

ZAVALLA INDEPENDENT SCHOOL DISTRICT  
STUDENT CODE OF CONDUCT  
2011-2012



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ADOPTED BY THE ZAVALLA ISD BOARD OF TRUSTEES  
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## **TEC §37.001 STUDENT CODE OF CONDUCT**

- (a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:
- (1) Specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, or disciplinary alternative education program;
  - (2) Specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;
  - (3) Outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;
  - (4) Specify whether consideration is given, as a factor in a decision to order suspension, removal to a disciplinary alternative education program, or expulsion, to:
    - (A) Self-defense;
    - (B) Intent or lack of intent at the time the student engaged in the conduct;
    - (C) A student's disciplinary history; or
    - (D) A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
  - (5) Provide guidelines for setting the length of a term of:
    - (A) A removal under Section 37.006; and
    - (B) An expulsion under Section 37.007;
  - (6) Address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;
  - (7) Prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions; and
  - (8) Provide, as appropriate for students at each grade level, methods, including options, for:
    - (A) Managing students in the classroom and on school grounds;
    - (B) Disciplining students; and
    - (C) Preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

(b) In this section:

- (1) "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.
- (2) "Hit list" means a list of people targeted to be harmed, using:
  - (A) a firearm, as defined by Section 46.01(3), Penal Code;
  - (B) a knife, as defined by Section 46.01(7), Penal Code; or
  - (C) any other object to be used with intent to cause bodily harm.

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

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

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

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

Added by Acts 1995, 74th Leg., ch. 260, § 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 1015, § 2, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1055, § 4, 30, eff. June 20, 2003; Acts 2005, 79th Leg., ch. 504, § 1, eff. June 17, 2005; Acts 2005, 79th Leg., ch. 920, § 3, eff. June 18

## ZAVALLA ISD STUDENT CODE OF CONDUCT

Consistent with the obligations of the Texas Education Code, the Zavalla ISD Student Code of Conduct establishes standards of student conduct and identifies circumstances under which a student may be removed from a classroom, campus, or disciplinary alternative education program, transferred to a disciplinary alternative education program, suspended or expelled.

This Student Code of Conduct has been adopted by the Zavalla ISD Board of Trustees and developed with the advice of the district-level committee. A copy of the Code is provided to all students annually. A copy is also available for review in the Principal's office. Please note that the Student Code of Conduct is not a contract and can be amended by the District at any time. However, any change or amendment to the Code will be approved by the Board of Trustees.

**Finally, understand that teachers and principals may impose campus or classroom rules in addition to those found in the Student Code of Conduct and that students are responsible for compliance with these rules.**

### JURISDICTION

The Zavalla ISD will discipline students for misbehavior committed during the following times and locations:

- During the regular school day and while the student is going to and from school on District transportation;
- During lunch periods (Zavalla ISD is designated a “closed-campus”);
- While the student is in attendance at school activities, regardless of time or location;
- When the district has a reasonable belief that a student has committed a felony, as provided by TEC §37.0081;
- When a student commits certain felony offenses involving a public school district or against another student, regardless of time or location; for example but not limited to:
  - aggravated robbery against another student
  - false alarm or report involving a school
  - terroristic threat involving a school;
- When the student commits any school related misconduct.

### PROHIBITED CONDUCT

Students will be subject to disciplinary consequences if they engage in any of the following prohibited conduct while subject to the school's jurisdiction:

**A. Authority**

1. Failing to comply with directives given by school personnel (insubordination);
2. Refusing to accept discipline management techniques assigned by a teacher or principal;
3. Leaving classrooms, school grounds or school-sponsored events without permission;
4. Disobeying rules for conduct on school buses;
5. Failing to comply with campus or district policies;
6. Repeatedly violating previously communicated campus or classroom standards of behavior;
7. Violating DAEP rules while assigned to the DAEP.

**B. Technology**

1. Displaying, turning on, or using a cellular telephone or other telecommunications device at school during the school day. Possessing stereo headsets, CD players, cassette players, or electronic games without permission.
2. Violating computer use policies, rules, or agreements signed by the student and/or agreements signed by the student's parent or guardian.
3. Using the internet or other electronic communications to threaten students or employees or cause disruption of the educational program.
4. Sending or posting electronic communications that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another person's reputation or illegal.
5. Using e-mail or Web sites at school to encourage illegal behavior or threaten school safety.

**C. Safety**

1. Possessing published or electronic material that is designed to promote or encourage illegal behavior or that could threaten school safety.
2. Engaging in verbal (oral or written) exchanges that threaten the safety of another student, a school employee, or school property.
3. Engaging in any conduct that school officials might reasonably believe will substantially disrupt the school program or incite violence.
4. Behaving in a way that disrupts the school environment or educational process.
5. Throwing objects that can cause bodily injury or property damage.
6. Discharging a fire extinguisher without valid cause.
7. Making false accusations or perpetrating hoaxes regarding school safety.
8. Being a member of, pledging to become a member of, or soliciting another person to join or pledge a public school fraternity, sorority, secret society, or gang.
9. Gang-related behavior or activity. Making a false alarm or report of bombing, fire, or other emergency involving a public school, which includes, but is not limited to, the following offenses:

- a. Pulling a fire alarm or discharging a fire extinguisher in a building owned or operated by Zavalla ISD, when there is no smoke, fire, or danger that requires evacuation;
- b. Calling 911 when no emergency exists.
10. Making a terroristic threat involving a public school.
11. Violating safety rules.

