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## **PURPOSE**

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

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

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

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

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

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

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

## **SCHOOL DISTRICT AUTHORITY AND JURISDICTION**

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

The district has disciplinary authority over a student:

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

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

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

### **REPORTING CRIMES**

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

### **REVOKING TRANSFERS**

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

## **STANDARDS FOR STUDENT CONDUCT**

Each student is expected to:

- Demonstrate courtesy, even when others do not.
- Behave in a responsible manner, always exercising self-discipline.
- Attend all classes, regularly and on time.
- Prepare for each class; take appropriate materials and assignments to class.
- Meet district and campus standards of grooming and dress.
- Obey all campus and classroom rules.
- Respect the rights and privileges of students, teachers, and other district staff and volunteers.
- Respect the property of others, including district property and facilities.
- Cooperate with and assist the school staff in maintaining safety, order, and discipline.
- Adhere to the requirements of the Student Code of Conduct.
- Pay required fees and fines
- Submit report cards and progress reports for parent or guardian signatures and return both promptly to school if required by campus procedures
- Use appropriate channels to seek changes in school policies and regulations

## **GENERAL CONDUCT VIOLATIONS**

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

### **DISREGARD FOR AUTHORITY**

Students shall not:

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

### **MISTREATMENT OF OTHERS**

Students shall not:

- Use profanity or vulgar language or make obscene gestures.
- Fight or scuffle. (For assault see DAEP Placement and Expulsion)
- Threaten a district student, employee, or volunteer, including off school property if the conduct causes a substantial disruption to the educational environment.
- Engage in bullying, harassment, or making hit lists. (See glossary for all three terms)
- Engage in conduct that constitutes sexual harassment or sexual abuse, whether by word, gesture, or any other conduct, directed toward another person, including a district student, employee, or volunteer.
- Engage in conduct that constitutes dating violence, including the intentional use of physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person with whom the student has or has had a dating relationship.
- Engage in inappropriate or indecent exposure of private body parts.
- Participate in hazing. (See glossary)
- Cause an individual to act through the use of or threat of force (coercion).
- Commit extortion or blackmail (obtaining money or an object of value from an unwilling person).
- Engage in inappropriate verbal, physical, or sexual conduct directed toward another person, including a district student, employee, or volunteer.

- Record the voice or image of another without the prior consent of the individuals being recorded or in any way that disrupts the educational environment or invades the privacy of others.
- Retaliate against a school employee
- Initiating a terroristic threat

### **PROPERTY OFFENSES**

Students shall not:

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

### **POSSESSION OF PROHIBITED ITEMS**

Students shall not:

- Possess or use:
  - fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;
  - a razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
  - a “look-alike” weapon;
  - an air gun or BB gun;
  - ammunition;
  - a stun gun;
  - a pocketknife or any other small knife;
  - mace or pepper spray;
  - pornographic material;
  - tobacco products;
  - matches or a lighter;
  - a laser pointer for other than an approved use; or

- any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists. (For weapons and firearms see DAEP Placement and Expulsion)

### **POSSESSION OF TELECOMMUNICATIONS DEVICES**

Students shall not:

Display, turn on, or use a cellular telephone or other telecommunications device on school property during the school day.

### **ILLEGAL, PRESCRIPTION, AND OVER-THE-COUNTER DRUGS**

Students shall not:

- Possess or sell seeds or pieces of marijuana in less than a usable amount. (For illegal drugs, alcohol, and inhalants see DAEP Placement and Expulsion)
- Possess, use, give, or sell paraphernalia related to any prohibited substance. (See glossary for “paraphernalia”)
- Possess or sell look-alike drugs or attempt to pass items off as drugs or contraband.
- Abuse the student’s own prescription drug, give a prescription drug to another student, or possess or be under the influence of another person’s prescription drug on school property or at a school-related event. (See glossary for “abuse”)
- Abuse over-the-counter drugs. (See glossary for “abuse”)
- Be under the influence of prescription or over-the-counter drugs that cause impairment of the physical or mental faculties. (See glossary for “under the influence”)
- Have or take prescription drugs or over-the-counter drugs at school other than as provided by district policy.

### **MISUSE OF COMPUTERS AND THE INTERNET**

Students shall not:

- Violate computer use policies, rules, or agreements signed by the student or the student’s parent.
- Attempt to access or circumvent passwords or other security-related information of the district, students, or employees or upload or create computer viruses, including off school property if the conduct causes a substantial disruption to the educational environment.
- Attempt to alter, destroy, or disable district computer equipment, district data, the data of others, or other networks connected to the district’s system, including off school property if the conduct causes a substantial disruption to the educational environment.

- Use the Internet or other electronic communications to threaten district students, employees, or volunteers, including off school property if the conduct causes a substantial disruption to the educational environment.
- Send or post electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, including off school property if the conduct causes a substantial disruption to the educational environment.
- Use e-mail or Web sites at school to encourage illegal behavior or threaten school safety.

### **SAFETY TRANSGRESSIONS**

Students shall not:

- Possess published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety.
- Engage in verbal (oral or written) exchanges that threaten the safety of another student, a school employee, or school property.
- Make false accusations or perpetrate hoaxes regarding school safety.
- Make false alarms or reports regarding school safety (any school time missed for false alarms/reports will be made up)
- Engage in any conduct that school officials might reasonably believe will substantially disrupt the school program or incite violence at a school-related activity.
- Throw objects that can cause bodily injury or property damage.
- Discharge a fire extinguisher without valid cause.

### **MISCELLANEOUS OFFENSES**

Students shall not:

- Violate the attendance policy (Appendix A)
- Extracurricular standards of behavior violation
- Violate dress and grooming standards as communicated in the student handbook.
- Cheat or copy the work of another (plagiarism).
- Gamble.
- Engage in membership of prohibited organizations (Appendix B)
- Engage in persistent misbehavior
- Falsify records, passes, or other school-related documents.
- Engage in actions or demonstrations that substantially disrupt or materially interfere with school activities.

- Repeatedly violate other communicated campus or classroom standards of conduct.

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

## **DISCIPLINE MANAGEMENT TECHNIQUES**

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

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

### **STUDENTS WITH DISABILITIES**

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

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

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

### **TECHNIQUES**

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

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

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

## **NOTIFICATION**

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

## **APPEALS**

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

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

## **REMOVAL FROM THE REGULAR EDUCATIONAL SETTING**

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

### **ROUTINE REFERRAL**

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

### **FORMAL REMOVAL**

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

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

#### Emergency Removal-Supt. discretion

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

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

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

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

## **RETURNING STUDENT TO CLASSROOM**

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

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

## **SUSPENSION**

### **Misconduct**

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

In deciding whether to order suspension, the district will not take into consideration:

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

### **Process**

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

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

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

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

## **DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM (DAEP) PLACEMENT**

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

In deciding whether to order placement in a DAEP, the district will not take into consideration:

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

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

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

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

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

- Involvement in a public school fraternity, sorority, or secret society, including participating as a member or pledge, or soliciting another person to become a pledge or member of a public school fraternity, sorority, secret society, or gang. (See glossary)
- Involvement in criminal street gang activity. (See glossary)
- Criminal mischief, not punishable as a felony.

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

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

### **MANDATORY PLACEMENT: MISCONDUCT THAT REQUIRES DAEP PLACEMENT**

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

- Engages in conduct relating to a false alarm or report (including a bomb threat) or a terroristic threat involving a public school. (See glossary)
- Commits the following offenses on school property or within 300 feet of school property as measured from any point on the school’s real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:
  - Engages in conduct punishable as a felony.
  - Commits an assault (see glossary) under Texas Penal Code 22.01(a)(1).
  - Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of marijuana, a controlled substance, or a dangerous drug in an amount not constituting a felony offense. (School-related felony drug offenses are addressed in the Expulsion section.) (See glossary for “under the influence”)
  - Sells, gives, or delivers to another person an alcoholic beverage; commits a serious act or offense while under the influence of alcohol; or possesses, uses, or is under the influence of alcohol, if the conduct is **not** punishable as a felony offense. (School-related felony alcohol offenses are addressed in the Expulsion section.)
  - Behaves in a manner that contains the elements of an offense relating to abusable volatile chemicals.
  - Behaves in a manner that contains the elements of the offense of public lewdness or indecent exposure.
- Engages in expellable conduct and is between six and nine years of age.
- Commits a federal firearms violation and is younger than six years of age.
- Engages in conduct that contains the elements of the offense of retaliation against any school employee or volunteer on or off school property. (Committing retaliation in combination with another expellable offense is addressed in the Expulsion section of this Code.)
- Engages in conduct punishable as a felony listed under Title 5 (see glossary) of the Texas Penal Code when the conduct occurs off school property and not at a school-sponsored or school-related event and:
  1. The student receives deferred prosecution (see glossary),
  2. A court or jury finds that the student has engaged in delinquent conduct (see glossary), or
  3. The superintendent or designee has a reasonable belief (see glossary) that the student engaged in the conduct.

