
  - (2) Create any liability for a cause of action against a school district or open-enrollment charter school or against district or school officers or employees.
- (h) A school district or open-enrollment charter school may not:
- (1) Allow regular or continual monitoring of video recorded under this section; or
  - (2) Use video recorded under this section for teacher evaluation or for any other purpose other than the promotion of safety of students receiving special education services in a self-contained classroom or other special education setting.
- (i) A video recording of a student made according to this section is confidential and may not be released or viewed except as provided by this subsection or Subsection (i-1) or (j). A school district or open-enrollment charter school shall release a recording for viewing by:
- (1) An employee who is involved in an alleged incident that is documented by the recording and has been reported to the district or school, on request of the employee;
  - (2) A parent of a student who is involved in an alleged incident that is documented by the recording and has been reported to the district or school, on request of the parent;
  - (3) Appropriate Department of Family and Protective Services personnel as part of an investigation under Section 261.406, Family Code;
  - (4) A peace officer, a school nurse, a district or school administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the board of trustees of the school district or the governing body of the open-enrollment charter school in response to a report of an alleged incident or an investigation of district or school personnel or a report of alleged abuse committed by a student; or
  - (5) Appropriate agency or State Board for Educator Certification personnel or agents as part of an investigation.
- (i-1) A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording is not in violation of Subsection (i).
- (j) If a person described by Subsection (i)(4) or (5) who views the video recording believes that the recording documents a possible violation under Subchapter E, Chapter 261, Family Code, the person shall notify the Department of Family and Protective Services for investigation in accordance with Section 261.406, Family Code. If any person described by Subsection (i)(3), (4), or (5) who views the recording believes that the recording documents a possible violation of district or school policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording believed to document a possible violation of district or school policy relating to the neglect or abuse of a student may be used as part of a disciplinary action against district or school personnel and shall be released at the request of the student's parent in a legal proceeding. This subsection does not limit the access of a student's parent to a record regarding the student under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or other law.
- (k) The commissioner may adopt rules to implement and administer this section, including rules regarding the special education settings to which this section applies.
- (l) A school district or open-enrollment charter school policy relating to the placement, operation, or maintenance of video cameras under this section must:

- (1) Include information on how a person may appeal an action by the district or school that the person believes to be in violation of this section or a policy adopted in accordance with this section, including the appeals process under Section 7.057;
  - (2) Require that the district or school provide a response to a request made under this section not later than the seventh school business day after receipt of the request by the person to whom it must be submitted under Subsection (a-3) that authorizes the request or states the reason for denying the request;
  - (3) Except as provided by Subdivision (5), require that a school or a campus begin operation of a video camera in compliance with this section not later than the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the request is authorized unless the agency grants an extension of time;
  - (4) Permit the parent of a student whose admission, review, and dismissal committee has determined that the student's placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed under this section to make a request for the video camera by the later of:
    - (A) The date on which the current school year ends; or
    - (B) The 10th school business day after the date of the placement determination by the admission, review, and dismissal committee; and
  - (5) If a request is made by a parent in compliance with Subdivision (4), unless the agency grants an extension of time, require that a school or campus begin operation of a video camera in compliance with this section not later than the later of:
    - (A) The 10th school day of the fall semester; or
    - (B) The 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the date the request is made.
- (m) A school district, parent, staff member, or administrator may request an expedited review by the agency of the district's:
- (1) Denial of a request made under this section;
  - (2) Request for an extension of time to begin operation of a video camera under Subsection (l)(3) or (5); or
  - (3) Determination to not release a video recording to a person described by Subsection (i).
- (n) If a school district, parent, staff member, or administrator requests an expedited review under Subsection (m), the agency shall notify all other interested parties of the request.
- (o) If an expedited review has been requested under Subsection (m), the agency shall issue a preliminary judgment as to whether the district is likely to prevail on the issue under a full review by the agency. If the agency determines that the district is not likely to prevail, the district must fully comply with this section notwithstanding an appeal of the agency's decision. The agency shall notify the requestor and the district, if the district is not the requestor, of the agency's determination.
- (p) The commissioner:
- (1) Shall adopt rules relating to the expedited review process under Subsections (m), (n), and (o), including standards for making a determination under Subsection (o); and
  - (2) May adopt rules relating to an expedited review process under Subsections (m), (n), and (o) for an open-enrollment charter school.
- (q) The agency shall collect data relating to requests made under this section and actions taken by a school district or open-enrollment charter school in response to a request, including the number of requests made, authorized, and denied.

(r) A video recording under this section is a governmental record only for purposes of Section 37.10, Penal Code.

(s) This section applies to the placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.

(t) A video camera placed under this section is not required to be in operation for the time during which students are not present in the classroom or other special education setting.

(u) In this section:

- (1) "Parent" includes a guardian or other person standing in parental relation to a student.
- (2) "School business day" means a day that campus or school district administrative offices are open.
- (3) "Self-contained classroom" does not include a classroom that is a resource room instructional arrangement under Section 42.151.
- (4) "Staff member" means a teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in a self-contained classroom or other special education setting.
- (5) "Time-out" has the meaning assigned by Section 37.0021.

**§ 37.022. Notice of disciplinary action.**

(b) If a district or school takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the governing body of the district or school taking the disciplinary action shall provide to the district or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.

**§ 37.084. Interagency sharing of records.**

(a) A school district superintendent or the superintendent's designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Section 58.0051, Family Code.

(b) The commissioner may enter into an interagency agreement to share educational information for research and analytical purposes with the:

- (1) Texas Juvenile Justice Department; and
- (2) Texas Department of Criminal Justice.

(c) This section does not require or authorize release of student-level information except in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.

**REGULATIONS**

No relevant regulations found.