**D. Respect for Property**

1. Damaging or vandalizing property owned by others.
2. Defacing or damaging school property – including textbooks, lockers, furniture, and other equipment – with graffiti or by other means.
3. Stealing.
4. Committing or assisting in a robbery, theft or burglary.
5. Engaging in conduct that would be aggravated robbery against another student.
6. Engaging in conduct that would be arson.

**E. Respect for Others**

1. Using profanity, lewd or vulgar language or making obscene gestures.
2. Fighting or scuffling or other physical conduct that does not meet the definition of simple assault.
3. Threatening another student or district employee on or off school property.
4. Engaging in bullying, harassment, and making hit lists.
5. Hazing.
6. Causing an individual to act through the use or threat of force (coercion).
7. Committing extortion or blackmail (obtaining money or an object of value from an unwilling person).
8. Using or exhibiting school supplies (i.e., pencils, pens, scissors, etc.), or any other item in a manner that threatens to inflict or actually inflicts bodily harm to another person.
9. Retaliating against any school employee or volunteer.
10. Causing an employee to be in contact with the blood, bodily fluids, saliva, urine, or feces of any person or animal.
11. Engaging in conduct that constitutes sexual harassment or sexual abuse, whether by word, gesture, or any other conduct, including requests for sexual favors directed toward another student or district employee.
12. Engaging in inappropriate verbal, physical, or sexual conduct directed toward another student or district employee, whether or not consensual.
13. Inappropriate exposure of a student's body part, including exposure of any portions of the body that are ordinarily covered by clothing or required to be covered by dress code.
14. Engaging in conduct that would be public lewdness or indecent exposure.
15. Engaging in conduct that would be indecency with a child.
16. Engaging in conduct that would be aggravated kidnapping.
17. Committing an assault of any kind.
18. Engaging in conduct that would be aggravated assault, sexual assault, or aggravated sexual assault.

19. Engaging in conduct that would be manslaughter.
20. Engaging in conduct that would be criminally negligent homicide.
21. Engaging in conduct that would be deadly conduct.
22. Engaging in conduct that would be murder, capital murder, or criminal attempt to commit capital murder.

**F. Illegal and Prescription Drugs**

1. Having or taking prescription drugs or over-the-counter drugs at school other than as provided by district policy.
2. Abusing the student's own prescription drug, giving a prescription drug to another student, or possessing or being under the influence of another person's prescription drug on school property or at a school-related event.
3. Possessing, using, giving, or selling paraphernalia related to any prohibited substance.
4. Possessing or selling look-alike drugs or items attempted to be passed off as drugs or contraband.
5. Possessing or selling pieces of marijuana in less than a usable amount. (For illegal drugs, alcohol, and inhabitants see DAEP Placement and Expulsion)
6. Selling, giving, or delivering to another person or possessing, using or being under the influence of marijuana or a controlled substance or a dangerous drug.
7. Selling, giving, or delivering to another person an alcoholic beverage; committing a serious act or offense while under the influence of alcohol; or possessing, using, or being under the influence of alcohol.
8. Engaging in conduct that would be an offense relating to an abusable volatile chemical.

**G. Prohibited Items**

1. Possessing, exhibiting or using:
  - a. A laser pointer for other than an approved use; or
  - b. 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);
  - c. Pornographic material;
  - d. Mace or pepper spray;
  - e. Tobacco products;
  - f. Matches or a lighter;
  - g. Fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;
  - h. A razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person;
  - i. A "look-alike" weapon;
  - j. A prohibited weapon;
  - k. A pocketknife;
  - l. A knife with a blade of 5 ½ inches or less.
  - m. An illegal knife;
  - n. Ammunition;
  - o. An air gun or BB gun;

- p. A stun gun;
- q. A pellet gun, air powered rifle, toy gun, or any other instrument that may be perceived by a third party as a firearm;
- r. A firearm;
- s. A club;
- t. Martial arts objects (such as shurikan [throwing stars], nunchakus [“nun-chucks”], tonfa [wooden weapon], staff, baton [short stick], bolo [long cord with weights at end];

**H. Miscellaneous**

- 1. Violating dress and grooming standards.
- 2. Gambling.
- 3. Cheating or copying the work of another, or unauthorized collaboration in preparing work.
- 4. Falsifying records, passes, or other school-related documents.
- 5. Lying about the conduct of other students or making false accusations about district employees.
- 6. Engaging in action or demonstrations that substantially disrupt or materially interfere with school activities.
- 7. Repeatedly violating other communicated campus or classroom standards of conduct.
- 8. Truancy, i.e. skipping school or cutting class without the parent’s or school’s knowledge or permission.
- 9. Assisting, encouraging, promoting, or attempting to assist in the commission of a serious offense.
- 10. Failing to report the commission of a serious offense by another student to a school official.
- 11. Excessive tardiness. With the accrual of three or more, disciplinary measures will be taken as described in the Discipline Procedures.