## **SEXUAL ASSAULT AND CAMPUS ASSIGNMENTS**

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

## **EMERGENCIES**

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

### **Process**

Removals to a DAEP will be made by a campus administrator.

### **Conference**

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

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

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

### **Placement Order**

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

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

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

## **LENGTH OF PLACEMENT**

The duration of a student's placement in a DAEP will be determined by a campus administrator.

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

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

### **Exceeds One Year**

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

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

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

### **Exceeds School Year**

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

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

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

### **Exceeds 60 Days**

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

## **APPEALS**

Questions or complaints from parents regarding disciplinary measures should be addressed to the campus administration, in accordance with policy FNG(LOCAL). A copy of this policy may be obtained from the principal's office or the central administration office or through Policy On Line at the following address:  
[www.vanalstyneisd.org](http://www.vanalstyneisd.org).

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

## **RESTRICTIONS DURING PLACEMENT**

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

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

The district will provide transportation to students in a DAEP.

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

### **PLACEMENT REVIEW**

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

### **ADDITIONAL MISCONDUCT**

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

### **NOTICE OF CRIMINAL PROCEEDINGS**

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

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

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

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

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

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

### **WITHDRAWAL DURING PROCESS**

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

### **NEWLY ENROLLED STUDENTS**

The district will continue the DAEP placement of a student who enrolls in the district and was assigned to DAEP in an open-enrollment charter school or another district.

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

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

### **EMERGENCY PLACEMENT PROCEDURE**

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

## **PLACEMENT AND/OR EXPULSION FOR CERTAIN SERIOUS OFFENSES**

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

### **REGISTERED SEX OFFENDERS**

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

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

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

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

### **Review Committee**

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

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

### **Newly Enrolled Student**

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

### **APPEAL**

A student or the student's parent may appeal the placement by requesting a conference between the board or its designee, the student, and the student's parent. The conference is limited to the factual question of whether the student is required to register as a sex

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

### **CERTAIN FELONIES**

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

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

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

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

### **HEARING AND REQUIRED FINDINGS**

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

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

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

## **LENGTH OF PLACEMENT**

The student is subject to the placement until:

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

### **Newly Enrolled Students**

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

## **EXPULSION**

In deciding whether to order expulsion, the district will not take into consideration:

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

### **DISCRETIONARY EXPULSION: MISCONDUCT THAT MAY RESULT IN EXPULSION**

#### **Any Location**

A student **may** be expelled for:

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

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

Committing any of the following offenses on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, or a dangerous drug, if the conduct is not punishable as a felony.
- Selling, giving, or delivering to another person, or possessing, using, or being under the influence of alcohol; or committing a serious act or offense while under the influence of alcohol, if the conduct is not punishable as a felony.

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

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

Engaging in the following conduct while within 300 feet of school property, as measured from any point on the school's real property boundary line:

- Aggravated assault, sexual assault, or aggravated sexual assault.
- Arson.
- Murder, capital murder, or criminal attempt to commit murder or capital murder.
- Indecency with a child, aggravated kidnapping, manslaughter, criminally negligent homicide, or aggravated robbery.
- Continuous sexual abuse of a young child or children.
- Felony drug- or alcohol-related offense.
- Use, exhibition, or possession of a firearm (as defined by state law), an illegal knife, a club, or prohibited weapon, or possession of a firearm (as defined by federal law).

### **Property of Another District**

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

### **While in DAEP**

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

### **MANDATORY EXPULSION: MISCONDUCT THAT REQUIRES EXPULSION**

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

### **Federal Law**

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

- Any weapon (including a starter gun) that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive.

- The frame or receiver of any such weapon.
- Any firearm muffler or firearm weapon.
- Any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.

## Texas Penal Code

Using, exhibiting, or possessing the following, as defined by the Texas Penal Code:

- A firearm (any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use).
- An illegal knife, such as a knife with a blade over 5½ inches; hand instrument, designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; or spear.
- A club (see glossary) such as an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk.
- A prohibited weapon, such as an explosive weapon, a machine gun, a short-barrel firearm, a firearm silencer, a switchblade knife, knuckles, armor-piercing ammunition, a chemical dispensing device, or a zip gun. (See glossary)

Behaving in a manner that contains elements of the following offenses under the Texas Penal Code:

- Aggravated assault, sexual assault, or aggravated sexual assault.
- Arson. (See glossary)
- Murder, capital murder, or criminal attempt to commit murder or capital murder.
- Indecency with a child.
- Aggravated kidnapping.
- Aggravated robbery.
- Manslaughter.
- Criminally negligent homicide.
- Continuous sexual abuse of a young child or children.
- Behavior punishable **as a felony** that involves selling, giving, or delivering to another person, or possessing, using, or being under the influence of marijuana, a controlled substance, a dangerous drug, or alcohol; or committing a serious act or offense while under the influence of alcohol.

Engaging in retaliation against a school employee or volunteer combined with one of the above-listed mandatory expulsion offenses, with the exception of a federal firearm offense, on or off school property or at a school-related activity.

### **Under Age Ten**

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

### **EMERGENCY**

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

### **PROCESS**

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

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

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

### **Hearing**

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

1. Representation by the student's parent or another adult who can provide guidance to the student and who is not an employee of the district,
2. An opportunity to testify and to present evidence and witnesses in the student's defense, and
3. An opportunity to question the district's witnesses.
4. After providing notice to the student and parent of the hearing, the district may hold the hearing regardless of whether the student or the student's parent attends.

The board of trustees delegates to the Superintendent or a designee from the District administrative staff authority to conduct hearings and expel students.

## **Board Review of Expulsion**

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

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

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

## **Expulsion Order**

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

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

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

## **Length of Expulsion**

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

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

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

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

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

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

## **Withdrawal during Process**

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

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

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

### **Additional Misconduct**

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

### **Restrictions during Expulsion**

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

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

### **Newly Enrolled Students**

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

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

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

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

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

**Emergency Expulsion Procedures**

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

**DAEP Placement of Expelled Students**

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

## **GLOSSARY**

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

**Abuse** is improper or excessive use.

**Alcohol, Drugs, and Mood altering Substances** can be found in Appendix C.

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

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

- Any vegetation, fence, or structure on open-space land; or
- Any building, habitation, or vehicle:
- Knowing that it is within the limits of an incorporated city or town,
- Knowing that it is insured against damage or destruction,
- Knowing that it is subject to a mortgage or other security interest,
- Knowing that it is located on property belonging to another,
- Knowing that it has located within it property belonging to another, or
- When the person starting the fire is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.

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

**Blackmail, extortion, coercion** is extortion or blackmail is defined as obtaining money or an object of value from an unwilling person. Coercion is causing an individual to act through the use of or threat of force.

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

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

**Cheating/plagiarism** includes, but is not limited to, the following:

- Using any unauthorized books, materials or devices
- Communicating verbally or otherwise with other students during an exam
- Copying another student's homework
- Stealing another student's property in order to prepare for an exam

- Presenting or representing someone else's ideas or work as one's own

The procedure for determining guilt and disciplinary action is the responsibility of each campus administrator.