**Data collection, review, and reporting of disciplinary policies and actions**

**LAWS**

**§ 11.252. District level planning and decision making.**

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level

committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the achievement indicators adopted under Sections 39.053(c)(1)-(4). The district improvement plan must include provisions for:

- (1) a comprehensive needs assessment addressing district student performance on the achievement indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by the district, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter A, Chapter 29;
  - (2) measurable district performance objectives for all appropriate achievement indicators for all student populations, including students in special education programs under Subchapter A, Chapter 29, and other measures of student performance that may be identified through the comprehensive needs assessment;
  - (3) Strategies for improvement of student performance that include:
    - (A) Instructional methods for addressing the needs of student groups not achieving their full potential;
    - (B) Methods for addressing the needs of students for special programs, including:
      - (i) Suicide prevention programs, in accordance with Subchapter G, Chapter 38, which include a parental or guardian notification procedure;
      - (ii) Conflict resolution programs
      - (iii) Violence prevention programs; and
      - (iv) Dyslexia treatment programs;
    - (C) Dropout reduction;
    - (D) Integration of technology in instructional and administrative programs;
    - (E) Positive behavior interventions and support;
    - (F) Staff development for professional staff of the district;
    - (G) Career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities; and
    - (H) Accelerated education;
  - (4) strategies for providing to middle school, junior high school, and high school students, those students' teachers and school counselors, and those students' parents information about:
    - (A) Higher education admissions and financial aid opportunities;
    - (B) The TEXAS grant program and the Teach for Texas grant program established under Chapter 56;
    - (C) The need for students to make informed curriculum choices to be prepared for success beyond high school; and
    - (D) Sources of information on higher education admissions and financial aid;
  - (5) Resources needed to implement identified strategies;
  - (6) Staff responsible for ensuring the accomplishment of each strategy;
  - (7) Timelines for ongoing monitoring of the implementation of each improvement strategy;
  - (8) Formative evaluation criteria for determining periodically whether strategies are resulting in intended improvement of student performance; and
  - (9) The policy under Section 38.0041 addressing sexual abuse and other maltreatment of children.
- (b) A district's plan for the improvement of student performance is not filed with the agency, but the district must make the plan available to the agency on request.

(c) In a district that has only one campus, the district- and campus-level committees may be one committee and the district and campus plans may be one plan.

(d) At least every two years, each district shall evaluate the effectiveness of the district's decision-making and planning policies, procedures, and staff development activities related to district- and campus-level decision-making and planning to ensure that they are effectively structured to positively impact student performance.

(e) The district-level committee established under Section 11.251 shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual district performance report from the agency for the purpose of discussing the performance of the district and the district performance objectives. District policy and procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input and to provide information to those persons regarding the recommendations of the district-level committee. This section does not create a new cause of action or require collective bargaining.

(f) A superintendent shall regularly consult the district-level committee in the planning, operation, supervision, and evaluation of the district educational program.

#### **§ 30.106. Reading and behavior plan.**

(a) Because learning and behavior are inextricably linked and learning and improved behavior correlate with decreased recidivism rates, the Texas Juvenile Justice Department shall not only fulfill the department's duties under state and federal law to provide general and special educational services to students in department educational programs but also shall implement a comprehensive plan to improve the reading skills and behavior of those students.

(c) To increase the positive social behaviors of students in department educational programs and to create an educational environment that facilitates learning, the department shall:

(3) Adopt valid assessment techniques to evaluate the effectiveness of the positive behavior support system according to the following criteria:

(A) Documentation of school-related disciplinary referrals, disaggregated by the type, location, and time of infraction and by subgroups designated under department rule;

(B) Documentation of school-related disciplinary actions, including time-out, placement in security, and use of restraints and other aversive control measures, disaggregated by subgroups designated under department rule;

(C) Validated measurement of systemic positive behavioral support interventions; and

(D) The number of minutes students are out of the regular classroom because of disciplinary reasons.

(d) The department shall consult with faculty from institutions of higher education who have expertise in reading instruction for adolescents, in juvenile corrections, and in positive behavior supports to develop and implement the plan under Subsections (b) and (c).

## **REGULATIONS**

### **19 TAC § 89.1053. Procedures for use of restraint and time-out.**

(e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers, or independent contractors must implement the following documentation requirements.

(1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.

- (2) On the day restraint is utilized, a good faith effort must be made to verbally notify the parent(s) regarding the use of restraint.
- (3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.
- (4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the admission, review, and dismissal (ARD) committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).
- (5) Written notification to the parent(s) and documentation to the student's special education eligibility folder must include the following:
- (A) Name of the student;
  - (B) Name of the staff member(s) administering the restraint;
  - (C) Date of the restraint and the time the restraint began and ended;
  - (D) Location of the restraint;
  - (E) Nature of the restraint;
  - (F) A description of the activity in which the student was engaged immediately preceding the use of restraint;
  - (G) The behavior that prompted the restraint;
  - (H) The efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
  - (I) Information documenting parent contact and notification.

(i) Documentation on use of time-out. Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

(k) Data reporting. With the exception of actions covered by subsection (f) of this section, data regarding the use of restraint must be electronically reported to the Texas Education Agency (TEA) in accordance with reporting standards specified by the TEA.

(l) Peace officers. The provisions adopted under this section apply to a peace officer only if the peace officer is employed or commissioned by the school district or provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the school district and a local law enforcement agency, except that the data reporting requirements in subsection (k) of this section apply to the use of restraint by any peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity.

#### **19 TAC 100.1211. Students.**

(d) Data reporting. A charter holder shall report timely and accurate information required by the commissioner of education to the Texas Education Agency, except as expressly waived by the commissioner.

#### **19 TAC § 103.1201. Standards for the operation of school district disciplinary alternative education programs.**

(a) A disciplinary alternative education program (DAEP) established in conformance with the Tex. Educ. Code (TEC), § 37.008, and this section is defined as an educational and self-discipline alternative instructional program, adopted by local policy, for students in elementary through high school grades who

are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP.