**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.**

**INVESTIGATION & PARENT NOTIFICATION**

All suspected misconduct is reviewed by the appropriate campus administrator. Students are told of the alleged infraction and provided an opportunity to respond. Once a Code of Conduct violation has been substantiated, the principal or appropriate administrator applies the Student Code of Conduct to determine the resulting consequence. If the violation results in a suspension, placement in a DAEP, or expulsion, the parents will be notified by telephone or in writing. Notification will be made within a reasonable time, but in no event later than 5 school days after the administrator becomes aware of the violation. Campus administrators are not required to notify parents of incidents by telephone on the day of the incident. Parents are notified of minor violations of the Student Code of Conduct in writing or by telephone.

Parental questions or concerns regarding discipline should be addressed to the teacher or campus administrator, as appropriate. Formal complaints or appeals of discipline should be made in accordance with policy FNG(LOCAL). A copy of the policy may be obtained from the principal's office.

**Discipline will not be deferred pending the outcome of a complaint.**

## DISCIPLINE MANAGEMENT TECHNIQUES

Many of the offenses identified as prohibited behaviors on pages 5 through 8 of the Student Code of Conduct require a DAEP placement or expulsion. For less severe infractions or classroom rule violations, the following discipline management techniques may be used – alone or in combination, as appropriate:

- Verbal (oral or written) correction.
- Cooling-off time or “time-out.”
- Seating changes within the classroom.
- Temporary confiscation of items that disrupt the educational process. [*Fee for release of cell phones or pagers = \$15.00 per instance*]
- Rewards or demerits.
- Behavioral contracts.
- Corporal punishment.
- Counseling by teachers, counselors, or administrative personnel.
- Parent-teacher conferences.
- Grade reductions as permitted by policy.
- Sending student to the office or other assigned area.
- 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, constitution, rules or bylaws.
- Withdrawal or restriction of bus privileges.
- School-assessed and school-administered probation.
- Citation or ticket from School Resource Officers or school security personnel.
- Referral to outside agency and/or legal authority for criminal prosecution in addition to disciplinary measures imposed by the district.

The specific discipline management technique(s) to be used is left to the discretion of the individual teacher or administrator as appropriate.

## **DISCIPLINARY CONSIDERATIONS**

Unless required by the Texas Education Code to impose a particular form of discipline responsive to student conduct, administrators will consider the following when applying this Code and assessing consequences:

- The seriousness of the offense.
- The student's age.
- The student's attitude.
- The potential effect of the misconduct on the school environment.
- Whether the student was defending himself or herself.
- The student's intent or lack of intent at the time the student engaged in the conduct.
- The student's disciplinary history.
- A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, but only as required by federal law and regulations related to discipline of students with disabilities.

## **DISCIPLINE PROGRAM DESCRIPTIONS**

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

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

Each will be discussed below.

### **Physical Restraint**

In some circumstances, it may be necessary for a district employee to use force, but not deadly force, to physically restrain a student in order to 1) protect the student or any other person from physical injury; 2) obtain possession of a weapon or other dangerous object; 3) protect property from serious damage; 4) remove a student who is refusing to comply with a legitimate directive from a school employee from a specific location in order to restore order or to impose disciplinary measures; or 6) restrain an irrational student.

## **Corporal Punishment**

Corporal punishment has been approved by the Texas Education Agency, the Legislature of the State of Texas, the Texas Supreme Court and the Zavalla ISD Board of Trustees as an appropriate disciplinary consequence for Code of Conduct violations. Corporal punishment is limited to spanking or paddling the student and will be administered only in the Principal's office by the Principal or Assistant Principal.

Coaches and physical education teachers may use reasonable physical exercises or activities as a disciplinary measure in their classes and activities, and these exercises or activities are not considered to be "corporal punishment."

## **In-School Suspension**

For minor infractions of the Student Code of Conduct or campus or classroom rules, teachers or administrators may assign a student to one or more days of in-school suspension where, under the supervision of a school employee, students will complete assignments given them by their regular teachers. Students assigned to ISS will not be allowed to leave in school suspension for extra-curricular activities held during the school day.

## **Detention**

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

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

The principal or other appropriate administrator may suspend a student for a maximum of three school days at a time if the student violates the Code of Conduct by engaging in any prohibited behavior as identified on pages 5 through 8 of the Student Code of Conduct. Both the length of the suspension and restrictions on participation in school-sponsored or school-related extracurricular activities during the suspension are left to the discretion of the administrator. There is no limit on the number of times a student may be suspended during a semester or school year.