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

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

**Criminal mischief and/or vandalism** is defined as the following:

- Students shall not damage or deface any property, including furniture and other equipment belonging to or used by the District or District schools. The parent or guardian of a student guilty of damaging school property shall be liable for damages in accordance with law. Students may be subject to criminal penalties if damage exceeds \$50 or the damage causes substantial inconvenience to others. Students shall be responsible for the care and return of state-owned textbooks and may be charged for replacement of lost or damaged textbooks.
- *Texas Family Code §33.01* provides that a parent, guardian or other person who has the duty of control and reasonable discipline of a child is liable for property damage proximately caused by the negligent conduct of the child if such conduct is reasonably attributable to the negligent failure of the parent, guardian or other person to exercise that duty, or the willful and malicious conduct of a child who is at least 12 but under 18 years of age.
- *Texas Family Code §54.041* provides that when a minor engages in conduct which results in damage to District property or personal injury, the District may institute formal charges for the purpose of having a juvenile court order the minor or his parent or guardian to make full or partial restitution to the District. Such a restitution program must be in the interest of the child and ends at the child's 18th birthday.
- *Texas Penal Code §28.03* provides that a person commits an offense if without the effective consent of the owner, he knowingly or intentionally damages, destroys or defaces the property of the owner. The offense ranges from a Class C misdemeanor to a felony of the first degree depending upon the value of the property damaged. Damage to property that exceeds \$1,500 is a felony for which a student may be expelled.
- *Texas Penal Code §28.04* provides that a person commits a Class C misdemeanor if without the effective consent of the owner, he recklessly damages or destroys property of the owner.

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

**Dating violence** is the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person with whom the student has or has had a dating relationship, as defined by Section 71.0021 of the Family Code.

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

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

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

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

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

**Disruptive activities** as defined by the Texas Education Code §37.124 is any person on school property or on public property within 500 feet of school property, either alone or in concert with others, intentionally disrupts the conduct of classes or other school activities is guilty of a Class C misdemeanor. Conduct that disrupts the educational activities of a school includes:

- Emitting by any means noise of an intensity that prevents or hinders classroom instruction
- Enticing or attempting to entice a student away from a class or other school activity that the student is required to attend
- Preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend
- Entering into a classroom without consent of either the principal or a teacher and either through acts of misconduct and/or use of loud or profane language causing disruption of class activities

*Texas Education Code §37.123* further provides that no person may intentionally engage in disruptive activity or disrupt a lawful assembly on the campus or property of any public school. Disruptive activity means:

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

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

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

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

**Harassment** is:

- Conduct that meets the definition established in district policies DIA(LOCAL) and FFH(LOCAL); or

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

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

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

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

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

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

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

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

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

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

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

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

**Serious offenses** include but are not limited to murder, vandalism, robbery or theft, and extortion, coercion, or blackmail.

Also included are actions or demonstrations that substantially disrupt or materially interfere with school activities, hazing, insubordination, profanity, vulgar language, or obscene gestures.

Other offenses are fighting, committing physical abuse, or threatening physical abuse, possession or distribution of pornographic materials, leaving school grounds without permission, sexual harassment of a student or district employee, possession of or conspiracy to possess any explosive or explosive device,

falsification of records, passes, or other school-related documents, and refusal to accept discipline assigned by the teacher or principal.

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

**Switchblade** is any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or by the force of gravity or centrifugal force.

**Terroristic threat** [Texas Penal Code 22.07] is a threat of violence to any person or property with intent to: Cause a reaction of any type by an official or volunteer agency organized to deal with emergencies; place any person in fear of imminent serious bodily injury; prevent or interrupt the occupation or use of a building; room, place of assembly, or place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place; Cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service; place the public or a substantial group of the public in fear of serious bodily injury; or influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state (including the district).

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

**Tobacco** - Van Alstyne Independent School District provides a smoke-free environment. No student shall possess or use tobacco products, including, but not limited to: cigarettes, cigars, pipes, snuff or chewing tobacco on school property, or at school-related functions, regardless of time or location.

*Texas Penal Code §48.01* provides that persons commit a Class C misdemeanor if they are in possession of a burning tobacco product or smoke tobacco in a public primary or secondary school.

**Trespassing** as defined by the *Texas Penal Code §48.01* states that a person commits an offense of Criminal Trespass if he enters or remains on property or in a building of another without effective consent and he had notice that the entry was forbidden; or received notice to depart but failed to do so. An offense under this section is a Class B misdemeanor.

*Texas Education Code §37.107* states that an unauthorized person who trespasses on the grounds of any school District of this state commits an offense. An offense under this section is a Class C misdemeanor.

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

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

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

## **APPENDIX A: ATTENDANCE AND CLASSIFICATION OF ABSENCES**

### **Closed Campus**

Unless specified by campus policy approved by the Board of Trustees, each school campus in the Van Alstyne ISD shall operate a closed campus. When students leave home, they are expected to proceed to school without any undue delay and, once on school property, may not leave until the end of the school day, without proper permission from the parent or responsible party designated by the parent and campus administrator or his/her designee.

### **Absences and Attendance Exceptions**

**Absences:** There are only two types of absences recognized by the Van Alstyne ISD.

**Excused Absences:** The 1st is an excused absence. This absence is one in which a child's parent or guardian knows of the absence, approves of it, and advises the school by a note signed by the parent/guardian of the absence [**FEB(Local)**]. **This written documentation should be provided to the designated campus personnel within five (5) school days of the student's return following the absence.**

**Unexcused Absences:** The second type of absence is unexcused (truancy) in which the parent or guardian is unaware of the child's absence or the child is found in a location other than their class or school building during school hours without the permission of school officials. **Also, any absence from school without documentation presented to school officials will be considered unexcused.**

### **Attendance Exemptions**

There are five reasons mentioned in the student handbook under "Attendance-Exemptions" that allow a child to be absent from their campus, yet are marked as present. They include:

- The student is participating in a board-approved extracurricular activity or public performance, and is under the direction of the District's professional staff or an adjunct staff member who has a bachelor's degree.
- The student is participating in a mentorship approved by District personnel to serve as one or more of the advanced measures needed to complete the Distinguished Achievement Program outlined in *19 Texas Administrative Code §74.13(a)(3)*.
- A student is Medicaid-eligible and participating in an Early and Periodic Screening, Diagnosis, and Treatment Program.
- A student is observing a religious holy day, including travel to and from the site where the holy day is observed. Before the absence, the parent or guardian should submit a written request for the absence. Excused days for travel should be limited to no more than one day for travel to and one day for travel from the site where the student will observe the religious holy days.
- A student has a documented appointment with a health care professional during regular school hours, and the student commences classes or returns to school in the same day of the

appointment. The appointment should be supported by a document such as a note from the health care professional.

## **Attendance Requirements**

Texas law requires a child who is at least 6 years of age or who has not yet reached their 18th birthday to attend school, unless exempt by the *Texas Education Code* §25.086. Upon enrollment in pre-kindergarten or kindergarten, *a student is subject to compulsory attendance rules.*

Attendance laws are divided into two main sections.

### **Truancy**

The first section of the law deals with unexcused absences which are considered truancy. Under the *Texas Education Code* §25.093 and *Texas Family Code* §51.03(b)(2), a parent or guardian commits an offense of "thwarting compulsory attendance," if a child has unexcused absences on 10 or more days or parts of days within a 6 month period, or 3 or more days within a 4 week period. The offense is a Class C misdemeanor and is punishable by a fine not to exceed \$500 per offense.

If a child is charged with "failure to attend school" under the *Texas Family Code* §54.021 and *Texas Education Code* §25.094 and §25.095, the child goes before a justice or municipal court and can be placed under court order for up to 6 months per offense. The court can place numerous sanctions on the child. The child is liable under compulsory attendance laws from enrollment in pre-kindergarten or kindergarten until they reach their 18th birthday.

### **90% Rule**

The second section of the law is found in the *Texas Education Code* §25.092. It states that a student may not be given credit for a class unless the student is in attendance for at least 90% of the days a class is offered. These days include both excused and unexcused absences. This part of the law is commonly referred to as the 90% Rule. The 90% Rule applies through graduation no matter the age of the child. School principals and District Attendance Committees enforce this rule.

## **Scholastic Penalties**

Generally, academic sanctions shall not be used as discipline; however, when the disciplinary infraction is academically related, such as cheating or plagiarism, academic sanctions may be imposed. No other academic penalty will be assessed based on a disciplinary infraction, except a student removed from his or her regular classes for any reason that would lead to an expulsion. Students shall receive full credit for assignments completed in a District Alternative Education Program. Students who are placed in In-School Suspension (ISS) may receive full credit for work completed while in ISS. A student suspended from his or her regular classes is expected to satisfactorily complete the assignments for the period of suspension within a time designated by the teacher. Procedure recommended is one day per absence.

