



**2020-2021**  
HOUSTON ISD

---

**CODE OF STUDENT CONDUCT**  
YOUR RIGHTS & RESPONSIBILITIES



# 2020–2021 Code of Student Conduct

## HOUSTON INDEPENDENT SCHOOL DISTRICT



### Table of Contents

Foreword.....	1
Overview of Responsibilities.....	2
Student Responsibilities.....	3
Student Rights and Responsibilities, Board Policies, and Administrative Regulations .....	4
Transportation Service Safety Guidelines .....	5
Student Misconduct .....	5
Levels of Student Misconduct and Disciplinary Options .....	6
Referral to Law Enforcement Authorities .....	16
Court Involvement .....	16
Emergency Placement in a Disciplinary Alternative Education Program (DAEP), Suspension, or Immediate Expulsion .....	16
Corporal Punishment .....	16
Students Required to Register as Sex Offenders.....	16
Procedures for Referral to a DAEP and Requests for Appeals .....	17
Procedures for Continuation of DAEP Placement After Receipt of Notice Under Article 15.27(g) .....	19
Procedures for Expulsion and the Appeal of Expulsion.....	19
Discipline of Students Receiving Special Education Services (Under the Individuals with Disabilities Education Act).....	20
Students not yet Identified but in the Process of Being Evaluated for Special Education Eligibility .....	22
Discipline of Students Served Under Section 504 of the Rehabilitation Act.....	23
Suspension, DAEP Placement, and Expulsion of Students With Disabilities .....	23
Students With Disabilities: Summary of Related Board Policies .....	24
Procedures for Teacher Removal of Students .....	24
Student Complaints: Board Policy <i>FNG(LOCAL)</i> .....	25
Students’ Rights and Responsibilities: Title IX, Sexual Harassment/Sexual Abuse/ Dating Violence .....	27
Student Publications and Prior Review .....	28
Summary of Related Board Policies.....	29
Additional Rights of Students with Disabilities .....	30
Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services .....	30
Equal Educational Opportunity for Students with Sensory Impairments .....	31
Request for Adding a Sport on Your Campus .....	31

### Board of Education

- Sue Deigaard**, *District V, President*
- Wanda Adams**, *District IX, First Vice President*
- Judith Cruz**, *District VIII, Second Vice President*
- Patricia Allen**, *District IV, Secretary*
- Daniela Hernandez**, *District III, Assistant Secretary*
- Elizabeth Santos**, *District I*
- Katherine Blueford-Daniels**, *District II*
- Holly Maria Flynn Vilaseca**, *District VI*
- Anne Sung**, *District VII*

### Interim Superintendent of Schools

Dr. Grenita F. Lathan

This publication, approved by the Board of Education, carries the full impact of approved Board Policy and Administrative Regulations. Any revisions must be approved by the Board before becoming effective.

### Stay Informed!

- HISD Website:** [www.HoustonISD.org](http://www.HoustonISD.org)
- Twitter:** [www.twitter.com/HoustonISD](https://twitter.com/HoustonISD)
- Facebook:** [www.facebook.com/HoustonISD](https://www.facebook.com/HoustonISD)
- Text Messaging:** Text YES to 68453
- YouTube:** [www.youtube.com/user/TheHISD](https://www.youtube.com/user/TheHISD)

It is the policy of the Houston Independent School District not to discriminate on the basis of age, color, handicap or disability, ancestry, national origin, marital status, race, religion, sex, veteran status, political affiliation, sexual orientation, and gender identity and/or gender expression in its educational or employment programs and activities.

# 2020-2021 Code of Student Conduct

## HOUSTON INDEPENDENT SCHOOL DISTRICT



*“Each student in HISD public schools is responsible for exhibiting the highest standards of behavior to create a positive and welcoming school atmosphere. The HISD Code of Student Conduct defines systemwide expectations for student behavior and provides means for constructive student-administrator relationships.”*

–HISD Student Congress 2014-2015

## FOREWORD

The Houston Independent School District has established as one of its primary goals the provision of a high-quality educational program for each student in a safe school environment free of disruptions that interfere with the educational process. The purpose of this *Code of Student Conduct* is to inform all students and parents of their rights and responsibilities and HISD’s expectations regarding behavior and conduct. The *Code*, reviewed and approved by the HISD Board of Education, is based on federal and state laws and the policies of the Board of Education and Administrative Regulations. Administrative Regulations communicates District administrative procedures and practices.

This *Code* was developed to protect the rights of all students by:

- providing a districtwide discipline management plan
- specifying the behavior that is expected of all students
- describing the broad range of student misconduct and providing appropriate disciplinary consequences or options for the various kinds of misconduct
- outlining student rights relating to school activities and administrative decisions

HISD staff, students, and parents are expected to become familiar with and abide by the provisions of the *Code of Student Conduct* and the rules and regulations adopted and implemented by individual schools based on their School-Based Discipline Management System.

Changes to the *Code* this year include the following:

- Addition under Level 4 Offenses: Misdemeanor harassment against a district employee as defined by Section 42.07(a)(1), (2), (3), or (7) Penal Code.
- Under Level 5, removal of possession of club and brass knuckles as expellable offenses from list of prohibited weapons as prescribed by state law.
- Addition under Level 3 Offenses: Possession of club or brass knuckles.
- Addition under Level 4 Offenses: Possession of club or brass knuckles with intent to use as a weapon determined as a result of a police investigation.
- Addition of TEC 37.005(d): A school district may not place a student who is homeless in out-of-school suspension unless the student engages in conduct described by Subsections (c)(1)-(3) while on school property or while attending a school-sponsored or school-related activity on or off of school property. The campus behavior coordinator may coordinate with the school district’s homeless education liaison to identify appropriate alternatives to out-of-school suspension for a student who is homeless. In this subsection, “student who is homeless” has the meaning assigned to the term “homeless children and youths” under 42 U.S.C. Section 11434a.
- Addition under **Discipline of Students Receiving Special Education Services: The discipline of students with disabilities is subject to applicable state and federal law in addition to the Code of Student Conduct. To the extent any conflict exists, state and/or federal law will prevail.**
- Addition under Bus Rules: A change in transportation services for a student with a disability for whom transportation is a related service requires ARD committee action. A change in transportation services for a Section 504 student requires Section 504 committee action.
- Addition under **Procedures for Referral to a Disciplinary Alternative Education Program (DAEP) and Requests for Appeals:** Grading period is defined as the six- or nine-week grading cycle applicable at the campus at issue.

Students and parents should be aware that HISD does not discriminate on the basis of age, race, color, ancestry, national origin, sex, handicap or disability, marital status, religion, veteran status, political affiliation, sexual orientation, gender identity and/or gender expression, or physical/personal appearance. This policy includes a prohibition on racial harassment and a hostile environment, as this type of harassment denies students the right to an education free of

discrimination. Students may utilize the District's complaint procedures contained in this *Code* or refer to HISD Board Policy complaint procedures to address any issues related to these areas without fear of retaliation. In addition, HISD will not tolerate sexual harassment at any level. Any complaint of discrimination of any type will be fully investigated, and the District will take appropriate action.

Finally, the HISD Board of Education is committed to providing a welcoming and safe environment in all HISD schools and facilities for all staff, parents, and scholars of HISD. Parents and students should be aware that HISD is prohibited from inquiring about the immigration status of students or parents enrolling their children in HISD or attending HISD schools. No parent or student should ever be asked about their status during or after enrollment in HISD. HISD does not produce or maintain records or any information with respect to immigration status and if requested is unable to provide information to any other governmental entity related to parents' or children's immigration status.

## Overview of Responsibilities

The *Code of Student Conduct* and the School-Based Discipline Management System are instruments that are intended to be implemented with the cooperation of all members of the HISD community with a view toward the overall goal of keeping schools safe and secure. Attaining that goal depends on the exercise of responsibilities by the following:

### STUDENTS

- Exhibit the highest standards of behavior to create a positive and welcoming school atmosphere
- Develop constructive student relationships with peers and school personnel
- Contribute to the overall safety of the campus and campus community by reporting anything that would threaten an individual or the school community; if you see something, say something.
- Adhere to District, school, classroom, and school-related activity rules and regulations consistent with this Code and campus specific procedures

### PARENTS

- Support District, school, classroom, and school-related activity rules for student behavior and ensure that their children conduct themselves according to District standards.
- Provide the school with their current domicile address and, when available, current telephone numbers and email addresses.
- Ensure student attendance at school. By state law, student attendance is the responsibility of parents and guardians.
- Provide the appropriate school personnel with any student information that will affect the student's ability to learn and the student's behavior.
- Read, acknowledge, and understand these rules and the rules applicable to their children's conduct while they are at school.

### TEACHERS

- Establish classroom-management procedures that promote good student conduct and positive learning environments.
- Contribute to the academic and social/emotional growth of all students.
- Develop constructive and positive relationships with peers, students, and parents.
- Support and adhere to all school and District policies, procedures, and regulations.

### ADMINISTRATOR/CAMPUS BEHAVIOR COORDINATOR

- Develop with all members of the school community an effective School-Based Discipline Management System that promotes and maintains the support of good student behavior.
- Monitor all school systems to ensure that they are conducive to the academic and social/emotional growth of all students
- Develop constructive and positive relationships with peers, students, and parents.
- Implement progressive discipline management techniques that include positive behavioral interventions and supports.
- Ensure and protect staff's and scholars' rights to due process procedures.
- Promptly notify parents/guardians of any violation of the *Code* that results in an exclusionary consequence (i.e. suspension, removal from classroom, campus, or school-related activity).
- Support and adhere to all school and District policies, procedures, and regulations.

### BOARD OF EDUCATION

Approve a *Code of Student Conduct* that identifies standards of conduct for students and enact policies and procedures necessary for implementing and enforcing a structured and disciplined learning environment that promotes constructive and positive relationships among staff, scholars, and parents, and protects the rights and responsibilities of all stakeholders.

# Student Responsibilities

The students' responsibilities for achieving a positive learning environment at school and/or school-related activities include the following:

- Attending all classes each day and being on time in conformity with the compulsory attendance laws of the State of Texas
- Preparing for each class with appropriate materials and completed assignments
- Dressing according to the dress code adopted by each individual school
- Showing respect toward others
- Conducting oneself in a responsible manner
- Paying required fees and fines
- Knowing and obeying all school rules in the *Code of Student Conduct* and the School-Based Discipline Management System
- Cooperating with staff members in the investigation of disciplinary matters
- Seeking changes in school policies and regulations in an orderly and responsible manner through appropriate channels
- Reporting bullying and threats to the safety of students and staff members, as well as misconduct on the part of any other students or staff members, to the building principal, a teacher, or another adult
- Using HISD technology systems for school business purposes only and using school computers and related equipment appropriately
- Abiding by the technology security procedures and Board Policies related to computers and network security, such as never leaving a terminal or workstation unattended or unsecured while logged on to a host computer or network. This also includes a prohibition on altering the imaging or software configuration on any District-provided computing device.
- Reporting all observed or suspected technology security problems immediately to a teacher
- Knowing that the use, possession, and/or sale of illegal or unauthorized drugs, alcohol, and weapons are unlawful and prohibited, and that students may be subject to random searches in accordance with Board Policy and state and federal law in order to assure a safe school environment.

In general, all students are entitled to enjoy the basic rights of citizenship recognized and protected by law for persons of their age and maturity. HISD shall foster a climate of mutual respect for the rights of others. Each student is expected to respect the rights and privileges of other students, teachers, District personnel, and parents while at school or while attending school activities.

Students shall exercise their rights and responsibilities in compliance with rules established for the orderly conduct of the District's educational mission. The District's rules of conduct and discipline and the School-Based Discipline Management System were established to achieve and maintain order in the school. Students who violate the rights of others or District or school rules shall be subject to disciplinary action in accordance with established District policies and procedures.