## **Disciplinary Alternative Education Program**

The District provides for a Disciplinary Alternative Education Program (DAEP) for students who have committed certain serious offenses or engaged in persistent inappropriate behavior. The DAEP:

- is in a setting other than the student's regular classroom;
- is located off the regular school campus (Redland);
- separates students in the DAEP from students in the regular classroom;

- separates elementary school students assigned to DAEP for secondary school students assigned to DAEP;
- focuses on English language arts, mathematics, science, history, and self-discipline;
- provides for student's educational and behavioral needs; and
- provides supervision and counseling.

Zavalla ISD's disciplinary alternative education program is located in Redland, and operates between the hours of 7:30 AM and 2:00 PM. District transportation is not provided, and parents are responsible for securing their child's attendance while assigned. Failure to attend the DAEP is a violation of compulsory attendance laws, and students and parents may be prosecuted for failure to attend while assigned.

Students may be placed in the DAEP as mandated by state law for certain conduct (see Mandatory DAEP below) or as permitted by the choice of the school board (see Discretionary DAEP below). Some offenses warranting DAEP placement are criminal offenses. The school district may place a student in the DAEP regardless of any action or lack of action taken by the criminal justice system.

### **FORMAL TEACHER REMOVAL**

A teacher may initiate a formal removal from class if:

- 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
- The behavior is so unruly, disruptive, or abusive that the teacher cannot teach, and the students in the classroom cannot learn.

Within three school days of the formal removal, the campus principal or other appropriate administrator will schedule a conference with the student's parent, the student and the teacher and any other administrator.

Pending the conference, the principal may place the student in:

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

At the conference, the student will be provided the reason(s) for the removal and an opportunity to respond. Following the conference, the principal will order placement.

### **Returning a 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.

## **MANDATORY DAEP PLACEMENT**

The following offenses result in DAEP placement as mandated by the Texas Education Code.

### **School-Related Conduct Regardless of Location:**

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

- Makes a false report of bombing, fire, or other emergency involving a public school, regardless of when the false report is made or the place from which the false report is made.
- Makes a terroristic threat involving a public school, regardless of where the threat is made or the place from which the threat is made.
- Commits retaliation against a school employee, regardless of where the conduct takes place.

### **School Related Conduct on or in Proximity to School Property:**

The campus principal or other appropriate administrator will place a student in a DAEP if the student commits any of the following offenses on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Conduct punishable as a felony
- Assault resulting in bodily injury
- Offenses relating to marijuana, controlled substances and dangerous drugs
- Offenses relating to alcohol
- Offenses relating to abusable volatile chemicals
- Indecent exposure
- Public lewdness
- 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

### **Non-School Related Conduct:**

*Title V Offenses:* A student will be removed from class and placed in a disciplinary alternative education program for off-campus criminal conduct punishable as a felony

under Title V, Texas Penal Code. Title V offenses are crimes against the person found within Texas Penal Code with a corresponding felony classification, including, but not limited to, criminal homicide, kidnapping and unlawful restraint, trafficking of persons, sexual offenses, and assaultive offenses.

*Non-Title V Offenses:* A student will be removed from class and placed in a disciplinary alternative education program for off-campus criminal conduct punishable as a felony, other than offenses defined by Title V, Texas Penal Code, if the administration determines that the student's continued presence in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

**Removal to a DAEP for non-school related felony conduct is based upon the administrator's reasonable belief that the student has committed a felony offense.**

Any notification by law enforcement or the courts that a determination has been made not to prosecute or that the student did not commit the felony offense will result in review of the DAEP placement. The student will remain in the DAEP only if the administrator believes that the presence of the student in the regular classroom threatens the safety of other students or teachers.

State law provides that if more than one year passes from the date of the off-campus criminal offense to the time that a school administrator learns of the offense, the administrator is not required to place the student in the DAEP.

Definitions of all mandatory DAEP offenses can be found in the Appendix to this Code of Conduct, beginning on page 24.

## **DISCRETIONARY DAEP PLACEMENT**

The Zavalla ISD Board of Trustees has determined that the following additional offenses are serious enough to warrant DAEP placement.

- Using profanity, lewd, or vulgar language, or obscene gestures directed at a school employee
- Lying about the conduct of other students or making false accusations about district employees
- Persistently failing to comply with campus or district policies
- Bullying, harassment, and making hit lists, which include the following offenses:
  - Committing extortion, coercion, or blackmail (obtaining money or another object of value from an unwilling person), or forcing an individual to act through the use of force or threat of force
  - Making ethnic, racial, or religious slurs or any other harassment based on race, color, national origin, religion, or disability, against students, employees, or volunteers

- Verbal abuse or derogatory or offensive remarks addressed to others
- Damaging or vandalizing property of other students
- Conduct that constitutes sexual harassment or sexual abuse whether the conduct is by word, gesture, or any other sexual conduct, including without limit, requests for sexual favors
- Committing or assisting in a robbery, theft, or burglary
- Damaging or vandalizing district property other than graffiti, when the value of the damage is less than \$1,500
- Using or possessing a pellet gun, air-powered rifle, toy gun, or any other instrument that may be perceived by a third party as a firearm
- Possessing or using martial arts objects, unless the conduct amounts to an assault resulting in bodily injury
- Inappropriate physical or sexual contact, whether or not it is consensual
- Inappropriate or indecent exposure of a student's body parts, including exposure of any portions of the body that are ordinarily covered by clothing or required to be covered by the dress code
- Possessing or using any substance represented to be an illegal drug, a dangerous drug, a controlled substance, or alcohol
- Gambling of any kind
- Hazing
- Repeatedly violating other previously communicated campus or classroom standards of behavior
- Committing an assault of any kind.