(Regarding credit for students who are expelled, refer to Section III, C-6 in *Student Code of Conduct.*)

## **APPENDIX B: DRUGS, ALCOHOL, OR MOOD-ALTERING CHEMICALS AND STUDENTS PARTICIPATING IN U.I.L., CO-CURRICULAR AND EXTRACURRICULAR ACTIVITIES**

### 1. PHILOSOPHY AND OBJECTIVES OF U.I.L., CO-CURRICULAR AND EXTRACURRICULAR ACTIVITIES

Participation in student U.I.L./co-curricular/extracurricular activities is an extension of the regular school programs in the Van Alstyne Independent School District. While the regular curricular program is a right afforded to each student, participation in the U.I.L./co-curricular/extracurricular program is a privilege, and as such, carries certain expectations beyond those found in the normal classroom situation. The important goal of the U.I.L./co-curricular/extracurricular program is to give students direction in developing healthful living habits, self-discipline, leadership, teamwork, and respect for authority, rules and regulations. It is to these ends that a policy regarding chemical use is established for students participating in U.I.L./co-curricular/extracurricular activities.

Students participating in U.I.L./co-curricular/extracurricular activities shall be expected to observe and support the rules and policies of the District relating to student conduct. These rules and policies are outlined in this *Student Code of Conduct*, as well as in handbooks and materials developed by individual school campuses. Students participating in U.I.L./co-curricular/extracurricular activities shall also strive to provide leadership in promoting healthful living habits and the development of respect for self and concern for others.

### 2. PROHIBITED CONDUCT

Students participating in U.I.L./co-curricular/extracurricular activities are prohibited from engaging in the conduct stated in the *Student Code of Conduct* Appendix B, alcohol, drugs and other mood altering chemicals. All the prohibitions, definitions and explanations contained in Appendix B, alcohol, drugs or other mood altering chemicals apply to this Appendix C.

### 3. PROCEDURES

If the campus administrator determines that a student has violated the rules set forth in Appendix C-2, an administrator shall notify the following persons of the violations and the resulting disciplinary action:

The student and the student's parent or guardian

The coaches and/or the sponsors of all U.I.L./co-curricular/extracurricular activities in which the student is currently involved or is expected to be involved during the period of the suspension or removal from U.I.L./co-curricular/extracurricular activities

### 4. DISCIPLINARY ACTION

In addition to all other disciplinary action taken under the *Student Code of Conduct*, any student who participates in U.I.L./co-curricular/extracurricular activities or holds an office (elected or appointed) and who has violated the rules set forth in Appendix C-2, may be subject to other disciplinary action, including but not limited to ineligibility, suspension, and including removal from the extracurricular activity or office

For more information refer to Exhibit 7 in this *Student Code of Conduct*

## 5. ACKNOWLEDGMENT

As a condition to participating in any U.I.L./co-curricular/extracurricular activity or holding any office (elected or appointed), a student and his or her parent or guardian shall sign an acknowledgment that they have read the policy as outlined in Appendix C and Exhibit 7, including the philosophy, rules and consequences of unacceptable behavior.

## 6. DEFINITIONS

**A calendar year**, as used in Appendix C, shall begin with the first day of suspension from extracurricular activities and shall conclude one calendar year from that date.

**Elected or appointed offices** shall include, but are not limited to: officers of athletic teams, student council officers, cheerleader officers, drill team officers and club officers. Term of office, for the purpose of this document, begins on the date the student is appointed or elected to a particular office, and ends upon graduation or on the date another student is appointed or elected to the same office.

## 7. MANDATORY DRUG TESTING PROGRAM

## **APPENDIX C: MANDATORY DRUG TESTING PROGRAM – APPROVED POLICY**

VAISD Board Adoption 7-25-2000

Revised 7-19-2004

### **Mandatory Drug Tests**

Participation in school district extracurricular activities is a privilege. All University Interscholastic League (UIL) participants and students in all extracurricular activities in grades 9-12 shall be subject to mandatory and random testing for the presence of alcohol or illegal drugs. This policy is separate from the school district policy regarding testing based on individualized suspicion.

### **Purpose of Random Drug Testing**

1. VAISD has recognized that observed and suspected drug use and abuse has increased among the VAISD student population, including students participating in extracurricular activities.
2. VAISD seeks to provide a safe, drug-free school.
3. VAISD seeks to deter the use of illegal and prohibited drugs among students.
4. VAISD recognizes that students who use illegal and prohibited drugs pose a threat to the health and safety of themselves, other students, teachers, administrators, and other persons.
5. VAISD has a zero-tolerance policy regarding the use of illegal drugs and other prohibited substances.
6. Schools are held accountable for the academic well being of its students. By current day standards, schools are also held accountable for student's emotional, physical, and social well being. Teachers and administrators cannot experience success in any of these areas when children are not mentally or physically at their best. Teenagers who regularly or periodically use drugs or alcohol cannot and do not come to school with the proper physical or mental attitude to participate successfully in learning. High school teachers in VAISD feel that drug and alcohol use among students has a negative impact on their ability to concentrate and excel in their schoolwork.

### ***Drugs To Be Tested For:***

- A. Drugs, which an individual may not buy, possess, use, sell, or distribute under either federal or Texas law. Such drugs include, but are not limited to: marijuana, opiates, cocaine, phencyclidine, amphetamines, barbiturates, benzodiazepines, methadone, methaqualone, propoxyphene, hallucinogens, steroids, alcohol and/or their metabolites;
- B. Performance-enhancing drugs (i.e. steroids)

- C. All prescription drugs upon reasonable suspicion that they were obtained without proper authorization.
- D. All prescription and over the counter drugs upon reasonable suspicion that they are being used in an abusive manner.

### **Consent Form**

All students in grades 9-12 who are participants in extracurricular or UIL activities or competitions must sign a consent form to participate in the activity, and thus will be included in the drug-testing program. The consent form must also be signed by the student's parent/guardian before the student shall be eligible to participate in these activities.

### **Testing**

Every student will be tested in order to participate in any extracurricular activity. After the completion of the initial mandatory testing, all students participating in the program will be placed in the population from which random samples will be selected. Students entering the district following the initial mandatory testing will receive their initial mandatory testing the first time the random testing is offered. These students will be eligible to participate in extracurricular activities prior to first available testing. Testing shall be done in accordance with accepted practices and procedures as established by the drug testing laboratory selected by the District.

Students involved in the VAISD drug testing program will submit to a drug/alcohol urine screen test. Student privacy shall be protected to the maximum extent reasonably possible during collection. All positive results from a drug screen shall be verified by Gas Chromatography Mass Spectrometry. Records of test results shall be kept confidential and provided only to District administrators and personnel responsible for administering the program.

### **Procedures**

THE WRITTEN POLICY SHALL BE DISTRIBUTED TO EVERY HIGH SCHOOL STUDENT WHO PARTICIPATES, OR SEEKS TO PARTICIPATE, IN ANY EXTRA-CURRICULAR ACTIVITY. This policy shall also be included in the Student Code of Conduct.

The procedures for testing in accordance with this program shall be as follows:

1. Each sponsor/coach of an applicable program shall submit a list of students to be consolidated into a master list.
2. The master list shall be submitted to the company employed by the District to conduct the testing.
3. The drug testing company shall computerize the master list.
4. Every student will be tested annually upon entrance into the program. After initial testing, random drawings will be generated from a computerized program by the testing company.
5. The testing company shall administer the test. The sample to be tested shall be obtained in a District facility that provides reasonable privacy for the student.

6. The drug-testing administrator shall notify the designated campus administrator of any positive results. The designated campus administrator shall notify the parents and staff members responsible for implementation of the consequences as outlined in this policy. That administrator will schedule the meeting with parents, student, and sponsor. (see Request for a Re-Test section below)
7. In the case of questions about the effects of prescription or other medications; a school designated physician, or a medical review officer from the testing laboratory will make a determination about the outcome of the test.

### **Consequences for Testing Positive**

All offenses are cumulative through grades 9-12.