All students and parents/guardians are expected to maintain the highest level of discipline and decorum at all school functions and school facilities. Failure to comply with administrative directives promoting order, safety, and respect may result in immediately being removed from participation in school activities, including commencement exercises and/or a District facility.

## Student Rights and Responsibilities, Board Policies, and Administrative Regulations

The Board Policies and Administrative Regulations of HISD contain the rights and responsibilities of students that are embodied in this *Code of Student Conduct*. A brief description of student rights and responsibilities is included in this section. The proper balance of student rights and privileges (•) with student responsibilities and obligations (+) is essential to the orderly conduct of the District's educational mission.

### Instructional Programs

- HISD shall be responsible for providing a well-balanced curriculum and for delivering effective instruction to all students enrolled.
- + Students have the responsibility to strive for academic growth by participating in the appropriate educational program to their utmost ability.

### Attendance of Students

- Regular attendance and punctuality shall be required of every student.
- + Students have the responsibility to take advantage of their educational opportunity by attending all classes daily and on time unless circumstances prevent them from doing so.

### Evaluation, Grading, and Promotion/Retention of Students

- Students shall be evaluated on a continuous basis in the most effective manner to determine the extent of their progress.
- + Students have the responsibility to maintain reasonable standards of academic performance commensurate with their ability.

### Complaints

- Students may present any complaint to the District, either personally or through a representative, through the appropriate complaint procedures.
- + Students have the responsibility to follow the established complaint procedures and to accept the decision that results from the complaint process.

### Student Dress Code and Personal Grooming

- Each individual school shall adopt specific standards concerning dress and personal grooming.
- + All students have the responsibility to become familiar with the school's standards and the responsibility to adhere to them.

### Student Publications

- Students are entitled to express, in writing, their opinions and may distribute handwritten, duplicated, or printed materials on school premises or at school-sponsored activities at other locations in accordance with certain conditions and procedures established in Board Policy.
- + Students have the responsibility to become familiar with and follow the conditions and procedures in Board Policy. (See Student Publications, p. 28.)

### Students and School Property

- Students are expected to show proper respect for both persons and property.
- + Students are responsible for their own actions directed toward school property and for damages to property.

### Search of Property and Students

- Students are entitled to the guarantees of the Fourth Amendment of the U.S. Constitution, and they are subject to reasonable searches and seizures.
- + Students have the responsibility not to carry on their person or to have on school property or at school-sponsored events such items as drugs, weapons, alcohol, or other contraband materials in violation of school policy or state law.
- School officials are empowered to conduct reasonable searches of students and school property when there is reasonable cause to believe that students may be in possession of drugs, weapons, alcohol, or other materials ("contraband") in violation of school policy or state law. Students who bring

contraband onto school grounds may be searched in order to secure the school environment so learning can take place and to protect other students from any potentially harmful effects stemming from the contraband. School property such as lockers, desks, computers, and electronic devices shall remain under the control of school officials and shall be subject to search.

- Students do not have a reasonable expectation of privacy in the use of school lockers, school desks, school computers, District-provided electronic devices, and HISD email accounts. HISD computers, electronic devices, and email accounts are subject to random inspection to ensure compliance with acceptable-use policies and compliance with network security procedures.
- The administration may utilize dogs and metal detectors as provided by HISD policies and applicable laws. Metal detectors and trained dogs may be used at random locations and times by HISD personnel as determined by HISD administrative and law-enforcement personnel.

### Search and Confiscation of Social Media Devices

- Students are entitled to learn, and teachers are entitled to teach in an environment that is free of any direct or via social media bullying and/or harassment.
- + School officials are empowered to conduct reasonable searches of social media devices and accounts when it is suspected that such devices or accounts have been used to bully, harass, or threaten an individual or group of individuals or that may contain lewd or embarrassing photographs of a targeted individual or group of individuals. Devices may be confiscated subject to investigation.

### Education During Suspension

- Student absences while suspended shall be considered as excused absences.
- + Teachers must provide opportunities to students to make up work missed while suspended.
- + Students have the responsibility to make up all work missed while suspended within five school days after their return to school from suspension in order to receive credit for the work.

### The 18-Year-Old Student

- The 18-year-old student who has adult status may enroll in and attend public school.
- + The 18-year-old student who is enrolled in public school has the responsibility to follow the policies, procedures, rules, and regulations of the school District.
- The 18-year-old student who has more than five unexcused absences may be withdrawn due to nonattendance for the remainder of the semester after appropriate interventions have been documented. An Admission, Review, and Dismissal Committee shall be convened prior to the withdrawal of an 18-year-old student with disabilities for nonattendance.

### Student Government

- Students shall be afforded the right through appropriately established guidelines to formulate procedures for student government.
- + Student government officers and representatives have the responsibility to participate in student government and to be aware of needs of the school and concerns of the student body and to work within the established process in addressing the needs and concerns.

### Right to Information and Privacy of Records

- Students are assured the right to information and privacy of their records in accordance with the Texas Public Information Act and the Family Educational Rights and Privacy Act of 1974.
- + Parents or eligible students have the responsibility to release information to those individuals or agencies working actively and constructively for the benefit of the student, including, for example, teachers, administrators, school nurses, etc.

## Transportation Service Safety Guidelines

### General Information

Students riding a bus should become familiar with the following bus rules, as safety is extremely important for safe transportation. While on a bus, students are directly supervised by the bus driver. Students reported by the bus driver to have violated transportation rules may be deprived of the privilege of riding the school bus by an appropriate school administrator. Additionally, parents and student should be aware that students at a designated bus stop awaiting school transportation or riding a school bus are considered to be engaged in a school-sponsored or school-related activity and are subject to the general rules for the administration of discipline as specified in *Code of Student Conduct* in addition to potentially losing the privilege of receiving transportation.

Students should be at their bus stops 10 minutes before the scheduled pick-up time in a visible location. Buses will load at schools for seven minutes after the designated dismissal time. Once the buses have shut their loading doors to leave the school, students should not approach the buses in order to eliminate the potential of buses striking students.

### Bus Rules

Misbehavior on the school bus will result in the student being referred to his/her school administrator for appropriate disciplinary measures, which may include being deprived of the privilege of riding the school bus. A video-monitoring system is used on buses, and the video may be used as a basis for determining disciplinary action. A change in transportation services for a student with a disability for whom transportation is a related service requires ARD committee action. A change in transportation services for a Section 504 student requires Section 504 committee action.

For the safety of students, drivers, and other persons, bus drivers have the authority to enforce the rules listed below. Student riders are expected to obey these rules for their safety and welfare:

- Students shall wait in a safe place, clear of traffic and away from where the school bus stops.
- Students shall wait in an orderly manner and avoid horseplay.
- Students shall enter and exit the bus in an orderly manner.
- Students are required to use and securely fasten three-point seat belts, when available, any time the bus is in motion. Students are encouraged to use and securely fasten lap belts, when available, any time the bus is in motion.
- Students shall remain seated in an orderly manner while the bus is in motion and until the bus comes to a complete stop. Students must sit in their assigned seats at all times. Bus drivers have the authority to assign seats and/or make seat-assignment changes.
- Students shall not tamper with bus windows, emergency doors, or any other bus equipment. Emergency doors and exits will be used in the event of a declared emergency or evacuation drill.
- Students shall keep arms, legs, head, and all personal effects inside the bus and out of the aisle.
- Students shall not mark or deface the bus and/or its equipment. Any damage done to the bus is chargeable to the parent of the student responsible for the damage.
- Students shall not fight, scuffle, throw objects, or possess/use laser pointers inside or outside of the school bus or at the bus stop.
- Students who must cross the roadway before entering or after leaving the school bus shall cross the roadway 10 feet in front of the bus and only after the bus has come to a complete stop and upon direction of the bus driver.
- No one except school personnel, authorized adults, and school children assigned to a particular route or schedule may ride a bus, unless written permission is received from the appropriate school administrator.
- Students shall not eat or drink, including candy and gum, or use any tobacco product while on the bus.

- No student shall take or remove from another passenger's personal effects of any kind.
- Students shall use appropriate language while on the bus and shall not engage in conversation or activities considered to be vulgar, abusive, or demeaning.
- Students shall wear classroom-acceptable attire while on the bus.
- Students are not permitted to leave or board the bus at any location other than the assigned stops at home or school.

Should the above rules be broken, students shall be reported to an appropriate school administrator, and discipline may be imposed in accordance with the rules contained in this *Code*.

## Student Misconduct

The *Code of Student Conduct* provides a description of a broad range of behavior considered to be student misconduct. The behavior described should be viewed as representative of the misconduct that most frequently causes a disruption to the orderly educational process. The acts of misconduct listed in Levels I, II, III, IV, and V are not inclusive. The student who commits an act of misconduct that may be classified into any of the five levels will be subject to disciplinary action by the classroom teacher, assistant principal/dean, and/or principal.

### When and Where These Rules Apply

The policies and administrative procedures concerning student conduct apply to actions of students on school property, school buses, at designated bus stops and, in some cases, for conduct occurring off of school property. Additionally, these rules are applicable to students placed in a DAEP (Disciplinary Alternative Education Program). Under state law, a student may be expelled by HISD for Level V misconduct that occurs on the property of another school district within Texas. Additionally, the rules apply to actions of students at all school-sponsored or school-related activities or events such as field trips, sporting events, stadium assemblies, fairs, or evening school-related activities. Students should be aware that the commission of any felony offense, whether at school or away from school, may result in placement of the student in an HISD DAEP or in expulsion. Finally, students should be aware that administrators who are made aware of criminal activity whether on or off campus will make a report to appropriate law-enforcement agencies and that, in addition to these administrative rules, students may be subject to criminal charges for violations of the law.

### Gang-Free School Zone

In addition to regular discipline, students should be aware that HISD is a "gang-free school zone." HB 2086 of the 81st Legislature established gang-free school zones and provides for enhanced punishment for gang-related criminal activity occurring in, on, or within 1,000 feet of any real property that is owned, rented, or leased by a school or school board. Under the statute, the punishment for certain offenses is increased to the punishment prescribed for the next-highest category of offense if the actor is 17 years of age or older, and it is shown beyond a reasonable doubt after the trial of the offense that the actor committed the offense at a location that was owned, rented, or leased by a school or school board.

### General Discipline Guidelines for Assessing Penalties

When administering discipline, District personnel shall adhere to the following general guidelines:

1. Discipline shall be administered when necessary to protect students, school employees, or property and to maintain essential order and discipline.
2. Students shall be treated fairly and equitably. Discipline shall be based on a careful assessment of the circumstances of each case. Administrators should use caution and should ordinarily consider developmentally appropriate interventions for very young children who engage in misconduct. Exclusionary consequences, such as in-school suspension (ISS) and out-of-school suspension (OSS), referral to a Disciplinary Alternative Education Program (DAEP), or expulsion to the Juvenile Justice Education Program (JJAEP) should be used only after behavioral interventions and

supports have been exhausted. To the greatest extent possible, and except in situations where safety or the targeted students' issues dictate otherwise, administrators should work to keep students in school and provide them with the necessary behavioral supports and interventions. ISS, OSS, or DAEP referral should be reserved as a consequence for student conduct when other documented options either have not been effective or will not serve to protect other students and staff at the school or will not preserve an orderly school environment. When using ISS, OSS, or a DAEP referral, the length of removal should start with the minimum (e.g. partial-day suspension) in order to minimize any adverse impact it may have on the student's academic success.