## **LENGTH OF DAEP PLACEMENT**

The duration of a student's placement in a DAEP will be determined by the campus Principal, taking into consideration the seriousness of the offense, the student's age and grade level, the frequency of misconduct, the student's attitude, and any statutory requirements, as appropriate. An individual will serve a minimum of 30 school days for a first placement, 60 school days for the second (if assignment occurs in the same school year) and one calendar year for a third placement (if assignment occurs in the same school year).

The maximum period of DAEP placement shall be one calendar year from the date of the Order, except as provided below.

### ***Exceeds One Calendar Year:***

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

- 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.

If a student has been convicted of or placed on deferred adjudication for sexual assault or aggravated sexual assault against another student on the same campus, and if the victim or the victim's parents request that the board transfer the offending student to another campus, the offending student shall be transferred to another campus in the district. If there is no other campus in the district serving the grade level of the offending student, the offending student will be transferred to a DAEP. **The statutory limitations on length of a DAEP placement do not apply to a placement resulting from the board's decision to place a student who engaged in the sexual assault of another student in a DAEP so that the students are not assigned to the same campus.**

***Exceeds End of School Year:***

For placement in a DAEP to extend beyond the end of the school year, the campus Principal 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 school 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.

With regard to all DAEP placement, the DAEP administrator may extend the original term of removal based on new violations that occur while the student is assigned to the DAEP, including violation of the DAEP rules following a conference with student and parent.

**MANDATORY EXPULSION**

The following offenses result in expulsion as mandated by the Texas Education Code.

A student will be expelled for the following conduct that occurs on school property or while attending a school-sponsored or school-related activity on or off school property:

- Uses, possesses, or exhibits a firearm, an illegal knife, or any knife prohibited by local policy, a club, or a prohibited weapon, unless pursuant to written regulations or written authorization by the District;
- Behaves in a manner that contains the elements of offenses of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, or criminally negligent homicide;
- Sells, gives, or delivers to another person or possesses, uses, or is under the influence of marijuana or a dangerous drug, if the conduct is punishable as a felony.

- Sells, gives, or delivers to another person an alcoholic beverage, or commits a serious act or offense while under the influence of alcohol, or uses or is under the influence of an alcoholic beverage, if the conduct is punishable as a felony.

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

Definitions of the above expellable offenses can be found in the Appendix to this Code of Conduct.

## **DISCRETIONARY EXPULSION**

With explicit authorization found in the Texas Education Code, the Zavalla ISD Board of Trustees has determined that the following additional offenses are serious enough to warrant expulsion.

A student may be expelled for:

### *School Related Conduct Regardless of Location*

- Engaging in the following no matter where it takes place:
  - Conduct that contains the elements of assault under the 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.

### *School Related Conduct on or in Proximity to School Property*

- 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 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.
- Aggravated assault, sexual assault, 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.
- Felony drug—or alcohol—related offenses.
- 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 Texas School 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 that violates the district's Code, while placed in DAEP.

All mandatory and discretionary DAEP offenses are “serious offenses.” Persistent misbehavior is defined as 2 or more separate violations of the Student Code of Conduct in general or repeated violations of the same offense.

## **TERM OF EXPULSION GUIDELINES**

The length of an expulsion will be determined based upon a variety of factors, including student's age, the frequency of misbehavior, the timing of the offense as correlated with the academic calendar, and statutory requirements.

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.

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.

## **DAEP REMOVAL PROCEDURES**

When a student commits a DAEP offense, the appropriate administrator will schedule a conference with the student's parents, the student, and (in the case of a formal teacher removal) the teacher. The conference will be held within three class days of the removal. The student will not return to the classroom pending the conference.

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

**The district may hold the conference and make a placement decision, regardless of whether the student or the student's parents are able to attend the conference.**

### *Placement Order*

A placement order will be prepared for all DAEP placements. A copy of the DAEP placement order will be sent to the student and the student's parents. The board's designee will also deliver to the juvenile court a copy of the placement order and all information required by Section 52.04 of the Family Code. The order will be sent to the juvenile court within two days of the conference.

Appeals of DAEP placement may be made utilizing policy FNG Local. DAEP placement decisions are final and not appealable to the Commissioner or the Courts. The student will remain in the DAEP pending the appeal.