#### ***First Offense***

A campus administrator shall hold a confidential meeting with the student, parent/guardian, and sponsor/coach. At the meeting, the administrator shall explain the drug testing procedures and the policy of the district. The consequences shall be as follows:

1. The student shall remain ineligible until he/she has gone through an approved assessment by an approved counselor. (see Assessment/Counselor Guidelines below) Attendance of these sessions will be monitored and attendance problems will result in ineligibility until the program is complete.
2. The student will be included in each future sampling until the student has produced six clean tests. At that time, the student will return to the random pool.

#### **The student will be referred into the STUDENT ASSISTANCE PROGRAM.**

Students who test positive but choose not to go through the six subsequent tests will be excluded from participation in extracurricular activities until they satisfy the terms of the policy consistent with the offense.

#### ***Second Offense***

A campus administrator shall hold a confidential meeting with the student, parent/guardian, and sponsor/coach. At the meeting, the administrator shall explain the drug testing procedures and the policy of the district regarding a second offense. The consequences shall be as follows:

1. The student will be ineligible for any and all extra-curricular activities for 45 calendar days beginning the day of the test.
2. The student must complete an approved assessment by an approved counselor (see Assessment/Counselor Guidelines below) and complete the program recommended by the counselor.
3. The student will be included in each future sampling until the student has produced six clean tests. At that time, the student will return to the random pool.

Students who test positive but choose not to go through the six subsequent tests will be excluded from participation in extracurricular activities until they satisfy the terms of the policy consistent with the offense.

**The student will be referred into the STUDENT ASSISTANCE PROGRAM.**

### ***Third Offense***

A campus administrator shall hold a confidential meeting with the student, parent/guardian, and sponsor/coach. At the meeting, the administrator shall explain the drug testing procedures and the policy of the district regarding a third offense. The consequences shall be as follows:

1. The student will be ineligible for any and all extra-curricular activities for one calendar year beginning the day of the test.
2. The student must complete an approved assessment by an approved counselor (see Assessment/Counselor Guidelines below) and complete the program recommended by the counselor.
3. The student will be included in each future sampling until the student has produced six clean tests. At that time, the student will return to the random pool.

Students who test positive but choose not to go through the six subsequent tests will be excluded from participation in extracurricular activities until they satisfy the terms of the policy consistent with the offense.

**The student will be referred into the STUDENT ASSISTANCE PROGRAM.**

### **All Other Offenses**

Any further offenses will result in the same consequences as the third offense.

### **Assessment/Counselor Guidelines**

In order for a counselor to be approved, he/she must minimally be a Licensed Chemical Dependency Counselor. The assessment must include a written recommendation for treatment that is presented to the parents. The parents must present a copy of that recommendation to the school administrator. Any cost for the assessment or any treatment shall be the responsibility of the parents and/or the student. The district may provide free or low cost counseling for those who qualify for the free and reduced lunch program for those students who must be assessed per this agreement.

### **Refusal to Test**

Each time a student refuses a drug test, he or she shall be subject to the consequences of a positive test at the appropriate step.

### **Request for a Re-Test**

At his/her expense, a parent/guardian may have a re-analysis of the original specimen performed by a certified drug-testing laboratory of his/her choice. The request for re-test must be made in writing and returned to the appropriate campus administrator indicating which laboratory no later than 10 days following receipt of the notification of a positive result. Accu-Chem of Richardson will provide the lab of choice with a portion of the original specimen. The student will remain ineligible to participate while the re-testing process occurs.

### **Maintenance of Records**

All results of drug testing shall be confidential. Procedures for maintaining confidentiality will be developed by VAA and the testing organization. The principal shall maintain records of positive tests in a secure location. This information will not be available to anyone other than appropriate school personnel and parents. Upon graduation, this information will be destroyed. Under no circumstances will this information become a part of the student's permanent file, nor will it be sent to another school when the student moves to another district or or or transfers to another school.

### **Notification to Parents**

Parents will be notified in a confidential manner for all positive test results.

Parents will be notified when their student has been randomly tested and the result has been negative.

### **Severability**

If any portion of this policy is deemed to be contrary to the law of the state of Texas or the United States by judicial decision or an act of congress, then only such portion or provision directly deemed to be unconstitutional shall be stricken, and the remainder of the policy shall remain in full force.

## **APPENDIX D: DISCIPLINE FOR STUDENTS WITH DISABILITIES**

The following is a glossary of terms found in this section:

**ARD** means Admissions Review and Dismissal Committee

**BIP** means behavioral intervention plan

**FBA** means functional behavioral assessment

**IDEA 2004** means Individuals with Disabilities Education Act

**IEP** means individual education plan

**MDR** means manifestation determination review

Students with disabilities are subject to applicable state and federal law in addition to the *Student Code of Conduct*. The District will comply with all provisions related to discipline of students with disabilities in accordance with the Individuals with Disabilities Education Act (IDEA 2004), its implementing regulations, Section 504, and state laws and regulations, as they now exist or may be amended in the future. To the extent any conflict exists, state and/or federal law will prevail.

A student with a disability under the IDEA 2004 or Section 504 may be removed to an appropriate interim alternative educational setting, another setting, or suspended, for not more than ten consecutive school days. A student with a disability under the IDEA 2004 or Section 504 shall not be removed from school for more than ten consecutive school days unless the District first determines that the misbehavior is not a manifestation of the student's disability.

A student with a disability under the IDEA 2004 or Section 504 may also be removed to an appropriate interim alternative educational setting, another setting, or suspended, for more than ten cumulative school days within the same year for separate offenses if, in the determination of the District, the removals do not constitute a change in placement, considering the length of the removals, the total number of days of removal, and the proximity of the removals to one another, and the discipline that would apply is the discipline that would apply to nondisabled students. If the District determines the behavior constitutes a change in placement, a manifestation determination review (MDR) must be held to determine if the student's misbehavior is a manifestation of the student's disability.

### **IDEA 2004**

For students receiving services under the IDEA 2004, if the series of short term removals do not constitute a change in placement as outlined above, starting with the 11<sup>th</sup> day of cumulative removals, school personnel must consult with the special education teacher to determine what services should be provided to the student in the interim alternative educational setting.

Additionally, if a functional behavioral assessment (FBA) has not been conducted before the behavior that resulted in the removal, within ten business days, the student's Admission Review and Dismissal (ARD) Committee shall meet to prepare an assessment plan. Once the FBA is completed, the ARD Committee must meet as soon as practicable to develop a behavior intervention plan (BIP) to address the misbehavior. If a FBA was conducted before the behavior that resulted in the removal, the ARD

Committee must meet within ten business days of removal to review the BIP and its implementation and modify the BIP as necessary to address the misbehavior.

Subsequent disciplinary removals following the 11<sup>th</sup> day procedures outlined in the paragraph above, that are not a change in placement as determined by the District in accordance with the identified criteria, may be used for subsequent misbehaviors. The student's ARD Committee, including the student's parent(s) must review the BIP and its implementation. If one or more of the ARD Committee members thinks modifications are needed to the BIP, the ARD Committee must meet to modify the BIP and its implementation. If no ARD Committee members think modifications are needed, no meeting is required.

For students receiving services under the IDEA 2004, if discipline is recommended for more than ten consecutive school days or if the discipline is for ten cumulative school days that results in a change in placement, and the proposed discipline would be the discipline that would apply to nondisabled students, the student's parent(s) must be notified of the decision for removal and the applicable procedural safeguards. Additionally, within ten "school" days of a decision to change the placement of a child with a disability because of a violation of the Student Code of Conduct, the District, the parent and relevant members of the ARD Committee must meet and review all relevant information in the student's file, including the IEP, teacher observations, and any relevant information provided by the parents to determine if the behavior in question was caused by the child's disability. In determining if the behavior was caused by the student's disability the ARD committee will determine if the behavior was the direct result of a failure to implement the student's IEP and if the behavior was caused by, or had a direct and substantial relationship to, the child's disability. A behavior is not a manifestation of the student's disability if:

- The student's individualized education plan (IEP) and placement were appropriate;
- The special education services, supplementary aids and services and behavior intervention services were provided;
- The student's disability did not impair the student's ability to understand the impact and consequences of the behavior; and
- The student's disability did not impair the student's ability to control the behavior.