(b) Each school district participating in a shared services arrangement (SSA) for DAEP services shall be responsible for ensuring that the board-approved district improvement plan and the improvement plans for each campus required by the TEC, § 11.251 and § 11.252, include the performance of the DAEP student group for the respective district. The identified objectives for the improvement plans shall include:

- (1) Student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services;
- (2) Attendance rates;
- (3) Pre- and post-assessment results;
- (4) Dropout rates;
- (5) Graduation rates; and
- (6) Recidivism rates [...]

## ***School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers***

### **Authority and power to implement school arrest**

#### **LAWS**

##### **§ 25.091. Powers and duties of peace officers and other attendance officers.**

(a) A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

(b) An attendance officer employed by a school district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

(6) At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements.

(b-1) A peace officer who has probable cause to believe that a child is in violation of the compulsory school attendance law under Section 25.085 may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory school attendance requirements.

#### **REGULATIONS**

No relevant regulations found.

### **Certification or training**

#### **LAWS**

##### **§ 2.127. School marshals.**

(a) Except as provided by Subsection (b), a school marshal may:

(1) Make arrests and exercise all authority given peace officers under this code, subject to written regulations adopted by:

(A) The board of trustees of a school district or the governing body of an open-enrollment charter school under Section 37.0811, Education Code;

(B) The governing body of a private school under Section 37.0813, Education Code; or

(C) The governing board of a public junior college under Section 51.220, Education Code; and

(2) Only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.

(a-1) In this section, "private school" means a school that:

(1) Offers a course of instruction for students in one or more grades from prekindergarten through grade 12;

(2) Is not operated by a governmental entity; and

(3) Is not a school whose students meet the definition provided by Section 29.916(a)(1), Education Code.

(b) A school marshal may not issue a traffic citation for a violation of Chapter 521, Transportation Code, or Subtitle C, Title 7, Transportation Code.

(c) A school marshal is not entitled to state benefits normally provided by the state to a peace officer.

(d) A person may not serve as a school marshal unless the person is:

(1) Licensed under Section 1701.260, Occupations Code; and

(2) Appointed by:

(A) The board of trustees of a school district or the governing body of an open-enrollment charter school under Section 37.0811, Education Code;

(B) The governing body of a private school under Section 37.0813, Education Code; or

(C) The governing board of a public junior college under Section 51.220, Education Code.

**§ 37.0812. Training policy: School district peace officers and school resource officers.**

A school district with an enrollment of 30,000 or more students that commissions a school district peace officer or at which a school resource officer provides law enforcement shall adopt a policy requiring the officer to complete the education and training program required by Section 1701.263, Occupations Code.

**§ 1701.001. Definitions**

In this chapter:

(8) "School marshal" means a person who:

(A) Is appointed to serve as a school marshal by:

(i) The board of trustees of a school district or the governing body of an open-enrollment charter school under Section 37.0811, Education Code;

(ii) The governing body of a private school under Section 37.0813, Education Code; or

(iii) The governing board of a public junior college under Section 51.220, Education Code;

(B) Is licensed under Section 1701.260; and

(C) Has powers and duties described by Article 2.127, Code of Criminal Procedure.

**§ 1701.260. Training for holders of license to carry a handgun; Certification of eligibility for appointment as school marshal.**

(a) The commission shall establish and maintain a training program open to any employee of a school district, open-enrollment charter school, private school, or public junior college who holds a license to carry a handgun issued under Subchapter H, Chapter 411, Government Code. The training may be conducted only by the commission staff or a provider approved by the commission.

(a-1) In this section, "private school" has the meaning assigned by Article 2.127, Code of Criminal Procedure.

(b) The commission shall collect from each person who participates in the training program identifying information that includes the person's name, the person's date of birth, the license number of the license issued to the person under Subchapter H, Chapter 411, Government Code, and the address of the person's place of employment.

(c) The training program shall include 80 hours of instruction designed to:

(1) Emphasize strategies for preventing school shootings and for securing the safety of potential victims of school shootings;

(2) Educate a trainee about legal issues relating to the duties of peace officers and the use of force or deadly force in the protection of others;

- (3) Introduce the trainee to effective law enforcement strategies and techniques;
  - (4) Improve the trainee's proficiency with a handgun; and
  - (5) Enable the trainee to respond to an emergency situation requiring deadly force, such as a situation involving an active shooter.
- (d) The commission, in consultation with psychologists, shall devise and administer to each trainee a psychological examination to determine whether the trainee is psychologically fit to carry out the duties of a school marshal in an emergency shooting or situation involving an active shooter. The commission may license a person under this section only if the results of the examination indicate that the trainee is psychologically fit to carry out those duties.
- (e) The commission shall charge each trainee a reasonable fee to cover the cost to the commission of conducting the program. The commission shall charge each person seeking renewal of a school marshal license a reasonable fee to cover the cost to the commission of renewing the person's license.
- (f) The commission shall license a person who is eligible for appointment as a school marshal who:
- (1) Completes training under this section to the satisfaction of the commission staff; and
  - (2) Is psychologically fit to carry out the duties of a school marshal as indicated by the results of the psychological examination administered under this section.
- (g) A person's license under this section expires on the first birthday of the person occurring after the second anniversary of the date the commission licenses the person. A renewed school marshal license expires on the person's birth date, two years after the expiration of the previous license.
- (h) A person may renew the school marshal license under this section by:
- (1) Successfully completing a renewal course designed and administered by the commission, which such license renewal training will not exceed 16 hours combined of classroom and simulation training;
  - (2) Demonstrating appropriate knowledge on an examination designed and administered by the commission;
  - (3) Demonstrating handgun proficiency to the satisfaction of the commission staff; and
  - (4) Demonstrating psychological fitness on the examination described in Subsection (d).
- (i) The commission shall revoke a person's school marshal license if the commission is notified by the Department of Public Safety that the person's license to carry a handgun issued under Subchapter H, Chapter 411, Government Code, has been suspended or revoked. A person whose school marshal license is revoked may obtain recertification by:
- (1) Furnishing proof to the commission that the person's handgun license has been reinstated; and
  - (2) Completing the initial training under Subsection (c) to the satisfaction of the commission staff, paying the fee for the training, and demonstrating psychological fitness on the psychological examination described in Subsection (d).
- (j) The commission shall submit the identifying information collected under Subsection (b) for each person licensed by the commission under this section to:
- (1) The director of the Department of Public Safety;
  - (2) The person's employer, if the person is employed by a school district, open-enrollment charter school, private school, or public junior college;
  - (3) The chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a school district, open-enrollment charter school, private school, or public junior college located within a municipality;
  - (4) The sheriff of the county if the person is employed at a campus of a school district, open-enrollment charter school, private school, or public junior college that is not located within a municipality; and

(5) The chief administrator of any peace officer commissioned under Section 37.081 or 51.203, Education Code, if the person is employed at a school district or public junior college that has commissioned a peace officer under either section.