## **DAEP 120-DAY REVIEW**

Both the discipline and academic progress of students assigned to DAEP will be reviewed at intervals not to exceed 120 days. At the review, the student or student's parent will be given the opportunity to present arguments for the student's return to the regular classroom or campus. In placements resulting from formal teacher removal, however, the student may not be returned to the classroom without that teacher's consent. In the case of a high school student, the student's progress toward graduation and the student's graduation plan will be evaluated. The District is not required to provide all of a student's courses necessary for graduation while the student is assigned to the DAEP, but must offer an opportunity for the student to complete the courses before the beginning of the next school year without charge to the student.

## **EXPULSION HEARINGS**

A student facing expulsion will be afforded 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.
3. An opportunity to question the administration's witnesses.

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

*Evidence:* In an expulsion hearing, the District may rely on hearsay evidence of school administrators who investigate disciplinary infractions. This means that the school administration may present evidence or statements taken from students without revealing the identity of the student. The decision will be based exclusively on the evidence presented at the hearing. The student may be expelled based on the Superintendent or designee's reasonable belief that the evidence shows it is more likely than not that the student committed the offense(s) with which he or she was charged.

The board of trustees delegates to the campus Principal the authority to conduct hearings and expel students. Expulsions may be appealed to the Board of trustees consistent with policy FNG Local. A board's decision may be appealed to state district court.

## **WITHDRAWAL FROM SCHOOL**

### **EXPULSION:**

Withdrawal from school does not affect the District's authority to schedule and conduct a hearing on the conduct and enter an order of expulsion, regardless of whether the student or parent are present to participate. The order of expulsion will be included with the records transferred to the new school district. The failure to proceed with the expulsion hearing does not preclude the receiving district from completing the expulsion process.

Students who transfer out of this District to another public or private school, including students who withdraw from this District for the purpose of home schooling, will be required upon return to the District, to complete the term of expulsion before being allowed to return to the regular campus, unless the student's records indicate the student served the days of expulsion in another district.

### **DAEP:**

Withdrawal from school does not affect the District's authority to schedule and conduct a hearing on the conduct and enter an order of DAEP placement, regardless of whether the student or parent are present to participate. The order of DAEP placement will be included with the records transferred to the new school district. The failure to proceed with the DAEP placement hearing does not preclude the receiving district from completing the DAEP placement process.

**Students who transfer out of this District to another public or private school, including students who withdraw from this District for the purpose of home schooling, will be required upon return to the District, to complete the term of DAEP placement before being allowed to return to the regular campus, unless the student's records indicate the student served the days of DAEP placement in another district.**

### **NOTIFICATION OF OBLIGATION TO REPORT TO LAW ENFORCEMENT**

When a student is placed in the DAEP for a mandatory placement reason, a copy of the removal order, the child and parent's names and address, names and address of any witnesses, and a complete statement of the circumstances surrounding the conduct will be forwarded to the authorized officer of the juvenile court in the county in which the student resides.

### **SENIORS AND GRADUATION**

#### **EXPULSION:**

When a student is expelled during the 12<sup>th</sup> grade, the District may allow that student to participate in graduation ceremonies, provided that all prerequisites for graduation are met. Any decision concerning participation in graduation ceremonies will be made by the student's home campus principal, whose decision is final.

#### **DAEP:**

When a student is placed in DAEP during the 12<sup>th</sup> grade, the District may allow that student to participate in graduation ceremonies, provided that all prerequisites for graduation are met. Any decision concerning participation in graduation ceremonies will be made by the student's home campus principal, whose decision is final.

## **Appendices**

1. Definitions
2. Code of Conduct Acknowledgement Form

## DEFINITIONS

The Appendix provides legal definitions and local policy definitions pertinent to an understanding of the terms found within the Student Code of Conduct.

### EDUCATION CODE:

#### **Bullying**

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

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

Education Code 25.0341 (a)

#### **Disruption of Classes**

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

Conduct that disrupts the educational activities of a school includes:

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

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

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

Education Code 37.124

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

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway or any building without the authorization of the administration of the school.
2. Seizing control of any building or portion of a building for the purpose of interfering with any administrative, educational, research, or other authorized activity.
3. Preventing or attempting to prevent by force or violence or the threat of violence any lawful assembly by the school administration.
4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress.
5. Obstructing or restraining the passage of any person at any exit or entrance to said campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from said property or campus without the authorization of the administration of the school.

Education Code 37.123

### **Gang Activity**

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

Gang activities and gang involvement are described as:

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

- e. Engaging in concert with others in intimidating, fighting, assaulting, or threatening to assault others.
- f. Painting, writing, or otherwise inscribing gang-related graffiti, messages, or signs, on school property, or on a property of students or staff.