If the ARD Committee determines that the student's behavior was a manifestation of his/her disability, the proposed discipline will not be imposed and the ARD committee will review the student's placement and IEP to make modifications, as appropriate. If the ARD Committee determines that the student's behavior was not a manifestation of his/her disability, the proposed discipline will be imposed, as it would be imposed to the student's nondisabled peers. The ARD Committee will determine what services are needed in the alternative educational setting in order to provide the services necessary for the student to appropriately progress in the general curriculum and advance toward achieving his/her IEP goals.

Any interim alternative setting in which a student with a disability under the IDEA 2004 is placed shall be selected so as to enable the student:

- To continue to participate in the general curriculum (although in another setting);
- Continue to receive those services and modifications, including those described in the student's IEP, that will enable the student to meet the goals in his/her IEP; and

- Include services and modifications designed to address the behavior that caused the student to be placed in the alternative setting so that the behavior does not recur.

A parent of a student receiving services under the IDEA 2004 may appeal a finding of an ARD Committee that the student's behavior was not a manifestation of his/her disability or the parent may appeal the resulting disciplinary consequence if the behavior is not a manifestation of the student's disability by requesting a due process hearing. Under the 2004 reauthorization of IDEA, when a due process hearing is requested, the child will remain in the interim alternative educational setting pending the decision of the hearing officer or until the time period for the disciplinary action ends.

For students receiving services under the IDEA 2004, if a student carries a weapon<sup>1</sup> to school or to a school function, or the student knowingly possesses, or uses, sells, or solicits the sale of illegal drugs or controlled substances while at school or at a school function, the student has inflicted serious bodily injury<sup>2</sup> upon another person while at school, on school premises, or at a school function, the student may be immediately assigned to an appropriate alternative educational setting that would apply to the student's nondisabled peers for a period not to exceed forty-five days. The ARD Committee must meet within ten school days of the behavior and any resulting short-term removal to determine if such a short-term assignment should be extended. The forty-five day interim placement must:

- Enable the student to progress in the general curriculum (although in another setting);
- Enable the student to continue to receive those services and modifications, including those described in the student's IEP, that will enable the student to meet the goals set out in the IEP; and
- Include services and modifications designed to address the drug or weapon offense so that it does not recur.

Additionally, if a functional behavioral assessment (FBA) has not been conducted before the behavior that resulted in the removal, within ten school days, the student's Admission Review and Dismissal (ARD) Committee shall meet to prepare an assessment plan. Once the FBA is completed, the ARD Committee must meet as soon as practicable to develop a behavior intervention plan (BIP) to address the misbehavior. If a FBA was conducted before the behavior that resulted in the removal, the ARD Committee must meet within ten school days of removal to review the BIP and its implementation and modify the BIP as necessary to address the misbehavior. Additionally, the ARD Committee must conduct an MDR, however, the forty-five day interim placement may be completed regardless of the finding of the ARD Committee in the MDR process. If the behavior is not a manifestation of the student's disability, the regular disciplinary consequence that would apply to the student's nondisabled peers may be applied in addition to the forty-five day interim placement.

A parent of a student receiving services under the IDEA 2004 may appeal a decision to place a student in a forty-five day interim placement. The District may request an expedited hearing, as provided above,

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<sup>1</sup> A weapon under this provision means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, but does not include a pocket knife with a blade less than 2 ½ inches in length.

<sup>2</sup> Serious bodily injury under this provision means an injury which involves a substantial risk of death, extreme physical pain, protracted or obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

if the District believes the student is dangerous to himself/herself or others. The student will remain in the forty-five day interim placement until a decision from a hearing officer or until the expiration of the forty-five day interim placement, whichever occurs first. Subsequent forty-five day interim placements may be repeated as necessary, if ordered by the hearing officer after a request by the District and expedited hearing.

A student who has not yet been determined to be eligible for special education and related services and who has engaged in behavior that violated any campus or classroom rule or the *Student Code of Conduct* may assert any of the protections provided for in the IDEA 2004 if the District had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. The District will be deemed to have knowledge that a student is a student with a disability if:

- The parent of the student has expressed concern in writing (unless the parent is illiterate or has a
- disability that prevents compliance with these requirements) to supervisory or administrative personnel of the District, or a teacher of the child, that the student is in need of special education and related services;
- The parent of the student has requested an evaluation of the student as called for under IDEA; or
- The student's teachers, or other District personnel, have expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the Director of Special Education of the District or to other supervisory personnel in the District.

If the District has no knowledge, prior to taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures as are applied to students without disabilities who engaged in comparable behaviors. However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Pending the results of an evaluation, the student shall remain in the educational placement determined by school authorities. If the student is determined to be a student with a disability, taking into consideration information from the evaluation and information provided by the parents, the District shall provide special education and related services to the student, as required by federal law. The District does not have knowledge that a child is a child with a disability if the parent of the child has not allowed an evaluation of the child, or has refused services, or the child has been evaluated and it was determined that the child was not a child with a disability.

## **RESTRAINT**

It is the policy of the District to treat all students, including students with disabilities who receive special education services, with dignity and respect. A student with a disability, who receives special education services, 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.

In this section:

"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.

"Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that is designed solely to seclude a person; and contains less than 50 square feet of space.

"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 that is not locked; and from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

A school district employee or volunteer or an independent contractor of a district may not place a student in seclusion.

The District follows state adopted rules, procedures and guidelines regarding use of restraint and time-out in the case of a student with a disability receiving special education services.

This section and any rules or procedures adopted under this section do not apply to:

- A peace officer while performing law enforcement duties;
- Juvenile probation, detention, or corrections personnel; or
- 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.

## **SECTION 504**

For students receiving services under Section 504, the determination regarding whether the misbehavior is a manifestation of the student's disability may be made by the same group of people who make placement decisions, or any other group of knowledgeable persons. The group must have available to it evaluation data that is recent enough to afford an understanding of the student's current behavior. At a minimum, the group shall include persons knowledgeable about the student and the meaning of the evaluation data. If it is determined that the misconduct is not a manifestation of the student's disability, the student may be excluded from school in the same manner as similarly situated nondisabled students (as defined in this *Student Code of Conduct*). If it is determined that the misconduct is a manifestation of the student's disability, the District must determine whether the student's current educational placement is appropriate.

The stay-put provisions applicable under the IDEA 2004 do not apply to students receiving services under Section 504. Additionally, if a student receiving services under Section 504 carries a weapon to school or to a school function, or the student knowingly possesses, or uses, sells, or solicits the sale of illegal drugs or controlled substances while at school or at a school function, the group of people who make placement decisions for students with disabilities under Section 504 or any other group of knowledgeable persons shall meet within ten business days of the behavior and extend a short-term removal by placing the student in an appropriate alternative educational setting that would apply to the student's nondisabled peers for a period not to exceed forty-five days. (A weapon under this provision means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, but does not include a pocket knife with a blade of less than 2 ½ inches in length).

Additionally, the group of knowledgeable persons must conduct an MDR, however, the forty-five day interim placement may be completed regardless of the finding of the group of knowledgeable persons in the MDR process. If the behavior is not a manifestation of the student's disability, the regular

disciplinary consequence that would apply to the student's nondisabled peers may be applied in addition to the forty-five day interim placement.

#### H. Special Education Definitions

These definitions apply throughout the *Student Code of Conduct* unless otherwise specified.

**Board** means the Board of Trustees of the Van Alstyne Independent School District.

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

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

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

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

**District or VAISD** means the Van Alstyne Independent School District.

**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

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

**Parent or guardian** includes a single parent, legal guardian or a person who has agreed to assume responsibility for the student.

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

**Possession** means actual care, custody, control or management and includes the act of taking control or occupancy of property without regard to ownership of the property. Possession is a voluntary act if the possessor knowingly obtains or receives the things possessed or is aware of his/her control over the thing for a sufficient time to permit him/her to terminate his/her control. In addition, items in a car under the care, custody, control or management of the student will be in the student's possession.

**School property** includes the public school campuses or school grounds upon which any public school is located, and any grounds or buildings used by District schools for assemblies or other school-related activities.