(k) The commission shall immediately report the expiration or revocation of a school marshal license to the persons listed in Subsection (j).

(l) All information collected or submitted under this section is confidential, except as provided by Subsection (j), and is not subject to disclosure under Chapter 552, Government Code.

**§ 1701.262. Training for school district peace officers and school resource officers.**

(a) In this section:

(1) "Center" means the Texas School Safety Center at Texas State University.

(2) "Institute" means an institute dedicated to providing training to law enforcement and the development of law enforcement policies, such as the Law Enforcement Management Institute of Texas at Sam Houston State University or the Caruth Police Institute.

(3) "School district peace officer" means a peace officer commissioned under Section 37.081, Education Code.

(4) "School resource officer" has the meaning assigned by Section 1701.601.

(b) The commission, in consultation with an institute or the center, shall create, adopt, and distribute a model training curriculum for school district peace officers and school resource officers.

(c) The curriculum developed under this section must incorporate learning objectives regarding:

(1) Child and adolescent development and psychology;

(2) Positive behavioral interventions and supports, conflict resolution techniques, and restorative justice techniques;

(3) De-escalation techniques and techniques for limiting the use of force, including the use of physical, mechanical, and chemical restraints;

(4) The mental and behavioral health needs of children with disabilities or special needs; and

(5) Mental health crisis intervention.

(d) Before adopting and distributing any curriculum under this section, the commission shall provide a 30-day period for public comment.

(e) The commission shall provide the curriculum developed under this section and any supplemental education materials created for the curriculum to:

(1) School district police departments;

(2) Law enforcement agencies that place peace officers in a school as school resource officers under a memorandum of understanding; and

(3) Any entity that provides training to school district peace officers or school resource officers.

(f) The commission shall review curriculum developed and adopted under this section and update subject matter contained in the curriculum as needed at least once every four years.

**§ 1701.263. Education and training program for school district peace officers and school resource officers.**

(a) In this section:

(1) "School district peace officer" has the meaning assigned by Section 1701.262.

(2) "School resource officer" has the meaning assigned by Section 1701.601.

(b) The commission by rule shall require a school district peace officer or a school resource officer who is commissioned by or who provides law enforcement at a school district with an enrollment of 30,000 or more students to successfully complete an education and training program described by this section before or within 120 days of the officer's commission by or placement in the district or a campus of the district. The program must:

- (1) Consist of at least 16 hours of training;
- (2) Be approved by the commission; and
- (3) Provide training in accordance with the curriculum developed under Section 1701.262 in each subject area listed in Subsection (c) of that section.

(b-1) Notwithstanding Subsection (b) or a rule adopted under that section, a school district peace officer or school resource officer is not required to successfully complete the education and training program required by this section if the officer has successfully completed the advanced training course conducted by the National Association of School Resource Officers or a training course equivalent to that advanced training course, as determined by the commission.

(c) The education and training program required under this section may not require a peace officer to pass an examination, except that the commission shall administer an examination to qualify officers to provide the education and training to other officers. The examination to qualify officers to provide the education and training must test the officer's knowledge and recognition of the subject areas listed in Section 1701.262(c).

(d) The commission shall issue a professional achievement or proficiency certificate to a peace officer who completes the education and training program under this section.

#### **§ 1701.301. License required.**

Except as provided by Sections 1701.310, 1701.311, and 1701.405, a person may not appoint or employ a person to serve as an officer, county jailer, school marshal, public security officer, or telecommunicator unless the person holds an appropriate license issued by the commission.

#### **§ 1701.601. Definition**

In this subchapter, "school resource officer" means a peace officer who is assigned by the officer's employing political subdivision to provide:

- (1) A police presence at a public school;
- (2) Safety or drug education to students of a public school; or
- (3) Other similar services.

#### **§ 1701.602. License required**

A peace officer who is a visiting school resource officer in a public school must be licensed as provided by this chapter.

#### **§ 1701.603. Firearms accident prevention program.**

(a) A peace officer who is a visiting school resource officer in a public elementary school shall at least once each school year offer to provide instruction to students in a firearms accident prevention program, as determined by the school district.

(b) A firearms accident prevention program must include the safety message, "Stop! Don't Touch. Leave the Area. Tell an Adult.", and may include instructional materials from the National Rifle Association Eddie Eagle Gun Safe Program, including animated videos and activity books.

## REGULATIONS

No relevant regulations found.

## MOUs, authorization, and/or funding

## LAWS

### **§ 2.127. School marshals.**

(a) Except as provided by Subsection (b), a school marshal may:

(1) Make arrests and exercise all authority given peace officers under this code, subject to written regulations adopted by:

(A) The board of trustees of a school district or the governing body of an open-enrollment charter school under Section 37.0811, Education Code;

(B) The governing body of a private school under Section 37.0813, Education Code; or

(C) The governing board of a public junior college under Section 51.220, Education Code; and

(2) Only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.

(a-1) In this section, "private school" means a school that:

(1) Offers a course of instruction for students in one or more grades from prekindergarten through grade 12;

(2) Is not operated by a governmental entity; and

(3) Is not a school whose students meet the definition provided by Section 29.916(a)(1), Education Code.

(b) A school marshal may not issue a traffic citation for a violation of Chapter 521, Transportation Code, or Subtitle C, Title 7, Transportation Code.