3. Factors that must be considered in each decision concerning suspension, removal to a disciplinary alternative-education program, expulsion, or placement in a juvenile-justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, include such factors as:
  - a. seriousness of the offense
  - b. student's age and intent or lack of intent at the time the student engaged in the conduct
  - c. student's disciplinary history
  - d. student's attitude
  - e. potential effect of the misconduct on the school environment
  - f. state law requirements for certain disciplinary consequences
  - g. whether the facts of the case warrant consideration of self-defense as a mitigating factor in the assessment of any punishment
  - h. whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct
  - i. a student's status in the conservatorship of the Department of Family and Protective Services
  - j. a student's status as a student who is homeless as defined by 42 U.S.C. Section 11434a
4. In the administration of discipline, administrators must be aware that HISD Board Policy FO (LOCAL) prohibits the suspension, placement in a Discipline Alternative Education Program, or expulsion of students prior to third grade unless required by law.
5. Serious offenses are those that substantially disrupt or materially interfere with the orderly process in the classroom, HISD transportation, the school, or any school-related activity and may include persistent misbehavior or Level II or higher misconduct.
6. "Persistent" shall be defined as more than one instance of Level II or higher misconduct. An administrator may find, on the basis of the facts and circumstances of the case, that a Level III offense constitutes a serious offense.
7. Finally, a finding that a student has engaged in any offense listed as an offense under Level IV or Level V constitutes a finding that the student has engaged in serious misbehavior.

#### Levels of Offenses/Overview

Acts of misconduct are categorized into the following five levels of offenses:

##### Level I—Violation of Classroom Rules:

- Offenses that generally occur in the classroom and can be corrected by the teacher.

##### Level II—Administrative Intervention:

- Offenses that are more serious in nature or a continuance of Level I misconduct.

##### Level III—Targeted Intervention, Restitution, Suspension, or Optional Removal to Disciplinary Alternative Education Program:

- Offenses that seriously disrupt the educational process in the classroom, in the school, and/or at school-related activities, or repeated instances of Level I, II, or III misconduct. A finding that a student has engaged in a Level III offense may constitute a serious offense. Note: A school district school may not place a student who is homeless in out-of-school suspension unless

the student engages in conduct described by Subsections (c) (1)-(3) while on school property or while attending a school-sponsored or school-related activity on or off of school property. The campus behavior coordinator may coordinate with the school district's homeless education liaison to identify appropriate alternatives to out-of-school suspension for a student who is homeless. In this subsection, "student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a. In addition, Board Policy FO (LOCAL) prohibits the suspension, placement in the DAEP, or expulsion of students prior to third grade unless required by law.

##### Level IV—Placement in a Disciplinary Alternative Education Program:

- Criminal offenses as defined in Level IV and offenses that have been determined to be significantly serious by the School Board. This may include any felony, whether school-related or not, unless it is one for which expulsion is required. A finding that a student has engaged in an offense listed under Level IV constitutes a finding that the student has engaged in serious misbehavior.

##### Level V—Expulsion for Serious Offenses:

- Offenses that include those for which a student may or shall be expelled under state law. They include continued serious or persistent misbehavior that violates the District's *Code of Student Conduct* by a student while placed in a Disciplinary Alternative Education Program. A finding that a student engaged in an offense listed under Level V constitutes a finding that the student has engaged in serious misbehavior.

Staff members will use their professional judgment to determine the most effective way to correct student misconduct. Disciplinary actions apply equally to all students, except as provided under Board Policy and Administrative Regulations related to disabled students. (See pp. 24.)

##### General Procedures for Resolving School Problems

School problems can best be resolved at the campus level where problems start.

In order to resolve problems, parents, guardians, and/or students can meet with a teacher at appropriate times to discuss existing problems. If parents, guardians, or students are dissatisfied with the teacher's decision or explanation, they can meet with the building administrator to review the area of concern.

If further assistance is needed, parents, guardians, or students can meet with the area superintendent or his or her designee.

Parents, guardians, and students who wish to appeal placement in a Disciplinary Alternative Education Program that extends beyond the next grading period or who wish to appeal an expulsion should refer to the section of the *Code* relating to procedures for appropriate guidance. Grading period is defined as the six- or nine-week grading cycle applicable at the campus at issue.

## Levels of Student Misconduct and Disciplinary Options

### Level I: Violation of Classroom or Transportation Rules

Each teacher or staff member establishes the rules for the classroom and for school-related activities. Much behavior can be managed by the classroom teacher. The teacher may use any of the disciplinary options listed below in maintaining classroom discipline.

#### Level I acts of misconduct include such behavior as:

- Violations of rules or procedures established by the teacher
- Failure to participate in classroom activities
- Unexcused tardiness to class
- Failure to bring required classroom materials or assigned work to class

- General misbehavior such as eating in class, horseplay, making excessive noise, or violating campus dress codes
- Any other act that disrupts the classroom or interrupts the operation of the class
- Failure to deliver or return written communications between home and school
- Disruptive or noncompliant behavior on a school bus or at a school bus stop
- Disclosure or sharing of individual computer-account passwords

**Disciplinary Options/Responses:**

- Oral correction
- Redirection
- Proximity
- Planned feedback
- Pre-correction
- Review, re-teach, and practice expectations
- Provide opportunities for students to practice expected behavior and provide descriptive feedback
- Other appropriate in-class disciplinary actions
- Teacher-student conference
- Parent contact: note or telephone call to parent
- Student-counselor conference
- Detention (maintained by teacher) before or after school
- Restriction of school-bus privileges by the bus operator

**Procedures:**

1. Any staff member who observes a student violating class rules may correct the student.
2. A record of the offenses and disciplinary actions should be maintained by the teacher or staff member on the appropriate form.
3. The teacher should have a planned discussion with the student about a particular concern or behavior and develop a plan for resolving or changing it.
4. The teacher should discuss the misbehavior with the parent, an administrator, or support personnel.
5. Level I behavior violations and discipline options/responses are not limited to those provided. Serious or repeated violations may result in a more severe response or referral to Level II.

**Level II: Administrator Intervention**

Some infractions will result in a referral to an administrator. The disciplinary response depends on the offense, previous actions, and the seriousness of the misbehavior. Level II acts of misconduct include those student acts that interfere with the orderly educational process in the classroom or in the school. A teacher who observes a student engaged in Level II or higher misconduct will fill out a discipline/referral form for the principal or other appropriate administrator. The principal will forward an oral or written report to the parents.

**Level II acts of misconduct include such behavior as:**

- Repeated violation of classroom or transportation rules under Level I
- Cheating, plagiarism, or copying the work of other students, which includes failure to comply with test security procedures and use of cell phones, smart watches, and electronic devices during testing
- Leaving the classroom or school grounds without the permission of school personnel
- Cutting class or skipping school
- Possession of matches or other flammable materials
- Inappropriate display of affection, which should be enforced equitably without regard to sexual orientation, gender identity, or gender expression
- Posting or distributing unauthorized materials on school grounds
- Failure to abide by rules and regulations at extracurricular activities or at co-curricular activities such as field trips
- Loitering in unauthorized areas
- Use or operation of paging devices, laptops, cell phones, tablets, beepers, smart watches, or any other type of personal device with wi-fi or carrier-based internet connectivity on

school campuses or at functions during school hours in direct violation of campus usage procedures and regulations. Such devices may be used at a time and place as determined by the individual campus in coordination with the campus Shared Decision-Making Committee (SDMC). In addition to disciplinary action, the unauthorized use of electronic devices will result in confiscation. A \$15 administrative fee payable to HISD will be charged if the device is claimed within the 30 days. Devices not claimed will be sent to Property Management for disposal.

- Possession of iPods, MP3 players, personal radios, or personal music devices at school, with final determination of the limits made at the individual campus level
- Cafeteria disturbance
- Profanity, vulgar language, or obscene gestures
- Violation of a school's mandatory school-uniform policy
- Disruptive behavior on a school bus or at a school-bus stop
- Any other acts that interfere with the orderly educational process in the classroom or the school
- Accessing materials and sites on the internet that are deemed to be inappropriate by HISD
- Sending or forwarding inappropriate electronic communications, including emails containing offensive language, untruthful statements, junk emails, chain letters, or jokes using HISD Information Technology resources or the HISD network and on personal devices/accounts, if it is determined that the communications have a material and substantial interference with school activities or with the rights of students
- Possession of pepper spray or mace

**Disciplinary options/responses:**

- Teaching and practicing the expected behavior
- Have the student or the teacher collect data on the misbehavior and discuss if student awareness is the problem
- Have the student set goals
- Planned discussion
- Loss of privileges
- Restitution and amends-making to resolve conflict
- Parental contact by phone and written or oral notification to parent or guardian
- Required administrator/student/parental conference
- Detention or placement in in-school suspension, which should include academic tutoring, classroom work provided by the teacher, and/or instruction on skill-building related to the student-behavior problem. Administrator should guard against students using in-school suspension as a way to avoid a particular class or task. This exclusionary consequence should be used only after behavior interventions and supports have been exhausted.
- Exclusion from extracurricular activities, such as field trips and commencement exercises/award ceremonies
- "Behavior," "behavioral," and/or "conduct" contracts
- Teacher removal of the student from the classroom (following procedures as outlined on p. 24)
- Suspension of transportation privileges
- Removal of school transportation privileges
- Any other appropriate disciplinary actions determined by the administration

**Procedures:**

1. Referral to administrator by way of written report not to exceed one page in length
2. Administrator confers with student and/or teacher to establish appropriate action
3. Written or oral notification of action is sent to parent. Notification is sent to the teacher indicating action taken.
4. Discipline Referral Form is retained by the administrator
5. Level II behavior violations and discipline options/responses are not limited to those provided
6. Repeated violations shall result in a more severe response and/or referral to Level III

### Level III: Targeted Intervention, Restitution, Suspension, or Optional Removal to a Disciplinary Alternative Education Program

Level III acts of misconduct may result in a variety of age-appropriate consequences that will appropriately address the severity of the offense or repetitive misbehavior that has failed to improve after several interventions and supports have been implemented and documented. Prior to the implementation of any exclusionary consequence (i.e. in-school suspension, out-of-school suspension, or DAEP) and pursuant to Texas Education Code (TEC) Chapter 37.001 (a)(4), an administrator must consider the following factors: (1) self-defense; (2) intent or lack of intent when the student engaged in the conduct; (3) a student's disciplinary history; (4) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct; (5) a student's status in the conservatorship of the Department of Family and Protective Services; and, (6) a student's status as a student who is homeless as defined by 42 U.S.C. Section 11434a. An in-school suspension (ISS) may not exceed five consecutive days, and an out-of-school suspension (OSS) may not exceed three consecutive days for any act of misconduct. When using ISS and OSS, the length of removal should start with the minimum for the first serious offense (e.g. partial-day suspension) in order to minimize any adverse impact this exclusionary consequence may have on the student's academic success. The campus behavior coordinator/administrator must ensure that the parent/guardian is informed of any disciplinary concern and/or consequence.

**TEC 37.005(d):** A school district may not place a student who is homeless in out-of-school suspension unless the student engages in conduct described by subsections (c)(1)-(3) while on school property or while attending a school-sponsored or school-related activity on or off of school property. The campus behavior coordinator may coordinate with the school district's homeless education liaison to identify appropriate alternatives to out-of-school suspension for a student who is homeless. In this subsection, "student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a.

**Board Policy FO (LOCAL)** prohibits the suspension, placement in the DAEP, or expulsion of students prior to third grade unless required by law.