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

- Murder
- Vandalism
- Robbery or theft
- Extortion, coercion, or blackmail
- Actions or demonstrations that substantially disrupt or materially interfere with school activities
- Hazing

- Insubordination
- Profanity, vulgar language, or obscene gestures
- Fighting, committing physical abuse, or threatening physical abuse
- Possession or distribution of pornographic materials
- Leaving school grounds without permission
- Sexual harassment of a student or District employee
- Possession of or conspiracy to possess any explosive or explosive device
- Falsification of records, passes, or other school-related documents
- Refusal to accept discipline assigned by the teacher or principal

**Under the influence** means not having the normal use of mental or physical facilities; impairment of a person's physical or mental faculties may be evidenced by, but is not limited to, a pattern of abnormal or erratic behavior or the presence of physical symptoms of drug or alcohol use; however, the student need not be legally intoxicated to trigger disciplinary action.

**Use**, in reference to prohibited substance, means a student has voluntarily smoked, ingested, injected, imbibed, inhaled, drunk or otherwise taken internally a prohibited substance into one's body recently enough that it is detectable by the student's physical appearance, actions, breath, odor or speech. Additionally, student self-admission of use of prohibited substances is considered "use" for the purposes of the Student Code of Conduct.

## **APPENDIX E: COMPLAINT PROCEDURES**

### **COMPLAINTS**

The Board has adopted a grievance procedure under which the Board shall address each complaint that the Board receives concerning a violation of Education Code Chapter 26 (Parental Rights).

The purpose of the Board's policy is to secure at the lowest possible administrative level, prompt and equitable resolution of student or parent complaints. Except as provided below, all student or parent complaints shall be presented in accordance with District policy.

- Complaints regarding certain topics are addressed by specific policies that modify this complaint process or require an alternative process:
- Discrimination on the basis of gender
- Sexual abuse or sexual harassment of a student
- Loss of credit on the basis of attendance
- Teacher removal of a student for disciplinary reasons
- Removal of a student to a DAEP
- Expulsion of a student
- Identification, evaluation, or educational placement of a student with a disability within the scope of Section 504
- Identification, evaluation, or educational placement of a student with a disability within the scope of IDEA 2004: IDEA 2004 and the parents' rights handbook provided to parents of all students referred to special education
- Instructional materials
- Distribution of nonschool materials to students
- Complaints against District peace officers

### **GENERAL PROVISIONS FOR COMPLAINT PROCEDURES**

Unless otherwise provided by a Board policy, students or parents shall be entitled to informal conferences with administrators to resolve their complaints. If such attempts are unsuccessful, the students or parents may take their complaint to the Board. If a complaint involves a problem with a teacher, the student or parent in most circumstances shall be expected to discuss the matter with the teacher before requesting a conference with the principal at Level One.

The student may be represented by an adult at any level of the complaint.

For purposes of this policy, "days" shall mean calendar days. Announcement of a decision in the student's or parent's presence shall constitute communication of the decision.

**LEVEL ONE:** A student or parent who has a complaint shall request a conference with the principal within ten days of the time the student or parent knew, or should have known, of the event or series of events causing the complaint. The principal shall schedule and hold a conference with the student or parent within seven days of the request.

**LEVEL TWO:** If the outcome of the conference with the principal is not to the student's or parent's satisfaction, the student or parent may request, within ten days, a conference with the Superintendent or designee, who shall schedule and hold a conference. Prior to or at the time of the conference, the student or parent shall submit a written complaint that includes a statement of the complaint, any evidence in its support, the solution sought, the student's or parent's signature, and the date of the conference with the principal.

**LEVEL THREE:** If the outcome of the conference with the Superintendent or designee is not to the student's or parent's satisfaction, the student or parent may submit to the Superintendent a written request to place the matter on the agenda of the next regular Board meeting.

The Superintendent shall inform the student or parent of the date, time, and place of the meeting.

The presiding officer shall establish a reasonable time limit for complaint presentations. The District shall make an audiotape record of the Level Three proceeding before the Board. The Board shall hear the complaint and take whatever action it deems appropriate. The lack of official action by the Board shall uphold the administrative decision at Level Two.

If the complaint involves concerns or charges regarding an employee, it shall be heard by the Board in closed meeting unless the employee to whom the complaint pertains requests that it be public.

## **APPENDIX F: SEXUAL HARASSMENT NOTICE OF PARENT AND STUDENT RIGHTS**

For a full explanation of the Board of Trustee's policies regarding sexual harassment, please refer to Van Alstyne ISD Board of Trustees Policies at [www.vanalstyneisd.org](http://www.vanalstyneisd.org).

### **What is the District policy concerning sexual misconduct?**

The District forbids employee conduct constituting sexual harassment or sexual abuse of students. The District forbids students from engaging in unwanted and unwelcome verbal or physical conduct of a sexual nature directed toward another student or a District employee. The District encourages parental and student support in its efforts to address and prevent sexual harassment and sexual abuse in the public schools.

### **What is sexual harassment?**

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

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

### **What is sexual abuse?**

Sexual abuse is defined as "illegal sex acts performed against a minor" it may include, but is not limited, to fondling, sexual assault, or sexual intercourse. Sexual abuse is a form of child abuse that must be reported to appropriate law enforcement authorities.

### **What laws address sexual harassment of students?**

Sexual harassment or abuse of students by District employees may constitute discrimination on the basis of sex and is prohibited by Title IX (the federal law prohibiting gender-based discrimination by schools that receive federal funds).

### **Will I be informed if my child has been sexually harassed or sexually abused at school?**

The District will notify parents of students involved in sexual harassment by students when the allegations are not minor or of any incident regarding sexual harassment or sexual abuse by an employee. Notification may be by telephone, letter, or personal conference.

### **What will the District do when it learns of sexual harassment or sexual abuse of a student?**

When a principal or other school administrator receives a report that a student is being sexually harassed or abused, he or she will initiate an investigation and take prompt action to intervene.

### **What do I do if I am concerned that my child has been sexually harassed or sexually abused at school?**

A student or parent who has a complaint alleging sexual harassment by other student(s) or sexual harassment or sexual abuse by an employee may request a conference with the principal, the principal's designee, or the District's Title IX coordinator. The conference will be scheduled and held as soon as possible but within five school days. The principal or Title IX coordinator will coordinate an investigation. Oral complaints should be reduced to writing to assist in the District's investigation.

A complaint may also be filed separately with the Office of Civil Rights:

Regional Director  
Office of Civil Rights, Dallas Office/Southern Division  
1999 Bryan Street, Suite 2600  
Dallas, Texas 75201  
(214) 880-2459

**Who is the Title IX coordinator and how do I contact that person?**

The Title IX coordinator for the District is:

Dr. Pam Parmley, Assistant Superintendent

(903) 482-8841

The Title IX coordinator is a District employee who has the responsibility to assure District compliance with the requirements of Title IX. The coordinator will investigate or oversee an investigation of a complaint alleging violations of Title IX.

The District has adopted complaint procedures for handling Title IX complaints, which may be obtained from the principal or Title IX coordinator. The student may be accompanied by the parent or other advisor throughout the complaint process.

**Will my complaint be confidential?**

To the greatest extent possible, complaints will be treated in a confidential manner. Limited disclosure may be necessary in order to complete a thorough investigation.

**What if I am not satisfied by the District's resolution of my complaint?**

If the parent is not satisfied with the District's initial response to the complaint, he or she has ten school days to request a conference with the Superintendent or designee, who will schedule and hold a conference. Prior to or at the conference, the parent must submit a written complaint that contains: a statement of the complaint; any evidence to support the complaint; the resolution sought; the student's and/or parent's signature; and the date of the conference with the principal.

If the parent considers the resolution unsatisfactory, he or she may request that the complaint be heard by the Board of Trustees at its next regular meeting, in accordance with policy BE(LOCAL). The Board will hear the complaint in closed meeting, unless otherwise required by the Texas Open Meetings Act. At the conclusion of the hearing, the Board will decide what action it deems appropriate.

**SEXUAL HARASSMENT COMPLAINT PROCESS**

**LEVEL ONE:** A student or parent who has a complaint alleging sexual harassment by other student(s) or sexual harassment or sexual abuse by an employee may request a conference with the principal, designee, or the Title IX coordinator for students. The student may be accompanied by the parent or

other advisor at the initial conference and throughout the complaint process. The initial conference with the student ordinarily shall be held with a person who is the same gender as the student. The conference shall be scheduled and held as soon as possible, but in any event within five school days. At the conference, the persons bringing the complaint shall be informed of the right to file a complaint with the Office of Civil Rights.