(c) A school marshal is not entitled to state benefits normally provided by the state to a peace officer.

(d) A person may not serve as a school marshal unless the person is:

(1) Licensed under Section 1701.260, Occupations Code; and

(2) Appointed by:

(A) The board of trustees of a school district or the governing body of an open-enrollment charter school under Section 37.0811, Education Code;

(B) The governing body of a private school under Section 37.0813, Education Code; or

(C) The governing board of a public junior college under Section 51.220, Education Code.

### **§ 25.088. School attendance officer.**

The school attendance officer may be selected by:

(1) The county school trustees of any county;

(2) The board of trustees of any school district or the boards of trustees of two or more school districts jointly; or

(3) The governing body of an open-enrollment charter school.

### **§ 25.089. Compensation of attendance officer; Dual service.**

(a) An attendance officer may be compensated from the funds of the county, independent school district, or open-enrollment charter school, as applicable.

(b) An attendance officer may be the probation officer or an officer of the juvenile court of the county.

**§ 25.090. Attendance officer not selected.**

(a) In those counties and independent school districts where an attendance officer has not been selected, the duties of attendance officer shall be performed by the school superintendents and peace officers of the counties and districts.

(b) If the governing body of an open-enrollment charter school has not selected an attendance officer, the duties of attendance officer shall be performed by the peace officers of the county in which the school is located.

(c) Additional compensation may not be paid for services performed under this section.

**§ 25.091. Powers and duties of peace officers and other attendance officers.**

(a) A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

(1) To investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;

(2) To enforce compulsory school attendance requirements by:

(A) Applying truancy prevention measures adopted under Section 25.0915 to the student; and

(B) If the truancy prevention measures fail to meaningfully address the student's conduct:

(i) Referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Section 65.003(a), Family Code; or

(ii) Filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

(3) To serve court-ordered legal process;

(4) To review school attendance records for compliance by each student investigated by the officer;

(5) To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board of trustees of a school district, or the commissioner, to provide a record to the individual or entity requesting the record; and

(6) To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required under this subchapter to attend school or of the tenant or owner of the residence except to lawfully serve court-ordered legal process on the parent.

(b) An attendance officer employed by a school district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

(1) To investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;

(2) To enforce compulsory school attendance requirements by:

(A) Applying truancy prevention measures adopted under Section 25.0915 to the student; and

(B) If the truancy prevention measures fail to meaningfully address the student's conduct:

(i) Referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Section 65.003(a), Family Code; and

(ii) Filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

- (3) To monitor school attendance compliance by each student investigated by the officer;
- (4) To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board of trustees of a school district, or the commissioner, to provide a record to the individual or entity requesting the record;
- (5) To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence; and
- (6) At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements.

(b-1) A peace officer who has probable cause to believe that a child is in violation of the compulsory school attendance law under Section 25.085 may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory school attendance requirements.

(c) In this section:

- (1) "Parent" includes a person standing in parental relation.
- (2) "Peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure.

**§ 25.0915. Truancy prevention measures.**

(d) Except as provided by Subsection (e), a school district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus. At least annually, the truancy prevention facilitator shall meet to discuss effective truancy prevention measures with a case manager or other individual designated by a truancy court to provide services to students of the school district in truancy cases.

(e) Instead of employing a truancy prevention facilitator, a school district may designate an existing district employee or juvenile case manager to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus.

**§ 37.0021. Use of confinement, restraint, seclusion, and time-out.**

(g) This section and any rules or procedures adopted under this section do not apply to:

- (1) A peace officer performing law enforcement duties, except as provided by Subsection (i);
- (2) Juvenile probation, detention, or corrections personnel; or
- (3) An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

(h) This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

- (1) Is employed or commissioned by a school district; or
- (2) Provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency [...]

**§ 37.081. School district peace officers and security personnel.**

(a) The board of trustees of any school district may employ security personnel and may commission peace officers to carry out this subchapter. If a board of trustees authorizes a person employed as security personnel to carry a weapon, the person must be a commissioned peace officer. The jurisdiction of a peace officer or security personnel under this section shall be determined by the board of trustees

and may include all territory in the boundaries of the school district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the school district and the board of trustees that employ the peace officer or security personnel.

(b) In a peace officer's jurisdiction, a peace officer commissioned under this section:

- (1) Has the powers, privileges, and immunities of peace officers;
- (2) May enforce all laws, including municipal ordinances, county ordinances, and state laws; and
- (3) May, in accordance with Chapter 52, Family Code, or Article 45.058, Code of Criminal Procedure, take a juvenile into custody; and,
- (4) May dispose of cases in accordance with Section 52.03 or 52.031, Family Code.

(c) A school district peace officer may provide assistance to another law enforcement agency. A school district may contract with a political subdivision for the jurisdiction of a school district peace officer to include all territory in the jurisdiction of the political subdivision.

(d) A school district peace officer shall perform administrative and law enforcement duties for the school district as determined by the board of trustees of the school district. Those duties must include protecting:

- (1) The safety and welfare of any person in the jurisdiction of the peace officer; and
- (2) The property of the school district.

(e) The board of trustees of the district shall determine the scope of the on-duty and off-duty law enforcement activities of school district peace officers. A school district must authorize in writing any off-duty law enforcement activities performed by a school district peace officer.

(f) The chief of police of the school district police department shall be accountable to the superintendent and shall report to the superintendent. School district police officers shall be supervised by the chief of police of the school district or the chief of police's designee and shall be licensed by the Texas Commission on Law Enforcement.

(g) A school district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts between the department and the agencies.

(h) A peace officer assigned to duty and commissioned under this section shall take and file the oath required of peace officers and shall execute and file a bond in the sum of \$ 1,000, payable to the board of trustees, with two or more sureties, conditioned that the peace officer will fairly, impartially, and faithfully perform all the duties that may be required of the peace officer by law. The bond may be sued on in the name of any person injured until the whole amount of the bond is recovered. Any peace officer commissioned under this section must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement.