#### Level III Acts of Misconduct Include Such Behavior as:

- Mutual combat (fighting)
- Gambling
- Possession of drug paraphernalia
- Misdemeanor stealing/theft of property, including computers and related equipment, in an amount under \$750. This can include use of another student's identification or identification number to access services such as the school-lunch program.
- Chronic cutting class or skipping school. (Students who are determined to be truant shall be promptly referred to the attendance officer for referral to the courts for enforcement of the compulsory attendance laws and not dealt with through referral to a DAEP.)
- Interfering with school authorities
- Persistent disruptive behavior on a school bus
- Selling or soliciting for sale any merchandise on school campus without the authorization of the building principal
- Display of disrespect toward school personnel or campus visitors
- Aggressive, disruptive action or group demonstration that substantially disrupts or materially interferes with school activities. This includes such acts as boycotts, sit-ins, trespassing, and walkouts.
- Failure to comply with reasonable requests of school personnel and/or defiance of the authority of school personnel
- Failure to adhere to terms of behavior contracts
- Knowingly making a false report against a staff member that is later determined to be unsubstantiated at the conclusion of any investigation initiated as a result of the report

- Changing/and or falsifying school records or documents or signing a parent, teacher, or administrator's name on school documents
- Indecent/unsolicited sexual proposal/sexual harassment
- Harassment/dating violence, including 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
- Engaging in threats or other acts of intimidation that interfere with another student's desire or willingness to participate in the educational process
- Any verbal abuse of others, including slurs, name-calling, or derogatory statements to another person because of that person's race, color, religion, national origin, disability, physical/personal appearance, sexual orientation, and gender identity and/or gender expression.
- Bullying includes a single significant act or pattern of acts by one or more students against another student that exploits an imbalance of power and involves engaging in expression (written, verbal, or electronic) or physical conduct that: (1) Physically harms a student, damages a student's property, or places a student in reasonable fear of harm to the student's person or of damage to the student's property; (2) Is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student; (3) Materially and substantially disrupts the educational process or the orderly operation of a school or classroom; or (4) Infringes on the rights of the targeted student at school. Bullying includes "cyberbullying," which includes any bullying done through the use of any electronic communication device, including cameras, social-media applications, internet websites, and any other internet-based communication tool, in addition to more traditional devices, such as phones, e-mail, and instant or text messaging.  
Provisions regarding bullying and cyberbullying apply to acts or communications that: (1) are delivered to school property or the site of a school-related activity; (2) occur on a publicly or privately owned school bus or vehicle being used to transport students to or from school or a school-related activity; or (3) occur off school property or outside of school-related events but the conduct interferes with a student's educational opportunities or substantially disrupts operations of a school, classroom, or a school-related activity. This may include, but is not limited to, continuing to send e-mails to someone who has said he or she wants no further contact with the sender; sending or posting threats, sexual remarks, or pejorative labels (i.e., hate speech); ganging up on targeted students by making them the subject of ridicule in electronic forums and posting false statements as fact intended to humiliate another student; disclosure of personal data such as another student's real name, address, or school on websites or forums to embarrass or harass; posing as another student for the purpose of publishing material in his or her name that defames or ridicules him or her; sending threatening and harassing texts, instant messages, or emails to another; and posting or sending rumors or gossip to incite others to dislike and/or gang up on the targeted student.
- Participation in activities by groups such as gangs and cults
- Visual display of gang-related signs or symbols on the body, clothing, accessories, or personal property of the student (e.g., notebooks, book covers, journals). Gang-related associations may be referred to the HISD Police Department for appropriate documentation.
- Failure or refusal to cover up while on campus or at a school-related activity any tattoo that is inappropriate, obscene, offensive, vulgar, or gang-related
- Possession or use of fireworks, "poppers," smoke or stink bombs, or any other pyrotechnic device that may be used to disrupt the educational process

- Possession of laser pens or laser pointers
- Possession of live ammunition or bullets
- Misdemeanor criminal mischief (i.e., vandalism) resulting in the destruction or defacing of any property, including computers and related equipment, in an amount greater than \$20 but less than \$1,500. This includes rendering computers or related equipment inoperable or damaging them by erasing data with magnets; intentionally introducing viruses, worms, or Trojans; or tampering with programs or data without authority.
- Use of the school computer network for soliciting or purchasing commercial materials and/or services of any kind
- Use of school computers, facsimile equipment, or other electronic devices, including cell phones or digital cameras, to transmit, receive, view, or display obscene, vulgar, sexually explicit, or racist media or to display information that advocates unlawful activities or provides guidance on the construction or production of weapons, illegal devices, or controlled substances.
- Logging on to a computer, sending email, or accessing the internet or the District's intranet using a name or password other than the student's own
- Posting unauthorized web pages, graphic images, or offensive language or comments on a school/district server, web page, or guest book
- Altering the software configuration or imaging or disabling security features on a District-provided computer or computing device. Students found to have disabled security features or altered the software image on more than one occasion may forfeit their privilege to use District-provided computers and devices.
- Use of the school computer network to engage in participation in hate groups
- Use of any computer to compromise or infiltrate systems via the network with the intent to make a machine or network resource unavailable to its intended users by temporarily or indefinitely disrupting services of a host connected to the network or the internet by denial of service attacks. This includes network vulnerability tests, port scanners, network probes, "sniffers," traffic monitoring, broadcast attacks, and "denial of service" attacks.
- Any other violation of the HISD Acceptable Use Policy related to the use of HISD information technology resources
- Use of the school-computer network with the intent to incite violence or aggressive and/or disruptive action on the part of the student body, use of slanderous language, or use of language that promotes racial disorder or sexual harassment and is disruptive to the school environment
- Possession or use of any prescription or nonprescription drug, medicine, vitamins, or other chemical in violation of the Guidelines for Dispensing Medications at School
- Refusal to cooperate in, or interference with, a random metal-detector safety search
- "Sexting" or using a cell phone or other personal communication device to send text or email messages or possessing text or email messages containing images reasonably interpreted as indecent or sexually suggestive while at school or at a school-related function. In addition to any disciplinary action, phones will be confiscated, and students should be aware that any images suspected to violate criminal laws will be referred to law-enforcement authorities.
- Smoking, vaping, using, or possessing tobacco, tobacco products, smokeless cigarettes, e-cigarettes, any other nicotine delivery device, or any substance for consumption containing nicotine
- Any other acts of serious misconduct that disrupt the school environment in the classroom, on a school bus, and/or in school
- Assisting directly or indirectly with the promotion of any behavior prohibited by this *Code of Student Conduct*

The Following Level III Offenses Represent an Elevated Safety Risk to the Campus:

- Repeated possession of ammunition or bullets
- Possession of electric stun guns or other protective devices designed to administer an electric shock

- Possessing a knife, which may include a switchblade knife, razor blades, utility knives, X-ACTO knives, or other objects that are designed to cut
- Possessing brass knuckles or weapon-like club
- Hazing, which means any intentional, knowing, or reckless act 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 being initiated into, affiliating with, holding office in, or maintaining membership in any organization or general classification of students whose members are or include other students
- Misdemeanor extortion, which is defined as obtaining money or information from another by coercion or intimidation of a value less than \$1,500
- Bribery or attempted bribery as defined by Section 36.02 of the Texas Penal Code
- Engaging in assault not involving bodily injury, which is defined as intentionally or knowingly threatening another with imminent bodily injury (Section 22.01 (a)(2), Penal Code)

#### **Disciplinary Options/Response:**

- Individualized behavior-intervention plan
- Counseling
- Community service that is age-appropriate, adult-supervised, and with parental consent
- Required administrator/student/parent conference
- Restitution or restoration, as applicable. Administrators should consider in-kind restitution that allows the student (not the parent) to restore the school environment by addressing the problem caused directly (e.g. vandalism to property). Restoration refers to (re)building relationships, which is an adult-mediated process.
- Exclusion from extracurricular activities such as field trips and commencement exercises/award ceremonies
- Placement of the student in in-school suspension (after implementation and consideration of Procedures 3 a-f below)
- Suspension for up to three school days per occurrence (starting with the minimum)
- Removal of transportation services for up to one year
- Restriction or removal of computer-use privileges for up to one year (not to interfere with computer driven instruction)
- Teacher removal of the student from the classroom (following procedures as outlined on p. 24)
- Referral to a District Disciplinary Alternative Education Program
  - Student assignments to the DAEP may be reduced by one day for every full week (Monday-Friday) the student has had perfect attendance with no behavior referrals and has demonstrated academic engagement.
  - Students enrolled at the DAEP with Level III assignments at the end of the school year will be given summer options to fulfill their length of enrollment commitment to provide students the opportunity to begin the next school year at their home campus (i.e. summer school, weekend community service projects, summer community services projects, summer jobs, etc.)
- Any other appropriate disciplinary actions determined by the administration
- For those offenses that represent an elevated safety risk to the campus, a combination of the above interventions and/or consequences should be considered to ensure the safety and well-being of students and others.

#### **Procedures:**

1. Referral to administrator by way of discipline report with communication also sent to the parent. Out-of-school suspension occurs when a student is sent home during any part of the regular school day because of a disciplinary concern. "Informal" suspensions (i.e. telling a parent to take the student home because of misconduct or due to safety concerns but not giving the parent a suspension letter) are prohibited by district policy FO (LOCAL), and there is no authority under state law for removal of a student from school without documentation of the removal. All suspensions are to be documented in the HISD Student Information System.

2. Pursuant to state law, students under the age of 6 may not be placed in a DAEP. Board Policy FO (LOCAL) prohibits the suspension, placement in a Discipline Alternative Education Program, or expulsion of students prior to third grade unless required by law. In addition, TEC 37.005(d) prohibits placing a student who is homeless in out-of-school suspension unless the student engages in conduct described by Subsections (c)(1)-(3) while on school property or while attending a school-sponsored or school-related activity on or off of school property.
3. Prior to considering in-school suspension (ISS), out-of-school suspension (OSS), or a DAEP referral, administrators shall assure consideration and implementation of the following guidelines:
  - a. To the greatest extent possible, and except in situations where safety or the targeted students' issues dictate otherwise, administrators should work to keep students in school and provide them with the necessary behavioral supports and interventions. Exclusionary consequences (i.e. ISS, OSS, DAEP) should be used only after behavior interventions and supports have been exhausted.
  - b. Campus-based staff should design a graduated system to handle first, second, or third offenses of developmentally appropriate responses to misconduct that keeps students in school whenever possible, addresses the harm caused, and considers the factors that may contribute to the problem while encouraging and assisting students to take responsibility for changing their behavior. After considering the factors, a first offense that warrants a suspension would range from a partial day to one day; a second offense that warrants a suspension would range from a partial day to two days; a third offense that warrants a suspension would range from a partial day to three days.
  - c. OSS should not be a default response to minor offenses—teachers, administrators, staff, students, and parents should be clear as to what constitutes a minor offense.
  - d. When using ISS, OSS, or DAEP, the length of removal should start with the minimum (e.g. partial-day suspension) in order to minimize any adverse impact it may have on the student's academic success.
  - e. In-school suspension should include academic tutoring, classroom work provided by the teacher, and/or instruction on skill-building related to the student's behavior problem.
  - f. Administrators should guard against students using in-school suspension as a way to avoid a particular class or task.
4. Administrator confers with student and parent about the misconduct. The student is given an opportunity to explain the incident. The administrator determines misconduct and, after consideration of all factors, including self-defense, intent or lack of intent, student's disciplinary history, the student's capacity to appreciate the wrongfulness of the conduct, status with Family and Child Protective Services, and homeless status determines consequences, which may include out-of-school suspension for a maximum of three days or placement in in-school suspension for a maximum of five days. For teacher removals pursuant to Tex. Educ. Code Sec. 37.002, refer to procedures for teacher removal of students.
5. After careful consideration of all factors and the circumstances of the situation, an administrator may also decide to refer student to a DAEP. An administrator shall consider the following mitigating factors when making decisions about suspension and/or removal to a DAEP regardless of whether the decision concerns a mandatory or discretionary action: seriousness of the offense; student's age, intent or lack of intent at the time the student engaged in the conduct; student's disciplinary history; student's attitude; potential effect of the misconduct on the school environment; state law requirements for certain disciplinary consequences. Additionally, the state law requires that the following also be considered: whether the facts of the case warrant consideration of self-defense as a mitigating factor in the assessment of any punishment; whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct; a student's status in the conservatorship

- of the Department of Family and Protective Services; or a student's status as a student who is homeless.
6. If infraction may result in removal to a DAEP, the administrator will schedule a conference with the student and parent/guardian within three (3) school days of the reported infraction. The administrator must provide the parent/guardian with written notice regarding the discipline consequence within seven (7) school days from the date the infraction was reported to the administrator. The date for the conference may be deferred beyond seven school days with the mutual agreement of the parties; however, the student may not be placed in an unsupervised setting beyond suspension for three days while awaiting the conference and final decision.
7. At the discipline conference, the administrator will present the facts as reported to him/her, and the student will be given an opportunity to explain the incident. Written notice of the offenses and the action taken are given to the parent and teacher at the conclusion of the conference. If the student is referred to a DAEP, the parent/guardian will be provided a letter stating the reasons for the removal and setting the term of placement. The letter placing the student should state the term of placement in a specific number of days of successful attendance in the DAEP. The final day of placement shall extend to a natural transition point such as the end of a grading cycle, a semester, or the school year. In addition, at the discretion of the Office of Student Support and upon review, a student might be released prior to the end of the student's assigned days, when the assigned length of placement would end within 15 days after the start of the next semester for high-school students and within 15 days after the start of the next grading cycle for middle-school students.
8. If the referral to a DAEP extends beyond the end of the next grading period or the end of the school year, the rules contained in the procedures section of this *Code* on page 17 for a long-term removal to a DAEP will be followed.
8. All school behavior coordinators must schedule a transitional meeting in accordance with the procedures specified in this *Code*: "Procedures for Students Transitioning to a Regular Classroom from a Juvenile Justice Facility/Program or a Disciplinary Alternative Education Program."