The principal or designee or the Title IX coordinator shall coordinate an appropriate investigation, which ordinarily shall be completed within ten school days. The student or parent shall be informed if extenuating circumstances delay the investigation. Nothing in the complaint process shall have the effect of requiring a student alleging sexual harassment or sexual abuse to present the matter to a person who is the subject of the complaint.

**LEVEL TWO:** If the resolution of the complaint at Level One is not to the student's or parent's satisfaction, the student or parent has ten school days to request a conference with the Superintendent or designee, who shall schedule and hold a conference. Prior to or at the conference, the student or parent shall submit a written complaint that includes a statement of the complaint, any evidence in its support, the resolution sought, the student's and/or parent's signature, and the date of the conference with the principal, designee, or Title IX coordinator.

**LEVEL THREE:** If the resolution of the complaint at Level Two is not to the student's or parent's satisfaction, the student may present the complaint to the Board at its next regular meeting. The complaint shall be included as an item on the agenda posted with notice of the meeting. Lack of official action by the Board upholds the administrative decision at Level Two. Announcing a decision in the student's or parent's presence constitutes communication of the decision.

**CLOSED MEETING:** The Board shall hear complaints alleging sexual harassment by students or sexual harassment or sexual abuse by employees in closed meeting, unless otherwise required by the Open Meetings Act.

## **APPENDIX G: TECHNOLOGY RESOURCES ACCEPTABLE USE POLICY**

Van Alstyne ISD  
091908

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

CQ  
(LOCAL)

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	<p>The Superintendent or designee shall implement, monitor, and evaluate electronic media resources for instructional and administrative purposes.</p>
<p>AVAILABILITY OF ACCESS</p>	<p>Access to the District's electronic communications system, including the Internet, shall be made available to students and employees primarily for instructional and administrative purposes and in accordance with administrative regulations. Limited personal use of the system shall be permitted if the use:</p> <ol style="list-style-type: none"><li>1. Imposes no tangible cost on the District;</li><li>2. Does not unduly burden the District's computer or network resources; and</li><li>3. Has no adverse effect on an employee's job performance or on a student's academic performance.</li></ol>
<p>USE BY MEMBERS OF THE PUBLIC</p>	<p>Access to the District's electronic communications system, including the Internet, shall be made available to members of the public, in accordance with administrative regulations. Such use shall be permitted so long as the use:</p> <ol style="list-style-type: none"><li>1. Imposes no tangible cost on the District; and</li><li>2. Does not unduly burden the District's computer or network resources.</li></ol>
<p>ACCEPTABLE USE</p>	<p>The Superintendent or designee shall develop and implement administrative regulations, guidelines, and user agreements consistent with the purposes and mission of the District and with law and policy.</p>

Access to the District's electronic communications system is a privilege, not a

right. All users shall be required to acknowledge receipt and understanding of all administrative regulations governing use of the system and shall agree in writing to allow monitoring of their use and to comply with such regulations and guidelines. Noncompliance may result in suspension of access or termination of privileges and other disciplinary action consistent with District policies. [See DH, FN series, FO series, and the Student Code of Conduct] Violations of law may result in criminal prosecution as well as disciplinary action by the District.

**INTERNET SAFETY**

The Superintendent or designee shall develop and implement an Internet safety plan to:

1. Control students' access to inappropriate materials, as well as to materials that are harmful to minors;
2. Ensure student safety and security when using electronic communications;
3. Prevent unauthorized access, including hacking and other unlawful activities; and
4. Restrict unauthorized disclosure, use, and dissemination of personally identifiable information regarding students.

**FILTERING**

Each District computer with Internet access shall have a filtering device or software that blocks access to visual depictions that are obscene, pornographic, inappropriate for students, or harmful to minors, as defined by the federal Children's Internet Protection Act and as determined by the Superintendent or designee.

The Superintendent or designee shall enforce the use of such filtering devices. Upon approval from the Superintendent or designee, an administrator, supervisor, or other authorized person may disable the filtering device for bona fide research or other lawful purpose.

**MONITORED USE**

Electronic mail transmissions and other use of the electronic communications system by students and employees shall not be considered private. Designated District staff shall be authorized to monitor such communication at any time to ensure appropriate use.

**INTELLECTUAL PROPERTY RIGHTS**

Students shall retain all rights to work they create using the District's electronic communications system.

As agents of the District, employees shall have limited rights to work they create using the District's electronic communications system. The District shall retain the right to use any product created in the scope of a person's employment even when the author is no longer an employee of the District.

**DISCLAIMER OF**

The District shall not be liable for users' inappropriate use of electronic communication resources or violations of copyright restrictions or other laws,

**LIABILITY** users' mistakes or negligence, and costs incurred by users. The District shall not be responsible for ensuring the accuracy, age appropriateness, or usability of any information found on the Internet.

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**This online presentation of your district's policy is an electronic representation of TASB's record of the district's currently adopted policy manual. It does not reflect updating activities in progress. The official, authoritative manual is available for inspection in the office of the Superintendent. [See BF (LOCAL) for further information.]**

## **APPENDIX H: PROHIBITED WEAPONS**

Van Alstyne ISD  
091908

STUDENT CONDUCT:  
WEAPONS

FNCG  
(LEGAL)

POSSESSION OF  
WEAPONS

EXPULSION  
OFFENSE

A student shall not possess, use, or exhibit any firearm, illegal knife, club, or prohibited weapon at school or any school-related activity. [See also FOD]  
*Education Code 37.007(a)(1)*

CRIMINAL  
OFFENSE

A student shall not intentionally, knowingly, or recklessly possess or go with a firearm, illegal knife, club, or prohibited weapon on the physical premises of a school, any grounds or building on which an activity sponsored by a school is being conducted, or a passenger transportation vehicle of a school, unless pursuant to written regulations or written authorization of the District.

An offense under this provision is a third degree felony. It is not a defense to prosecution that the actor possessed a handgun and was licensed to carry a concealed handgun under Government Code Chapter 411, Subchapter H.

*Penal Code 46.03(a)(1), (f), (g)*

FIREARMS

INTERFERENCE  
WITH  
ACTIVITIES

A student commits a third degree felony if the student, by exhibiting, using, or threatening to exhibit or use a firearm, interferes with the normal use of a building or portion of a campus or of a school bus being used to transport children to or from school-sponsored activities. *Education Code 37.125*

In accordance with the Gun-Free Schools Act, the District shall expel from the student's regular program, for a period of one year, any student who is determined to have brought a firearm, as defined by federal law, to any District school. *20 U.S.C. 8921; Education Code 37.007(e)* [See FOD]

DEFINITIONS

FIREARM

For purposes of state law, "firearm" shall mean any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use).  
*Penal Code 46.01(3)*

- ILLEGAL KNIFE "Illegal knife" is, as defined by law, a knife with a blade over 5-1/2 inches; hand instrument designed to cut or stab another by being thrown; dagger, including a dirk, stiletto, and poniard; bowie knife; sword; or spear, or is as defined by local policy. *Penal Code 46.01(6); Education Code 37.007(a)(1)(B)*
- CLUB A club is an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk. *Penal Code 46.01(1)*
- OTHER PROHIBITED WEAPONS A prohibited weapon is:
1. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon). *Penal Code 46.01(2)*
  2. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). *Penal Code 46.01(9)*
  3. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches). *Penal Code 46.01(10)*
  4. A firearm silencer (any device designed, made, or adapted to muffle the report of a firearm). *Penal Code 46.01(4)*
  5. A switchblade knife (any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or other device on the handle, or opens or releases from the handle or shaft by the force of gravity or centrifugal force). *Penal Code 46.01(11)*
  6. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). *Penal Code 46.01(8)*
  7. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). *Penal Code 46.01(12)*
  8. A chemical dispensing device (a device, other than a small chemical

dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a chemical capable of causing an adverse psychological or physiological effect on a human being). *Penal Code 46.01(14)*

9. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). *Penal Code 46.01(16)*

*Penal Code 46.05(a)*

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