Education Code 37.121

## **Harassment**

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

Education Code 37.001 (b) (1)

## **Hazing**

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

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

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

Educational Code 37.151

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

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

Education Code 37.152

### **Hit List**

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

Education Code 37.001 (b) (2)

### **Paging Device or Cellular Telephone**

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

Education Code 37.082

### **Prohibited Weapons**

“Prohibited weapons” are defined as follows:

1. A firearm (any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use; any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, the frame or receiver of any such weapon, any firearm muffler or firearm silencer). Penal Code 46.03(a), 46.01(3); 18 U.S.C. § 921(a)(3)
2. A destructive device (any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than ¼ ounce,

mine, or device similar to any of these devices. The term does not include an antique firearm). 18 U.S.C. § 921(a)(4)

3. An illegal knife as defined by law (knife with a blade over 5 ½ inches, hand instrument designed to cut or stab another by being thrown, dagger, bowie knife, sword, spear) Penal Code 46.01(6), 46.03(a)
4. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made or adapted for delivery or shooting an explosive weapon). Penal Code 46.01(2)
5. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). Penal Code 46.01(9)
6. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches). Penal Code 46.01(10)
7. A switchblade knife (any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or by the force of gravity or centrifugal force). Penal Code 46.01 (11)
8. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). Penal Code 46.01(8)
9. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). Penal Code 46.01(12)
10. A chemical dispensing device (device other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of causing an adverse psychological or physiological effect on a human being). Penal Code 46.01(14)
11. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). Penal Code 46.01(16)
12. A club (an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace and tomahawk). Penal Code 46.01(1), 46.03(a)

## **HEALTH AND SAFETY CODE:**

### **Abusable Volatile Chemical Offenses**

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

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

Health and Safety Code 485.031

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

Health and Safety Code 485.032

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

Health and Safety Code 485.033

### **Controlled Substance and Dangerous Drug**

Controlled substances or dangerous drugs include but are not limited to marijuana; any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, barbiturate; or prescription medicine provided to any person other than the person for whom the prescription was written.

Policy FNCF Local

### **Drug Paraphernalia**

"Drug paraphernalia" means equipment, a product, or material that is used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, or concealing, a controlled substance in violation of this chapter or injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. The term includes:

- (A) a kit used or intended for the use in planting, propagating, cultivating, growing, or harvesting a species of plant that is a controlled substance or from which a controlled substance may be derived;
- (B) a material, compound, mixture, preparation, or kit used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;
- (C) an isomerization device used or intended for use in increasing the potency of a species of plant that is a controlled substance;
- (D) testing equipment used or intended for use in identifying or analyzing the strength, effectiveness, or purity of a controlled substance;
- (E) a scale or balance used or intended for use in weighing or measuring a controlled substance;
- (F) a dilutant or adulterant, such as quinine hydrochloride, mannitol, inositol, nicotinamide, dextrose, lactose, or absorbent, blotter-type material, that is used or intended to be used to increase the amount or weight of or to transfer a controlled substance regardless of whether the dilutant or adulterant diminishes the efficacy of the controlled substance;
- (G) a separation gin or sifter used or intended for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
- (H) A blender, bowl, container, spoon, or mixing device used or intended for use in compounding a controlled substance;
- (I) A capsule, balloon, envelope, or other container used or intended for use in packaging, small quantities of a controlled substance;
- (J) A container or other object used or intended for use in storing or concealing a controlled substance;
- (K) A hypodermic syringe, needle, or other object used or intended for use in parentally injecting a controlled substance into the human body; and
- (L) An object used or intended for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, including:
  - (i) a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;
  - (ii) a water pipe;
  - (iii) a carburation tube or device;
  - (iv) a smoking or carburation mask;
  - (v) a chamber pipe;
  - (vi) a carburetor pipe;
  - (vii) an electric pipe;

- (viii) an air-driven pipe;
- (ix) a chillum;
- (x) a bong; or
- (xi) an ice pipe or chiller.

Health and Safety Code 481.002(17)

## **PENAL CODE:**

### **Armor-piercing Ammunition**

“Armor-piercing ammunition” means handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used principally in pistols and revolvers.

Penal Code 46.01(12)

### **Aggravated Assault**

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

Penal Code 22.02(a)

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

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

Penal Code 1.07(46), (17)

### **Aggravated Kidnapping**

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

- (1) hold him for ransom or reward,
- (2) use him as a shield or hostage,
- (3) facilitate the commission of a felony or the flight after the attempt or commission of a felony,
- (4) inflict bodily injury on him or violate or abuse him sexually;
- (5) terrorize him or third person, or
- (6) interfere with the performance of any governmental or political function.

(b) A person commits an offense if the person intentionally or knowingly abducts another person and uses or exhibits a deadly weapon during the commission of the offense.

Penal Code 20.04

### **Aggravated Robbery**

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

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

Penal Code 29.031

A person commits robbery if, in the course of committing theft as defined in Chapter 31 and with intent to obtain or maintain control of the property, he (1) intentionally, knowingly, or recklessly causes bodily injury to another; or (2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

Penal Code 29.02

### **Aggravated Sexual Assault**

“Aggravated sexual assault” is defined as sexual assault in which the actor:

1. Causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode; or
2. By acts or words, places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person; or
3. By acts or words occurring in the presence of the victim, threatens to cause death, serious bodily injury, or kidnapping; or
4. Uses or exhibits a deadly weapon in the course of the same criminal episode; or
5. Acts in concert with another, who commits a sexual assault directed toward the same victim and occurs during the same criminal episode; or
6. Assaults a victim who is younger than 14 years of age or is 65 years of age or older.