#### **Level IV: Placement in Disciplinary Alternative Education Program (DAEP)**

The default consequence for Level IV offenses is removal to a DAEP. However, pursuant to TEC Chapter 37.001 (a)(4), an administrator must consider the following factors prior to making the decision to remove to the DAEP: (1) self-defense; (2) intent or lack of intent when the student engaged in the conduct; (3) a student's disciplinary history; (4) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct; (5) student's status in the conservatorship of the Department of Family and Child Protective Services; and (6) student's status as a student who has been identified as homeless. Given this consideration, the campus behavior coordinator/administrator may choose an alternative consequence to removal to the DAEP. The Level IV offense and the subsequent consequences must be documented in the Student Information System. In addition, Level IV offenses, for the most part, must have some level of police involvement and filed report. Board Policy FO (LOCAL) prohibits the suspension, placement in the DAEP, or expulsion of students prior to third grade unless required by law. In the majority of cases, the length of placement in a DAEP for elementary school students is 15 days of successful attendance and for middle/high school students is 45 days of successful attendance. Placements may not generally exceed one year, unless after District review, it is determined that the student is a substantial and real threat to the safety of other students or a real and substantial threat to District employees, and it is determined that placement is in the best interest of the student. Transfer students remain on the campus that accepted the transfer for the duration of the school year; therefore, if a transfer student is placed in the DAEP and meets all exit requirements, the transfer student returns to the sending campus during the current school year, unless statute or Board policy requires the permanent removal of the student from the sending campus. The campus behavior coordinator/administrator

must ensure that the parent/guardian is informed of any disciplinary concern and/or consequence.

**Level IV acts of misconduct include such behavior as:**

- Felony conduct: There are three instances of felony conduct for which a student must be referred to a DAEP. The placement made in accordance with this section shall be for any period considered necessary on the basis of the circumstances and facts known; however, the student shall still receive a review of the placement at intervals not to exceed 120 days. The circumstances include:
- Engaging in any conduct punishable as a felony on campus, at a school-related function or activity, or within 300 feet of the school property line.
- While enrolled in HISD and regardless of the location of the offense, receiving deferred prosecution or a finding by a court or jury of delinquent conduct under the Family Code, or the reasonable belief by the principal that the student has committed a felony under Title 5 of the Penal Code, which includes murder, capital murder, manslaughter, criminally negligent homicide, false imprisonment, kidnapping, aggravated kidnapping, trafficking of persons, indecency with a child, improper photography or visual recording, assault of a public servant, assault of a security officer, assault of an emergency-services person, assault of a correctional officer, sexual assault, aggravated assault, aggravated sexual assault, injury to a child, elderly, or disabled individual, abandoning or endangering a child, deadly conduct, terroristic threat, aiding suicide, tampering with a consumer product, or the felony offense of aggravated robbery under Section 29.03, Penal Code, regardless of where the offense occurs.
- Engaging in any conduct punishable as a felony other than one defined in Title 5 of the Penal Code that occurs more than 300 feet from the campus, as measured from any point on the school's real-property boundary line, and is not related to a school-based activity or function, if the principal reasonably believes that the student has engaged in such felony, and the principal also determines that the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

Level IV misconduct also includes a finding that the student has engaged in the following conduct on a school campus, at a school-related activity, or within 300 feet of school property:

- Engaging in assault, which is defined as intentionally, knowingly, or recklessly causing bodily injury to another and which may include causing bodily injury by recklessly or intentionally pointing a laser pointer or laser pen at another student or staff member (Section 22.01(a)(1) and Section 1.07(a)(8), Penal Code).
- Selling, giving, delivering to another person or possessing, using, or being under the influence of marijuana, a controlled drug, or other controlled substances (Chapter 481, Health and Safety Code, or 21 U.S.C. Section 801 et seq.), unless punishable as a felony.
- Selling, giving, delivering to another person or possessing, using, or being under the influence of a dangerous drug (Chapter 483, Health and Safety Code), unless punishable as a felony.
- Possessing, selling, giving, or delivering an alcoholic beverage to another person.
- Committing a serious act or offense while under the influence of alcohol.
- Engaging in conduct that contains the elements of an offense relating to an abusable volatile chemical or delivery to a minor or possession of paraphernalia used with volatile chemicals (Sections 485.031 through 485.034, Health and Safety Code).
- Possessing, selling, giving, delivering, using, or being under the influence of designer drugs, synthetic marijuana, synthetic cannabinoids (e.g. "K2" and "Spice"), stimulants (e.g. "bath salts"), or analogs of any controlled substance, regardless of whether currently scheduled or classified as an illegal drug under state or federal law and regardless of whether the substance is legally sold or marketed for another purpose, such as "herbal incense" or "bath salts," and is labeled "not for human consumption."
- First instances of using or being under the influence of marijuana,

a controlled drug, a dangerous drug, an alcoholic beverage, an abusable volatile chemical or possession of inhalant paraphernalia, designer drugs, synthetic marijuana, synthetic cannabinoids, stimulants (e.g. "bath salts"), or analogs of any controlled substance shall result in referral, screening, and appropriate intervention through the Education First program.

- Engaging in conduct that contains elements of the offense of public lewdness or indecent exposure, defined to include offenses against chastity, common decency, morals, and the like (Sections 21.07 and 21.08, Penal Code).
- Felony stealing/theft of computer equipment or any other property in an amount greater than \$750.
- "Hacking" or other use of computers to gain unauthorized access to District or other databases, including student, faculty, or District data files, without permission. In addition to any criminal penalties, students may have their computer privileges suspended (Sections 33.02 Penal Code).
- Use of computers or any other means to access and tamper with HISD records, which includes grade books or any other public-school records or any other records of a school-related activity maintained by HISD (Sec. 33.02 Penal Code).
- Burglary of an HISD facility.
- Defacing of school property with graffiti or other means that results in a loss or destruction to property in an amount less than \$20,000 (Section 28.08, Penal Code).

Level IV misconduct also includes a finding, after specifically considering disciplinary factors to determine whether removal is appropriate under the circumstances, that the student engaged in the following conduct on school property or at a school-sponsored or school-related activity:

- Engaging in assault not involving bodily injury, which is defined as 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 (Section 22.01 (a)(3), Penal Code).
- Possession of BB guns, pellet guns, or air rifles.
- Discharging or spraying mace or pepper spray, which results in a school disturbance.
- Possessing a knife, which may include a switchblade knife, razor blades, utility knives, X-ACTO knives, or other objects that are designed to cut and that are reasonably determined, by a police investigation, under the circumstances to have been possessed by the student for use as a weapon.
- Possessing of brass knuckles that are reasonably determined, by a police investigation, under the circumstances to have been possessed by the student for use as a weapon.
- Uses, exhibits, or possesses\*\* a club, which is an instrument that is specially designed to inflict serious bodily injury or death when a person is struck with the instrument and includes a blackjack, nightstick, mace, or tomahawk (Section 46.01 (1), Penal Code).
- Possession of replicas of guns that are sufficiently similar in appearance to a real gun such that, if pointed at or shown to another person, a reasonable person may believe the student to be in possession of a firearm.
- Possession of electric stun guns or other protective devices designed to administer an electric shock with intent to do harm.
- Participation in an illegal organization such as a fraternity, sorority, secret society, gang, cult, or other criminal combination prohibited by law that is defined as an organization composed at least in part of students and that seeks to perpetuate itself by recruiting members from the students enrolled in school on the basis of the decision of its membership rather than on the free choice of a student in the school who is qualified by the rules of the school to fill the special aims of the organization (Section 37.121, Texas Education Code). Participation includes indirect participation, such as recruiting and indirect guidance or leadership of the activities of gangs, cults, secret societies, and fraternities and sororities. An offense under this section is a Class C misdemeanor Tex. Educ. Code 37.121(c).
- A student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student commits the following on or within 300 feet of school

property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property: engages in conduct that contains the elements of the offense of harassment under Section 42.07(a)(1), (2), (3), or (7), Penal Code, against an employee of the school district.

Level IV additionally includes the following, regardless of whether the offense occurs on school property or at a school-sponsored or school-related activity:

- Conduct involving a public school that contains the elements of the offense of false alarm or report (Section 42.06, Penal Code) or terroristic threat (Section 22.07, Penal Code). A terroristic threat is defined as threatening to commit violence or harm to any person or property with intent to cause an emergency response or that places any person in fear of imminent serious bodily injury; interrupting the occupation or use of a building, room, place of assembly, or place to which the public has access by threats of violence or other means; or causing impairment or interruption of public communications, public transportation, the public water, gas, or power supply, or other public service (Section 22.07, Penal Code).
- Making a "hit list" in which a student makes a list of people to be harmed by means of a firearm, knife, or any other object to be used with the intent to cause bodily harm.
- Engaging in the offense of retaliation under Section 36.06, Penal Code, against any school employee by engaging in conduct such as intentionally or knowingly threatening to harm another by an unlawful act in retaliation for that person's performance of his or her official duties, unless the student engages in conduct punishable as a felony in retaliation against a person, in which case the student may be expelled under Level V.
- A student may be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 or expelled if the student:
  - engages in bullying that encourages a student to commit or attempt to commit suicide;
  - incites violence against a student through group bullying; or
  - releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.

#### **SCHOOL ACTIVITIES WHILE PLACED IN A DAEP**

The terms of a placement in a Disciplinary Alternative Education Program (DAEP) under this required placement section, as well as under Level III, prohibit the student from attending or participating in any school activities.

**Special Education and Section 504 students** may be placed in a DAEP strictly in accordance with the procedures for discipline of students with disabilities beginning on p. 20.

Student assignments to the DAEP may be reduced by one day for every full week (Monday-Friday) the student has had perfect attendance with no behavior referrals and has demonstrated academic engagement.

Students enrolled at the DAEP with Level IV assignments at the end of the school year will be given summer options to fulfill their length of enrollment commitment to provide students the opportunity to begin the next school year at their home campus (i.e. summer school, weekend community service projects, summer community services projects, summer jobs, etc.).