**§ 37.0811. School marshals: public schools.**

(a) The board of trustees of a school district or the governing body of an open-enrollment charter school may appoint not more than the greater of:

- (1) One school marshal per 200 students in average daily attendance per campus; or
- (2) For each campus, one school marshal per building of the campus at which students regularly receive classroom instruction.

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school may select for appointment as a school marshal under this section an applicant who is an employee of the school district or open-enrollment charter school and certified as eligible for appointment under Section 1701.260, Occupations Code. The board of trustees or governing body may, but shall not be

required to, reimburse the amount paid by the applicant to participate in the training program under that section.

(c) A school marshal appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school may carry or possess a handgun on the physical premises of a school, but only:

- (1) In the manner provided by written regulations adopted by the board of trustees or the governing body; and
- (2) At a specific school as specified by the board of trustees or governing body, as applicable.

(d) Any written regulations adopted for purposes of Subsection (c) must provide that a school marshal may carry a concealed handgun as described by Subsection (c), except that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible duty ammunition approved for that purpose by the Texas Commission on Law Enforcement.

(e) A school marshal may access a handgun under this section only under circumstances that would justify the use of deadly force under Section 9.32 or 9.33, Penal Code.

(f) A school district or charter school employee's status as a school marshal becomes inactive on:

- (1) Expiration of the employee's school marshal license under Section 1701.260, Occupations Code;
- (2) Suspension or revocation of the employee's license to carry a handgun issued under Subchapter H, Chapter 411, Government Code;
- (3) Termination of the employee's employment with the district or charter school; or
- (4) Notice from the board of trustees of the district or the governing body of the charter school that the employee's services as school marshal are no longer required.

(g) The identity of a school marshal appointed under this section is confidential, except as provided by Section 1701.260(j), Occupations Code, and is not subject to a request under Chapter 552, Government Code.

(h) If a parent or guardian of a student enrolled at a school inquires in writing, the school district or open-enrollment charter school shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed a school marshal. The notice may not disclose information that is confidential under Subsection (g).

### **§37.2121. Memoranda of understanding and mutual aid agreements.**

(a) The center shall identify and inform school districts of the types of entities, including local and regional authorities, other school districts, and emergency first responders, with whom school districts should customarily make efforts to enter into memoranda of understanding or mutual aid agreements addressing issues that affect school safety and security.

(b) The center shall develop guidelines regarding memoranda of understanding and mutual aid agreements between school districts and the entities identified in accordance with Subsection (a). The guidelines:

- (1) Must include descriptions of the provisions that should customarily be included in each memorandum or agreement with a particular type of entity;
- (2) May include sample language for those provisions; and

- (3) Must be consistent with the Texas Statewide Mutual Aid System established under Subchapter E-1, Chapter 418, Government Code.
- (c) The center shall encourage school districts to enter into memoranda of understanding and mutual aid agreements with entities identified in accordance with Subsection (a) that comply with the guidelines developed under Subsection (b).
- (d) Each school district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the center's request, provide the following information to the center:
  - (1) The name of each entity with which the school district has entered into a memorandum of understanding or mutual aid agreement;
  - (2) The effective date of each memorandum or agreement; and
  - (3) A summary of each memorandum or agreement.
- (e) The center shall include information regarding the center's efforts under this section in the report required by Section 37.216.

**REGULATIONS**

No relevant regulations found.

## ***State Education Agency Support***

### **State model policies and implementation support**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **Funding appropriations**

#### **LAWS**

#### **§ 161.325. Mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.**

(g) The department may accept donations for purposes of this section from sources without a conflict of interest. The department may not accept donations for purposes of this section from an anonymous source.

#### **REGULATIONS**

No relevant regulations found.

## ***Other or Uncategorized***

### **Professional immunity or liability**

#### **LAWS**

##### **§ 37.010. Court involvement.**

(h) A person is not liable in civil damages for a referral to juvenile court as required by this section.

##### **§ 37.015. Reports to local law enforcement; Liability.**

(f) A person is not liable in civil damages for reporting in good faith as required by this section.

##### **§ 37.016. Report of drug offenses; Liability.**

A teacher, school administrator, or school employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property:

- (1) Marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code;
- (2) A dangerous drug, as defined by Chapter 483, Health and Safety Code;
- (3) An abusable glue or aerosol paint, as defined by Chapter 485, Health and Safety Code, or a volatile chemical, as listed in Chapter 484, Health and Safety Code, if the substance is used or sold for the purpose of inhaling its fumes or vapors; or
- (4) An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

##### **§ 37.019. Emergency placement or expulsion.**

(d) A principal or principal's designee is not liable in civil damages for an emergency placement under this section.

##### **§ 37.155. Immunity from prosecution available.**

In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution. Any person reporting a specific hazing incident involving a student in an educational institution to the dean of students or other appropriate official of the institution is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the report. Immunity extends to participation in any judicial proceeding resulting from the report. A person reporting in bad faith or with malice is not protected by this section.

#### **REGULATIONS**

No relevant regulations found.

### **Community input or involvement**

#### **LAWS**

##### **§ 11.252. District level planning and decision making.**

(e) The district-level committee established under Section 11.251 shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual district performance report from

the agency for the purpose of discussing the performance of the district and the district performance objectives. District policy and procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input and to provide information to those persons regarding the recommendations of the district-level committee. This section does not create a new cause of action or require collective bargaining.

(f) A superintendent shall regularly consult the district-level committee in the planning, operation, supervision, and evaluation of the district educational program.

**§ 28.004. Local school health advisory council and health education instruction.**

(a) The board of trustees of each school district shall establish a local school health advisory council to assist the district in ensuring that local community values are reflected in the district's health education instruction.

(b) A school district must consider the recommendations of the local school health advisory council before changing the district's health education curriculum or instruction.