Penal Code 22.021

## **Arson**

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

Penal Code 28.02

## **Assault**

Assault is defined as:

1. Intentionally, knowingly, or recklessly causing bodily injury to another. Penal Code 22.01(a)(1)
2. Intentionally or knowingly threatening another with imminent bodily injury. Penal Code 22.01(a)(2)
3. Intentionally or knowingly causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. Penal Code 22.01(a)(3);

“Bodily injury” is defined as physical pain, illness, or any impairment of physical condition.

Penal Code 1.07(8)

## **Chemical Dispensing Device**

“Chemical dispensing device” means, 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 substance capable of causing an adverse psychological effect on a human being.

Penal Code 46.01(14)

### **Club**

“Club” means an instrument that is specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, and includes but is not limited to the following:

- (A) blackjack;
- (B) nightstick;
- (C) mace;
- (D) tomahawk;

Penal Code 46.01(1)

### **Criminal Mischief**

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

Penal Code 28.03

### **Criminally Negligent Homicide**

A person commits criminally negligent homicide if he causes the death of an individual by acting with criminal negligence, i.e., with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor’s viewpoint.

Penal Code 19.05, 6.03(d)

## **Deadly Conduct**

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

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

Penal Code 22.05, 6.03(c)

## **Explosive Weapons**

“Explosive weapon” means 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)

## **False Alarm or Report**

A person commits an offense if he knowingly initiates, communicates, or circulates a report of a present, past, or future bombing, fire, offense, or other emergency that he knows is false or baseless and that would ordinarily:

- (1) cause action by an official or volunteer agency organized to deal with emergencies;
- (2) place a person in fear of imminent serious bodily injury; or

Penal Code 42.06(a)

## **Graffiti**

A person commits an offense if, without the effective consent of the owner, the person intentionally or knowingly makes markings, including inscriptions,

slogans, drawings, or paintings on the tangible property of the owner with (1) aerosol paint; (2) an indelible marker; (3) an etching or engraving device.

Penal Code 28.08 (a)

### **Harassment of Public Servant**

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

Penal Code 22.11 (a) (2)

### **Indecency with a Child**

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

Penal Code 21.11

## **Indecent Exposure**

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

Penal Code 21.08

## **Knuckles**

“Knuckles” means any instrument that consists 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)

## **Machine Gun**

“Machine gun” means 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)

## **Manslaughter**

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

Penal Code 19.04, 6.03(c)

## **Murder**

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

(c) A person commits an offense of murder if he:

- (1) intentionally or knowingly caused the death of an individual;
- (2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that caused the death of an individual; or

- (3) commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

Penal Code 19.02

### **Capital Murder, Criminal Attempt to Commit Capital Murder**

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

Penal Code 19.03

## **Public Lewdness**

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

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

Penal Code 21.07

## **Retaliation**

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

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

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

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

Penal Code 1.07 (25), 36.06

## **Self-Defense**

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

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

- (1) in response to verbal provocation alone;
- (2) to resist an arrest or search that the actor knows is being made by a peace officer, or by a person acting in a peace officer's presence and at his

direction, even though the arrest or search is unlawful, unless the resistance is justified under Subsection (c);

- (3) if the actor consented to the exact force used or attempted by the other;
- (4) if the actor provoked the other's use or attempted use of unlawful force, unless:
  - (A) the actor abandons the encounter, or clearly communicates to the other his intent to do so reasonably believing he cannot safely abandon the encounter; and
  - (B) the other nevertheless continues or attempts to use unlawful force against the actor; or
- (5) if the actor sought an explanation from or discussion with the other person concerning the actor's differences with the other person while the actor was:
  - (A) carrying a weapon in violation of Section 46.02; or
  - (B) possessing or transporting a weapon in violation of Section 46.05.

Penal Code 9.31 (a)-(b)

### **Sexual Assault**

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

Penal Code 22.011

### **Short-barrel Firearm**

“Short-barrel firearm” means 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 shotgun or rifle if, as altered, it has an overall length of less than 26 inches.

Penal Code 46.01(10)

### **Switchblade Knife**

“Switchblade knife” means any knife that has a blade that folds, closes, or retracts into the handle or sheath, and that:

- (A) opens automatically by pressure applied to a button or other device located on the handle; or

(B) opens or releases a blade from the handle or sheath by the force of gravity or by the application of centrifugal forces.

Penal Code 46.01(11)

### **Terroristic Threat**

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

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

Penal Code 22.07

### **Zip Gun**

“Zip gun” means a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifle-bore barrel by using the energy generated by an explosive or burning substance.

Penal Code 46.01(16)

## **OTHER DEFINITIONS FOR CONSIDERATION:**

### **Possession**

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

### **Under the Influence**

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

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

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

### **Use**

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