#### **Procedures:**

1. Referral to administrator by way of written report not to exceed one page in length, with report sent to the parent. If appropriate, there will be an investigation by the HISD Police Department. A police report is required if the student's conduct is a criminal offense. If the student is transported by the police, the parent should ordinarily be notified within one hour.
2. The administrator will schedule a conference with the student and parent/guardian within three (3) school days of the

reported infraction. The administrator shall make reasonable efforts to invite the parent or guardian to the conference. If, after reasonable efforts to include the parent or guardian have been made, he or she is unable to attend, the administrator may proceed with the conference in his or her absence. The administrator must provide the parent/guardian with written notice regarding the discipline consequence within seven (7) school days from the date the infraction was reported to the administrator. The date for the conference may be deferred beyond seven school days with the mutual agreement of the parties; however, the student may not be placed in an unsupervised setting beyond suspension for three days while awaiting the conference and final decision. If the student withdraws from the District prior to the imposition of placement in a DAEP, the administrator shall proceed with determining an appropriate consequence for the offense. If the student enrolls in the District during the same year or the following school year, the District may order the enforcement of the order at that time, except for any period of the placement that has been served by the student in HISD or in another school district. In addition, prior to the possible enforcement of a delayed DAEP enrollment, the administrator shall carefully review the student's academic and behavioral history while absent from the District. A principal who is not notified of misconduct may, but is not required to, remove a student to a DAEP for off-campus conduct for which removal is required for up to one year from the date the conduct occurred.

3. Before ordering the suspension, expulsion, or removal to a disciplinary alternative-education program, the administrator must consider the following: seriousness of the offense; student's age; intent or lack of intent at the time the student engaged in the conduct; student's disciplinary history; student's attitude; potential effect of the misconduct on the school environment; state law requirements for certain disciplinary consequences; whether the facts of the case warrant consideration of self-defense as a mitigating factor in the assessment of any punishment; whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct; a student's status in the conservatorship of the Department of Family and Protective Services; or a student's status as a student who is homeless. After consideration of the factors, the administrator determines whether the student engaged in Level IV misconduct, whether the student should be placed in a DAEP, and the length of the placement. When the student is placed in a DAEP, the parent shall be given a letter stating the reasons for the placement and setting the term. The letter placing the student should state the term of placement in a specific number of days of successful attendance in the DAEP. The final day of placement shall extend to a natural transition point such as the end of a grading cycle, a semester, or the school year. Students under the age of 6 may not be removed from class and placed in a DAEP.
4. If the student's placement in a DAEP is greater than 60 days or extends beyond the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice and opportunity to participate in a proceeding before the area superintendent or his or her designee, who shall be the designee of the School Board (see p. 17 – Requests for Appeals).
5. Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, the principal must determine that:
  - the student's presence in the regular classroom program or at the home school presents a danger of physical harm to the student or other individuals
  - the student has engaged in serious or persistent misbehavior that violates the District's *Code of Student Conduct*
  - A finding that a student has engaged in any conduct listed under Level IV or Level V constitutes a finding that the student has engaged in serious misbehavior. An

administrator may also find, on the basis of the facts and circumstances of the case, that a Level III offense constitutes a serious offense.

6. The curriculum of the DAEP shall consist of English/language arts, mathematics, science, history, and self-discipline, and shall provide for the student's behavioral needs through supervision and counseling. The student shall be allowed to complete any course in which the student was enrolled at the time the student was removed to the DAEP or a course needed to meet a high-school graduation requirement prior to the beginning of the next school year.
7. After being placed at the DAEP, the DAEP will review each student's progress, including conduct, at intervals that coincide with grading cycle progress reports. This ongoing progress-monitoring shall be conducted by way of grade-reporting, parent/student conferences, grade-book reviews, reviews of graduation plans, review of individualized discipline-management plans, and/or formal assessments.
8. Upon guardian, non-minor student, or home-school request, a review may be conducted prior to the completion of the DAEP assignment but not before the successful completion of one grading cycle at the DAEP. The Board's designee shall make reasonable efforts to invite the parent or guardian to the review. If, after reasonable efforts to include the parent or guardian in the meeting have been made, he or she is unable to attend, the Board's designee may proceed with the meeting in his or her absence. In this review, the student, the student's parent or guardian, and/or the home-school staff will be given the opportunity to present arguments for the student's return to the home school. This review will be conducted by the Board's designee and may include input from representatives from HISD and the DAEP, parents, and representation from the referring/receiving school. The Board's designee shall make reasonable efforts to solicit input from all interested parties. After reasonable efforts to contact all interested parties have been made, the Board's designee may proceed with the review. After assessing the student's academic, discipline, and attendance progress, and reviewing all input, those in attendance may decide that the student shall: (1) remain in the DAEP; (2) be removed from the DAEP and placed in a nondisciplinary alternative-educational program to more appropriately address the student's needs; or (3) return to the sending campus or the campus to which the student is presently zoned. Within three business days from the date of the determination, the decision will be communicated to all interested parties. In the case of students with disabilities, an ARD Committee will make this determination.
9. Within two (2) business days after the date a hearing is held in which a student is placed in a DAEP under this section, the principal shall send a copy of the order placing the student in a DAEP to the parent and shall forward a copy to school administration, which shall forward the required information to the authorized officer of the juvenile court.
10. Any student assigned to the DAEP for a period of 90 school days or more shall be administered an assessment instrument designed to assess at least a student's basic skills in reading and mathematics. The instrument shall be administered initially on placement of the student in the DAEP and again on the date of the student's departure from the DAEP or as near that date as possible.
11. All school behavior coordinators must schedule a transitional meeting in accordance with the procedures specified in this Code: "Procedures for Students Transitioning to a Regular Classroom from a Juvenile Justice Facility/Program or a Disciplinary Alternative Education Program."

### **Level V: Expulsion with Placement in The Juvenile Justice Alternative Education Program (JJAEP)**

The default consequence for Level V offenses is expulsion to the JJAEP. However, pursuant to TEC Chapter 37.001 (a)(4), an administrator must consider the following factors prior to making the decision to expel to the JJAEP: (1) self-defense; (2) intent or lack

of intent when the student engaged in the conduct; (3) a student's disciplinary history; (4) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct; (5) student's status in the Conservatorship of the Department of Family and Child Protective Services; and, (6) student's status as a student who has been identified as homeless. Given this consideration, the campus behavior coordinator/administrator may choose an alternative consequence to expulsion. The Level 5 offense and the subsequent consequences must be documented in the Student Information System. In addition, Level 5 offenses must have some level of police involvement and filed report. Board Policy FO (LOCAL) prohibits the suspension, placement in the DAEP, or expulsion of students prior to third grade unless required by law. In the majority of cases, the length of placement in the JJAEP is 45 days of successful attendance (with the exception being a school-related aggravated sexual assault or gun possession, in which case a student may be placed for one year). Other expulsions may not generally exceed one year, unless after District review, it is determined that the student is a substantial and real threat to the safety of other students or a real and substantial threat to District employees, and it is determined that placement is in the best interest of the student. Transfer students remain on the campus that accepted the transfer for the duration of the school year; therefore, if a transfer student is placed in the JJAEP and meets all exit requirements, the transfer student returns to the sending campus during the current school year, unless statute or Board policy requires the permanent removal of the student from the sending campus. The campus behavior coordinator/administrator must ensure that the parent/guardian is informed of any disciplinary consequence.

### **Level V acts of misconduct include such behavior as:**

#### **OPTIONAL EXPULSION**

A student may be expelled from HISD and placed in the Harris County Juvenile Justice Alternative Education Program or, if not expelled, shall be referred to a DAEP under Level IV for engaging in the following misconduct while on school property, within 300 feet of school property, or while attending a school-sponsored or school-related activity on or off school property:

- "Hacking" or other use of computers to gain unauthorized access to District or other databases, including student, faculty, or District data files, without permission. In addition to any criminal penalties, students may have their computer privileges suspended (Sections 33.02 Penal Code).
- Use of computers or any other means to access and tamper with HISD records, which includes grade books or any other public-school records or any other records of a school-related activity maintained by HISD (Sec. 33.02 Penal Code).
- Selling, giving, delivering to another person or possessing, using, or being under the influence of marijuana, a controlled drug, or other controlled substances (Chapter 481, Health and Safety Code, or 21 U.S.C. Section 801 et seq.).
- Selling, giving, delivering to another person or possessing, using, or being under the influence of a dangerous drug (Chapter 483, Health and Safety Code).
- Selling, giving, delivering to another person or possessing, using, or being under the influence of an alcoholic beverage as defined by Section 1.04, Alcoholic Beverage Code.
- Engaging in conduct that contains the elements of an offense relating to an abusable volatile chemical or delivery to a minor or possession of inhalant paraphernalia (Sections 485.031 through 485.034, Health and Safety Code)
- Using or being under the influence of marijuana, a controlled drug, a dangerous drug (Chapter 483, Health and Safety Code), an alcoholic beverage as defined by Section 1.04, Alcoholic Beverage Code, an abusable volatile chemical or possession of inhalant paraphernalia (Sections 485.031 through 485.034, Health and Safety Code), or other controlled substances (Chapter 481, Health and Safety Code, or 21 U.S.C. Section 801 et seq.). First instances shall result in referral, screening, and appropriate intervention through the Education First program.
- Engaging in assault, which is defined as intentionally,

- knowingly, or recklessly causing bodily injury to a staff member or volunteer (Section 22.01(a)(1), Penal Code).
- Engaging in conduct that contains the elements of deadly conduct (Section 22.05, Penal Code).
- Possession of a firearm as defined by 18 U.S.C. §921 off school property and not at a school activity but within 300 feet of the school property line.
- Engaging in any conduct listed under Required Expulsion off of school property and not at a school activity but within 300 feet of the school property line.

For the following that occur away from school and not at a school-related activity, the student may be expelled:

- The student engages in assault with bodily injury (Section 22.01(a)(1), Penal Code) against a school-district employee or a volunteer as a result of or in retaliation for the person's employment or association with the District.
- The student engages in conduct that contains the elements of criminal mischief (i.e., vandalism) and the destruction of property in an amount greater than \$1,500 or that is punishable as a felony (Section 28.03, Penal Code).
- The student engages in conduct against another student that contains the elements of aggravated assault (Section 22.02, Penal Code), sexual assault (Section 22.011, Penal Code), aggravated sexual assault (Section 22.021, Penal Code), murder (Section 19.02, Penal Code), capital murder (Section 19.03 Penal Code), or criminal attempt to commit capital murder (Section 15.01, Penal Code).
- The student engages in conduct involving a public school that contains the elements of the offense of false alarm or report (Section 42.06, Penal Code) or terroristic threat (Section 22.07, Penal Code).
- The student engages in conduct that contains the elements of the offense of breach of computer security (Section 33.02, Penal Code) if: (1) the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and (2) the student knowingly: (a) alters, damages, or deletes school district property or information; or (b) commits a breach of any other computer, computer network, or computer system.
- A student may be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 or expelled if the student:
  - engages in bullying that encourages a student to commit or attempt to commit suicide;
  - incites violence against a student through group bullying; or
  - releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.

A student may also be expelled from HISD and placed in the Harris County Juvenile Justice Alternative Education Program for engaging in the following misconduct while on school property or while attending a school-sponsored or school-related activity on or off of school property:

- Documented serious misbehavior while placed in a Chapter 37 DAEP in spite of documented behavioral interventions. Serious misbehavior is defined as (1) deliberate violent behavior that poses a direct threat to the health or safety of others; (2) extortion, meaning the gaining of money or other property by force or threat; (3) conduct that constitutes coercion as defined by Section 1.07, Penal Code; or (4) conduct that constitutes the offense of: (a) public lewdness under Section 21.07, Penal Code; (b) indecent exposure under Section 21.08, Penal Code; (c) criminal mischief under Section 28.03, Penal Code; (d) personal hazing under Section 37.152; or (e) harassment under Section 42.07(a)(1), Penal Code, of a student or District employee.