(c) The local school health advisory council's duties include recommending:

- (1) The number of hours of instruction to be provided in health education;
- (2) Policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, Type 2 diabetes, and mental health concerns through coordination of:

- (A) Health education;
- (B) Physical education and physical activity;
- (C) Nutrition services;
- (D) Parental involvement;
- (E) Instruction to prevent the use of e-cigarettes, as defined by Section 161.081, Health and Safety Code, and tobacco;
- (F) School health services;
- (G) Counseling and guidance services;
- (H) A safe and healthy school environment; and
- (I) School employee wellness;

(3) Appropriate grade levels and methods of instruction for human sexuality instruction;

(4) Strategies for integrating the curriculum components specified by Subdivision (2) with the following elements in a coordinated school health program for the district:

- (A) School health services;
- (B) Counseling and guidance services;
- (C) A safe and healthy school environment; and
- (D) School employee wellness; and

(5) If feasible, joint use agreements or strategies for collaboration between the school district and community organizations or agencies.

(d) The board of trustees shall appoint at least five members to the local school health advisory council. A majority of the members must be persons who are parents of students enrolled in the district and who are not employed by the district. One of those members shall serve as chair or co-chair of the council. The board of trustees also may appoint one or more persons from each of the following groups or a representative from a group other than a group specified under this subsection:

- (1) Public school teachers;
- (2) Public school administrators;
- (3) District students;
- (4) Health care professionals;
- (5) The business community;
- (6) Law enforcement;
- (7) Senior citizens;
- (8) The clergy;
- (9) Nonprofit health organizations; and
- (10) Local domestic violence programs.

(d-1) The local school health advisory council shall meet at least four times each year.

(e) Any course materials and instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus or acquired immune deficiency syndrome shall be selected by the board of trustees with the advice of the local school health advisory council and must:

- (1) Present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;
- (2) Devote more attention to abstinence from sexual activity than to any other behavior;
- (3) Emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus or acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;
- (4) Direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with human immunodeficiency virus or acquired immune deficiency syndrome; and
- (5) Teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content.

(f) A school district may not distribute condoms in connection with instruction relating to human sexuality.

(g) A school district that provides human sexuality instruction may separate students according to sex for instructional purposes.

(h) The board of trustees shall determine the specific content of the district's instruction in human sexuality, in accordance with Subsections (e), (f), and (g).

(i) Before each school year, a school district shall provide written notice to a parent of each student enrolled in the district of the board of trustees' decision regarding whether the district will provide human sexuality instruction to district students. If instruction will be provided, the notice must include:

- (1) A summary of the basic content of the district's human sexuality instruction to be provided to the student, including a statement informing the parent of the instructional requirements under state law;
- (2) A statement of the parent's right to:
  - (A) Review curriculum materials as provided by Subsection (j); and
  - (B) Remove the student from any part of the district's human sexuality instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and

- (3) Information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council established under Subsection (a).
- (i-1) A parent may use the grievance procedure adopted under Section 26.011 concerning a complaint of a violation of Subsection (i).
- (j) A school district shall make all curriculum materials used in the district's human sexuality instruction available for reasonable public inspection.
- (k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website:
- (1) A statement of the policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Section 28.002(l);
  - (2) A statement of:
    - (A) The number of times during the preceding year the district's school health advisory council has met;
    - (B) Whether the district has adopted and enforces policies to ensure that district campuses comply with agency vending machine and food service guidelines for restricting student access to vending machines; and
    - (C) Whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of e-cigarettes, as defined by Section 38.006, and tobacco products by students and others on school campuses or at school-sponsored or school-related activities; and
  - (3) A statement providing notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year.
- (l) The local school health advisory council shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The council must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The council shall ensure that local community values are reflected in any policy recommendation made to the district under this subsection.
- (l-1) The local school health advisory council shall establish a physical activity and fitness planning subcommittee to consider issues relating to student physical activity and fitness and make policy recommendations to increase physical activity and improve fitness among students.
- (m) In addition to performing other duties, the local school health advisory council shall submit to the board of trustees, at least annually, a written report that includes:
- (1) Any council recommendation concerning the school district's health education curriculum and instruction or related matters that the council has not previously submitted to the board;
  - (2) Any suggested modification to a council recommendation previously submitted to the board;
  - (3) A detailed explanation of the council's activities during the period between the date of the current report and the date of the last prior written report; and
  - (4) Any recommendations made by the physical activity and fitness planning subcommittee.
- (n) Any joint use agreement that a school district and community organization or agency enter into based on a recommendation of the local school health advisory council under Subsection (c)(5) must address liability for the school district and community organization or agency in the agreement.

**§ 30.106. Reading and behavior plan.**

(a) Because learning and behavior are inextricably linked and learning and improved behavior correlate with decreased recidivism rates, the Texas Juvenile Justice Department shall not only fulfill the department's duties under state and federal law to provide general and special educational services to students in department educational programs but also shall implement a comprehensive plan to improve the reading skills and behavior of those students.

(d) The department shall consult with faculty from institutions of higher education who have expertise in reading instruction for adolescents, in juvenile corrections, and in positive behavior supports to develop and implement the plan under Subsections (b) and (c).

**§ 37.144. Graduated sanctions for certain school offenses.**

(a) A school district that commissions peace officers under Section 37.081 may develop a system of graduated sanctions that the school district may require to be imposed on a child before a complaint is filed under Section 37.145 against the child for a school offense that is an offense under Section 37.124 or 37.126 or under Section 42.01(a)(1), (2), (3), (4), or (5), Penal Code. A system adopted under this section must include multiple graduated sanctions. The system may require:

(4) The referral of the child to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems.

**§ 37.217. Community education relating to Internet safety.**

(a) The center, in cooperation with the attorney general, shall develop a program that provides instruction concerning Internet safety, including instruction relating to:

- (1) The potential dangers of allowing personal information to appear on an Internet website;
- (2) The manner in which to report an inappropriate online solicitation; and
- (3) The prevention, detection, and reporting of bullying or threats occurring over the Internet.