## TITLE 5 EXPULSIONS

After an opportunity for a hearing, a student also may be expelled from HISD and placed in the Harris County Juvenile Justice Alternative Education Program if, regardless of when the offense occurred, the location of the offense, or whether the student was enrolled in HISD at the time of the offense, a student:

- has received deferred prosecution under the Family Code for conduct defined as a felony offense in Title 5 of the Penal Code
- has been found by a court or jury to have engaged in delinquent conduct under the Family Code for conduct defined as a felony offense in Title 5 of the Penal Code
- is charged with engaging in conduct defined as a felony offense in Title 5 of the Penal Code
- has been referred to a juvenile court for allegedly engaging in delinquent conduct under the Family Code for conduct defined as a felony offense in Title 5 of the Penal Code
- has received probation or deferred adjudication for a felony offense under Title 5 of the Penal Code
- has been convicted of a felony offense under Title 5 of the Penal Code, or
- has been arrested for or charged with a felony offense under Title 5 of the Penal Code

Before the expulsion, the principal must also determine that the student's presence in the classroom threatens the safety of the other students or teachers; will be detrimental to the educational process; or is not in the best interests of the district's students. Title 5 felonies include murder, capital murder, manslaughter, criminally negligent homicide, false imprisonment, kidnapping, aggravated kidnapping, trafficking of persons, indecency with a child, improper photography or visual recording, assault of a public servant, assault of a security officer, assault of an emergency-services person, assault of a correctional officer, sexual assault, aggravated assault, aggravated sexual assault, injury to a child, elderly, or disabled individual, abandoning or endangering a child, deadly conduct, terroristic threat, aiding suicide, and tampering with consumer product or the felony offense of aggravated robbery under Section 29.03, Penal Code, regardless of where the offense occurs. The expulsion shall last until:

- The student graduates from high school
- The Title V felony charges that resulted in the expulsion are dismissed or reduced to a misdemeanor offense, or
- The student completes the term of the placement or is assigned to another program

A decision under this section is final and may not be appealed; however, the placement shall be reviewed at intervals not to exceed 120 days.

## REQUIRED EXPULSION

A student shall be expelled from school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property, whether in HISD or on the property of another school district in Texas:

- Uses, exhibits, or possesses\*\* a firearm, which is defined as 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 as defined in (Section 46.01(3), Penal Code) or (18 U.S.C. Section 921)\*\*
- Uses, exhibits, or possesses\*\* a location restricted knife, which is defined under state law (Section 46.01(6), Penal Code) as a knife with a blade over five-and-a-half inches and also includes hand instruments designed to cut or stab by being thrown (martial-arts stars), a dagger, a stiletto, a bowie knife, a sword, or a spear.
- Uses, exhibits, or possesses\*\* a weapon listed as a prohibited weapon under Section 46.05, Penal Code. Prohibited weapons are an explosive weapon, a machine gun, a short-barrel firearm, a firearm silencer, armor-piercing ammunition, a chemical-dispensing device, or a zip gun.
- Engages in conduct that contains the elements of the offense of:
  - aggravated assault, which includes causing serious bodily injury to another during the commission of an assault or using or exhibiting a deadly weapon during the commission of an assault (Section 22.02, Penal Code) and which may include damage to a person's eye caused by pointing a laser pen or laser device at another
  - sexual assault (Section 22.011, Penal Code)
  - aggravated sexual assault, which includes causing or threatening to cause serious bodily injury to another during

the commission of a sexual assault or using or exhibiting a deadly weapon during the commission of a sexual assault (Section 22.021, Penal Code)

- (4) arson (Section 28.02, Penal Code)
- (5) murder (Section 19.02, Penal Code)
- (6) capital murder (Section 19.03, Penal Code) or criminal attempt to commit murder or capital murder (Section 15.01, Penal Code)
- (7) indecency with a child (Section 21.11, Penal Code)
- (8) aggravated kidnapping (Section 20.04, Penal Code)
- (9) aggravated robbery (Section 29.03, Penal Code)
- (10) manslaughter (Section 19.04, Penal Code)
- (11) criminally negligent homicide (Section 19.05, Penal Code)
- (12) continued sexual abuse of a child or children (Section 21.02, Penal Code)
- (13) possessing,\*\* using, selling, giving, delivering, or being under the influence of marijuana, a controlled substance, or a dangerous drug, or committing a serious act or offense while being under the influence of an alcoholic beverage, but only if the conduct is punishable as a felony.

\*\*\* Brings to school a firearm as defined by 18 U.S.C. Section 921, which includes any weapon, including a starter pistol, that will or is designed to be converted 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; or any destructive device. Students violating this section shall be expelled for at least one year except that:

- (1) The superintendent of schools may modify the length of the expulsion in the case of an individual student.
- (2) The District must expel the student for one year but may modify the expulsion in order to provide educational services to the expelled student in an HISD DAEP.
- (3) Federal law requires the expulsion of any student who brings a firearm to school for a minimum term of one year. State law does not allow students under the age of 10 to be expelled, but it requires that HISD educate in a DAEP students between the ages of 6 and 10 who commit expellable offenses. State law does not allow students under the age of 6 to be placed in a DAEP. Students under the age of 10 who bring firearms to school shall be expelled for a term of one year, and the term of the expulsion shall be modified in order to allow for their education in an HISD DAEP for a period of one year. Students under the age of 6 shall be expelled, and the term of the expulsion shall be modified by the superintendent/designee in order to comply with state and federal laws.

• Additionally, a student shall be expelled for engaging in any conduct containing the elements of an offense for which expulsion is required while retaliating against a District employee as a result of the employee's employment with the District, whether it occurs on or off of school property or at a school-related function.

\*\* Possession means actual care, custody, control, or management. A student shall be considered to be in possession of any substance or object prohibited or regulated by this *Code of Student Conduct* if the substance or object is: (1) on the student's person or in the student's personal property, such as the student's clothing, purse, book bag, or briefcase; (2) in any private vehicle used by the student for transportation to or from school or school-related activities, such as an automobile, truck, motorcycle, or bicycle; or (3) in any school property used by the student, such as a locker or desk.

### **SCHOOL ACTIVITIES WHILE UNDER AN ORDER OF EXPULSION**

The terms of an expulsion under this section prohibit the student from attending or participating in any school activities.

### **Disciplinary options/responses under optional expulsion:**

- Notification and investigation by the HISD Police Department is required. If a decision is made by the HISD Police Department to transport the student, the administrator should normally contact the parents within one hour.
- Required administrator/parent/student conferences

- Exclusion from extracurricular activities, including field trips and commencement exercises/award ceremonies
- Restitution or restoration as applicable
- Referral to appropriate agencies
- Referral to juvenile court for legal action
- Suspension for up to three consecutive days per occurrence
- Referral to a Disciplinary Alternative Education Program
- Expulsion (more than three consecutive school days per occurrence, but not longer than one year). In cases of a student who engages in sexual assault or aggravated sexual assault against another student, there is no limitation on the length of the expulsion or the length of the placement in a DAEP.
- Except in the case of firearms, students younger than 10 years may not be expelled for conduct described in this section and must be provided educational services in a DAEP.

### **Procedures:\*\*\***

1. The administrator contacts HISD police to investigate the school infraction and/or illegal act and confers with the student after consulting with law enforcement. If the student is arrested, the parents should be notified within one hour. Any expulsion must include an official police or law-enforcement investigation. However, it is not necessary to await the results of the investigation before proceeding to an expulsion hearing.
2. The investigating building administrator notifies the student and parents or guardians in writing of the reasons for the proposed expulsion and of the disciplinary response to the conduct. If the student withdraws from the District prior to the imposition of an expulsion, the administrator may proceed with determining an appropriate consequence for the offense. If the student enrolls in the District during the same year or the following school year, the District may order the enforcement of the order expelling the student at that time except for any period of the placement that has been served by the student in HISD or in another school district (see p. 12). In addition, prior to the possible enforcement of a delayed JJAEP enrollment, the administrator shall carefully review the student's academic and behavioral history while absent from the District.
3. A school administrator who is an impartial hearing officer will conduct a full hearing before a decision to expel a student is made unless the parent or guardian waives the hearing. Before ordering the suspension, expulsion, or removal to a disciplinary alternative-education program, the administrator must consider the following: seriousness of the offense; student's age, intent or lack of intent at the time the student engaged in the conduct; student's disciplinary history; student's attitude; potential effect of the misconduct on the school environment; state law requirements for certain disciplinary consequences; whether the facts of the case warrant consideration of self-defense as a mitigating factor in the assessment of any punishment; whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct; a student's status in the conservatorship of the Department of Family and Protective Services; or a student's status as a student who is homeless. The hearing shall be scheduled within three (3) school days and conducted within seven (7) school days of the date of the offense. The date for the hearing may be deferred beyond seven school days with the mutual agreement of the parties or in cases of students with disabilities who are required to have a manifestation determination review; however, the student may not be placed in an unsupervised setting beyond suspension for three days while awaiting the hearing. Finally, the hearing may be deferred in situations involving adult students who are unable to participate in their hearings due to incarceration; however, the hearing must be held as soon as they are able to participate
4. A parent may appeal the expulsion decision as provided in this *Code* in the section on expulsion procedures (see p. 19).
5. The District shall inform the student's teacher(s) of the conduct of a student who has engaged in any violation listed in this section. The teacher shall keep this information confidential. Any teacher who intentionally violates this confidentiality is

- subject to having his or her certification suspended or revoked.
6. Within two business days after the date a hearing is held in which a student is expelled, the principal shall send a copy of the order placing the student in the JJAEP, along with any information required by Section 52.04, Family Code, including a copy of the police report, to the parent and to school administration, who shall forward the information to the authorized officer of the juvenile court.
  7. Students expelled from HISD are entitled to receive educational services but are not entitled to participate in any regular or extracurricular District programs during the period of the expulsion. HISD has the option of either referring the student to the Harris County Juvenile Justice Alternative Education Program (HCJJAEP) or referring the student to an HISD DAEP for the period of the expulsion. A student shall continue to receive instruction and credit for course work through either the HCJJAEP or an HISD DAEP. If the juvenile court finds the student delinquent (guilty) of any conduct described by this section, the juvenile court may order the student to attend the HCJJAEP. Consistent with the Memorandum of Understanding between HISD and the HCJJAEP, students who are expelled may be placed in the JJAEP for a minimum of 45 days and a maximum of 180 days, unless other statute and/or court restrictions apply.
  8. Expelled students who are charged but found not delinquent (not guilty) by a juvenile court shall be readmitted to the District. Students who are adjudicated of (who plead to) a lesser offense or whom the Harris County District Attorney decides not to prosecute may be readmitted at the discretion of the District. If readmitted, the District may place the student in an HISD DAEP. Students who are not readmitted have the option to continue their educational services at the HCJJAEP.
  9. All school behavior coordinators must schedule a transitional meeting in accordance with the procedures specified in this *Code*: “Procedures for Students Transitioning to a Regular Classroom from a Juvenile Justice Facility/Program or a Disciplinary Alternative Education Program”

\*\*\* All parties shall consult the Procedures section of this *Code* or Board Policy for complete procedures for expulsion and appeal of expulsion (see p. 19). Students under the age of 10 years who commit Level V offenses must be referred to a DAEP and may not be expelled.

Special Education and Section 504 students may be expelled to the JJAEP strictly in accordance with the procedures for discipline of students with disabilities beginning on p. 20. Special Education and Section 504 students may not be placed in the JJAEP unless the Admission, Review, and Dismissal (ARD) or 504 Committee determines that it is educationally appropriate and that the student has engaged in conduct for which referral to a JJAEP is authorized.

### Referral to Law Enforcement Authorities

The HISD Board of Education, in accordance with its major system priorities, believes in a safe school environment for all students free of disruptions that interfere with the educational process.

In cases where 10-year-old and older students in elementary, middle, or high school engage in conduct that contains the elements of an offense in violation of the Penal Code or criminal provisions of the Education Code, the school district will report the offense to law enforcement officials to determine whether the District Attorney will pursue charges for the offense. Parents and students should be aware that HISD police officers are peace officers commissioned by the State of Texas and are authorized to enforce all laws or take any action to enforce the law whether on campus or away from campus.

### Reports to Local Law Enforcement

The principal has an obligation under the law to notify the HISD Police Department and the local police department if the principal has reasonable grounds to believe that a student has engaged in any criminal offense in school, on school property, or at a school-sponsored or school-related activity on or off school property.