(b) In developing the program, the center shall:

- (1) Solicit input from interested stakeholders; and
- (2) To the extent practicable, draw from existing resources and programs.

(c) The center shall make the program available to public schools.

**REGULATIONS**

No relevant regulations found.

**Other or Uncategorized**

**LAWS**

**§ 37.105. Unauthorized persons: Refusal of entry, ejection, identification.**

(a) A school administrator, school resource officer, or school district peace officer of a school district may refuse to allow a person to enter on or may eject a person from property under the district's control if the person refuses to leave peaceably on request and:

- (1) The person poses a substantial risk of harm to any person; or
- (2) The person behaves in a manner that is inappropriate for a school setting and:

(A) the administrator, resource officer, or peace officer issues a verbal warning to the person that the person's behavior is inappropriate and may result in the person's refusal of entry or ejection; and

(B) The person persists in that behavior.

(b) Identification may be required of any person on the property.

(c) Each school district shall maintain a record of each verbal warning issued under Subsection (a)(2)(A), including the name of the person to whom the warning was issued and the date of issuance.

(d) At the time a person is refused entry to or ejected from a school district's property under this section, the district shall provide to the person written information explaining the appeal process established under Subsection (h).

(e) If a parent or guardian of a child enrolled in a school district is refused entry to the district's property under this section, the district shall accommodate the parent or guardian to ensure that the parent or guardian may participate in the child's admission, review, and dismissal committee or in the child's team established under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), in accordance with federal law.

(f) The term of a person's refusal of entry to or ejection from a school district's property under this section may not exceed two years.

(g) A school district shall post on the district's Internet website and each district campus shall post on any Internet website of the campus a notice regarding the provisions of this section, including the appeal process established under Subsection (h).

(h) The commissioner shall adopt rules to implement this section, including rules establishing a process for a person to appeal to the board of trustees of the school district the decision under Subsection (a) to refuse the person's entry to or eject the person from the district's property.

**§ 37.0012. Designation of campus behavior coordinator.**

(a) A person at each campus must be designated to serve as the campus behavior coordinator. The person designated may be the principal of the campus or any other campus administrator selected by the principal.

(b) The campus behavior coordinator is primarily responsible for maintaining student discipline and the implementation of this subchapter.

(c) Except as provided by this chapter, the specific duties of the campus behavior coordinator may be established by campus or district policy. Unless otherwise provided by campus or district policy:

(1) A duty imposed on a campus principal or other campus administrator under this subchapter shall be performed by the campus behavior coordinator; and

(2) A power granted to a campus principal or other campus administrator under this subchapter may be exercised by the campus behavior coordinator.

(d) The campus behavior coordinator shall promptly notify a student's parent or guardian as provided by this subsection if under this subchapter the student is placed into in-school or out-of-school suspension, placed in a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer. A campus behavior coordinator must comply with this subsection by:

(1) Promptly contacting the parent or guardian by telephone or in person; and

(2) Making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.

(e) If a parent or guardian entitled to notice under Subsection (d) has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, a campus behavior coordinator shall mail written notice of the action to the parent or guardian at the parent's or guardian's last known address.

(f) If a campus behavior coordinator is unable or not available to promptly provide notice under Subsection (d), the principal or other designee shall provide the notice.

**REGULATIONS**

No relevant regulations found

## State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Texas provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

<i>Title</i>	<i>Description</i>	<i>Website address (if applicable)</i>
<b>Website</b>		
Texas Education Agency, Healthy and Safe School Environment of the Coordinated School Health Model	Provides an overview on health and safe school environment of the coordinated school health model and links to laws and resources related to health and safety including bullying and school climate.	<a href="http://tea.texas.gov/Texas_Schools/Safe_and_Healthy_Schools/Coordinated_School_Health/Healthy_and_Safe_School_Environment_of_the_Coordinated_School_Health_Model">http://tea.texas.gov/Texas_Schools/Safe_and_Healthy_Schools/Coordinated_School_Health/Healthy_and_Safe_School_Environment_of_the_Coordinated_School_Health_Model</a>
Texas Education Agency, Coordinated School Health - Bullying and Cyberbullying	Defines bullying and cyberbullying and provides links to laws and resources related to bullying and cyberbullying.	<a href="https://tea.texas.gov/Texas_Schools/Safe_and_Healthy_Schools/Coordinated_School_Health/Coordinated_School_Health_-_Bullying_and_Cyberbullying/">https://tea.texas.gov/Texas_Schools/Safe_and_Healthy_Schools/Coordinated_School_Health/Coordinated_School_Health_-_Bullying_and_Cyberbullying/</a>
<b>Documents</b>		
Texas Education Agency, Disciplinary Policy and Mission Statement - State Board for Educator Certification	Disciplinary Policy Guidelines, Mission Statement, Core Principles, and Goals for the State Board for Educator Certification (SBEC).	<a href="http://tea.texas.gov/Texas_Educators/Investigations/Disciplinary_Policy_and_Mission_Statement_-_State_Board_for_Educator_Certification">http://tea.texas.gov/Texas_Educators/Investigations/Disciplinary_Policy_and_Mission_Statement_-_State_Board_for_Educator_Certification</a>
<b>Other Resources</b>		
Discipline Action Group Summary, Texas Education Agency	Summary provides counts of students and discipline actions by student categories and discipline action groups	<a href="https://rptsvr1.tea.texas.gov/adhocrpt/Disciplinary_Data_Products/DAG_Summaries/Download_State_DAG_Summaries.html">https://rptsvr1.tea.texas.gov/adhocrpt/Disciplinary_Data_Products/DAG_Summaries/Download_State_DAG_Summaries.html</a>
Annual Discipline Report Annual State Summary, Texas Education Agency	Discipline Reports provides an overview of data of students in discipline settings.	<a href="https://rptsvr1.tea.texas.gov/adhocrpt/Disciplinary_Data_Products/Download_State_Summaries.html">https://rptsvr1.tea.texas.gov/adhocrpt/Disciplinary_Data_Products/Download_State_Summaries.html</a>