The principal or other administrator who notifies local law enforcement of these offenses shall notify each instructional or support-staff member who has regular contact with the student who has committed an expellable offense.

### Court Involvement

If a student is found to have committed an offense under Level IV or V of this *Code*, and the student is placed in a DAEP, within two business days the principal must send a copy of the order placing the student in a DAEP to the HISD administrator in charge of the DAEP, who shall notify the county juvenile authorities. The county may decide whether the student is in need of supervision, whether the student has engaged in delinquent conduct, or whether the student should be referred to an appropriate state agency. Additionally, students and parents should be aware that pursuant to the Memorandum of Understanding between HISD and Harris County, students who commit felonies away from school may be ordered by the juvenile court to attend school at the Harris County Juvenile Justice Alternative Education Program.

### Emergency Placement in a Disciplinary Alternative Education Program (DAEP), Suspension, or Immediate Expulsion

A principal or a principal’s designee may order the immediate placement of a student in a DAEP when it is determined the student’s behavior is so unruly, disruptive, or abusive that it:

- seriously interferes with a teacher’s ability to communicate effectively with the students in a class; or
- seriously interferes with the ability of the student’s classmates to learn; or
- seriously interferes with the operation of school or a school-sponsored activity

A principal or a principal’s designee may order the immediate expulsion of a student from the school for any reason for which expulsion would be authorized on a non-emergency basis. At the time of the emergency placement or emergency expulsion, the student shall be given oral notice of the reason for which placement in a DAEP or expulsion would be authorized. Within a reasonable time, but not later than the 10th school day after the date of the placement or expulsion, the student shall be accorded the appropriate due process. Students with disabilities must be treated in accordance with federal and state regulations applicable to students with disabilities, and the emergency placement or expulsion must be consistent with the consequences that would apply to a student without a disability.

### Corporal Punishment

Board of Education policy prohibits corporal punishment as a disciplinary method within the Houston Independent School District. Certain physical acts against a student by school personnel (such as choking, kicking, punching, pinching, hitting with an object, etc.) are not authorized and will be considered a violation of the corporal-punishment policies when used as a disciplinary measure.

### Students Required to Register as Sex Offenders

Any student who is required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure and who is under any form of court supervision, including probation, community supervision, or parole, shall be removed to the DAEP for at least one semester.

If a student is required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure and is not under any form of court supervision, HISD may remove the student to the DAEP for one semester or elect to leave the student in the regular classroom. The District may not leave the student in the regular classroom if the Board’s designee determines that 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 interests of the District's students

A student or the student's parent or guardian may appeal the decision to place the student in the DAEP by requesting a conference among the Board's designee, the student's parent or guardian, and the student. The conference is limited to the factual question of whether the student is required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure. If the Board's designee determines at the conclusion of the conference that the student is required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure, the student shall be placed in the DAEP. The decision of the Board's designee is final and may not be appealed.

#### Review Procedure for Students Required to Register as Sex Offenders

1. At the end of the first semester of a student's placement in the DAEP, the Board's designee shall convene a committee to review the student's continued placement in the DAEP. The committee must be composed of:
  - (a) a classroom teacher from the campus to which the student would be assigned were the student not placed in the DAEP
  - (b) the student's parole or probation officer or, in the case of a student who does not have a parole or probation officer, a representative of the local juvenile probation department
  - (c) an instructor from the DAEP to whom the student is assigned
  - (d) a school-District designee
  - (e) a counselor employed by the school District
2. The committee by majority vote shall determine and recommend to the Board's designee whether the student should be returned to the regular classroom or remain in the DAEP.
3. If the committee recommends that the student be returned to the regular classroom, the Board's designee shall return the student to the regular classroom, unless the Board's designee determines that the student's presence in the regular classroom:
  - (a) threatens the safety of other students or teachers;
  - (b) will be detrimental to the educational process; or
  - (c) is not in the best interests of the District's students
4. If the committee recommends that the student remain in the DAEP, the Board's designee shall continue the student's placement in the DAEP, unless the Board's designee determines that the student's presence in the regular classroom:
  - (a) does not threaten the safety of other students or teachers
  - (b) will not be detrimental to the educational process
  - (c) is not contrary to the best interests of the District's students
5. If, after receiving the committee's recommendation, the Board's designee determines that the student should remain in the DAEP, the Board's designee shall, before the beginning of each school year, convene the review committee described above to review the student's placement in the DAEP.
6. The placement of any student who is a registered sex offender and is also a student with a disability who receives special-education services must be made in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. The review of the student's placement as described above shall be conducted by the student's Admission, Review, and Dismissal (ARD) committee, although the ARD committee may request that the Board's designee convene a regular review committee to assist the ARD committee in conducting the review.
7. If a student who has been placed in a DAEP or a JJAEP as a registered sex offender transfers to HISD during the student's mandatory placement, the Board's designee will convene a review committee as described above to determine the student's appropriate placement. The committee may recommend:
  - (a) that the student be assigned to the DAEP for the remainder of the time unserved in the student's previous district, plus an additional semester, without conducting any additional review of the student's placement between semesters;
  - (b) that the student be assigned to the DAEP for the remainder of the time unserved in the student's previous district; or
  - (c) that the student be placed in the regular classroom.

The Board's designee shall not allow the student to return to the regular classroom if the designee determines that the student's presence in the regular classroom:

- (a) threatens the safety of other students or teachers;
- (b) will be detrimental to the educational process; or
- (c) is not in the best interests of the District's students.

### Procedures for Referral to a Disciplinary Alternative Education Program (DAEP) and Requests for Appeals

**(For a period that extends more than 60 days, beyond the end of the next grading period, or beyond the end of the school year, grading period is defined as the six- or nine-week grading cycle applicable at the campus at issue.)**

All recommendations for placement in a DAEP require a conference between the campus administrator and the parents/guardians and student. The administrator will schedule a conference with the student and parent/guardian within three (3) school days of the reported infraction. The administrator shall make reasonable efforts to invite the parent or guardian to the conference. If, after reasonable efforts to include the parent or guardian have been made, he or she is unable to attend, the administrator may proceed with the conference in his or her absence. The administrator must provide the parent/guardian with written notice regarding the discipline consequence within seven (7) school days from the date the infraction was reported to the administrator. The date for the conference may be deferred beyond seven school days with the mutual agreement of the parties; however, the student may not be placed in an unsupervised setting beyond suspension for three days while awaiting the conference and final decision. If the student withdraws from the District prior to the imposition of placement in a DAEP, the administrator shall proceed with determining an appropriate consequence for the offense.

Before the principal can place the student in a DAEP that extends beyond the end of the school year, he/she must determine that:

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

Ordinarily, a student may not be placed in a Disciplinary Alternative Education Program for a period that exceeds one year unless the area superintendent/designee also makes a determination after a review that:

- (1) the student is a threat to the safety of other students or to District employees;
- (2) extended placement is in the best interest of the student; or
- (3) the student engaged in sexual assault or aggravated sexual assault against another student, in which case any limitation on the length of placement does not apply.

Serious offenses are those that substantially disrupt or materially interfere with the orderly process in the classroom, HISD transportation, the school, or any school-related activity and may include persistent misbehavior of Level II or higher misconduct. Persistent shall be defined as more than one instance of Level II and higher misconduct. An administrator may also find, on the basis of the facts and circumstances of the case, that a Level III offense constitutes a serious offense. Finally, a finding that a student has engaged in any offense listed as an offense under Level IV or Level V constitutes a finding that the student has engaged in serious misbehavior.

The principal shall set a term for the student's placement in the DAEP consistent with the requirements of the law and of the DAEP and shall deliver a written copy of the order placing the student in a DAEP to the parent or guardian. The letter placing the student should state the term of placement in a specific number of days of successful attendance in the DAEP.

### **DAEP Assignment Procedures for Appeal to Campus Principal and/or Area School Office**

If the student is assigned to the DAEP for more than 60 days or a period that extends beyond the end of the next grading period (more than 30 days) or beyond the end of the school year, whichever is earlier, the student and the student's parent or guardian are entitled to receive notice and an opportunity to request an appeals meeting with the area superintendent or his or her designee if unsatisfied with the decision of campus principal. The decision of the area superintendent/designee is final and may not be appealed.

#### **Appeal to Principal**

If a principal's designee and/or the assistant principal places a student in a DAEP that extends beyond the end of the next grading period, the principal or his/her impartial designee shall hold a review of this decision at the request of the student, the parent, or the guardian. This request for a principal's review must be made to the principal within three (3) school days of the time the punishment was imposed. If the principal initially makes the decision to place the student in a DAEP that extends beyond the end of the next grading period, the request for appeal may be taken directly to the area superintendent/designee.

If a student is new to HISD, HISD receives a copy of the placement order, the act is one for which placement in a DAEP is permitted under the HISD *Code of Student Conduct*, and the student was placed in a DAEP by the district from which the student is transferring to HISD, whether in this state or another state, the principal/designee may continue the placement in a DAEP under the terms and conditions set by the other school district prior to the student's arrival in HISD. The term of the placement continued shall not exceed one year in the aggregate, unless after a review the District determines that:

- (1) the student is a threat to the safety of other students or District employees;
- (2) extended placement is in the best interest of the student; or
- (3) the student engaged in sexual assault or aggravated sexual assault against another student, in which case any limitation on the length of placement does not apply

#### **Appeal to Area Superintendent/Designee**

Within five (5) days of receipt of notice of the decision to place the student in a DAEP, the student/parent must request a meeting, in writing, with the appropriate area superintendent/designee or the decision shall be final. Information concerning the respective Area Office to contact may be obtained from the campus administrator where the student is enrolled. The area superintendent or designee will review any placement in a DAEP that extends beyond the next grading period at the request of the student, parent, or guardian. The area superintendent/designee will allow the school administration and the parent, guardian, or student to make a 10-minute presentation. The length of the presentation may be increased by the area superintendent/designee. Whether witnesses or documentary evidence will be considered by the area superintendent is left to his or her discretion. When the area superintendent/designee completes the hearing, he/she will render a decision in writing to the parent within seven (7) school days from the hearing date. A student may be placed in a DAEP or ISS pending this appeal. The decision of the area superintendent/designee is final and may not be appealed.

At the hearing, the area superintendent/designee will:

- advise the student orally or in writing of the alleged misconduct
- explain the evidence of the misconduct and give the student the opportunity to present his or her side, if the student denies the allegation of misconduct
- render a final decision on the placement and duration of the placement including, if necessary, continuing placement of a new student in a DAEP under the terms and conditions set by another school district prior to the student's arrival in HISD

#### **Progress Monitoring While at the DAEP**

The progress of each student at the DAEP will be reviewed at the DAEP to coincide with progress reports and/or end of grading cycle reports, whichever occurs first. Each student's progress shall be monitored by way of grade reporting, parent/student conferences, grade-book reviews, a review of conduct, reviews of graduation plans, etc.

### **After Enrollment at DAEP Request by Parent for the Return of Student to Regular Campus**

At this review, the student or the student's parent or guardian will be given the opportunity to present arguments for the student's return to the regular campus. This review will be conducted by a review committee, including representatives from the DAEP, parents, and a representative from the student's referring or home campus. If, after reasonable efforts to include the parent or guardian in the meeting, he or she is unable to attend, the review committee may proceed with the meeting in his or her absence. After assessing the student's progress, the review committee may decide that the student will continue his or her placement at the DAEP or that the student will be returned to the student's referring campus or home campus. The decision of the committee shall be made by a majority of the committee members. Within three business days from the date of the determination, the review committee's decision will be provided in writing to the parent or guardian. The review committee's decision is final and may not be appealed. When the review committee decides to return a student to a regular campus, parental permission is not required. In the case of students with disabilities, an ARD committee will make this determination.

A student may not be returned to the classroom of the teacher who removed the student under the teacher-removal provisions, unless the teacher agrees or the campus-placement review committee has agreed that the teacher's classroom is the best or only placement available. If the teacher removed the student from class for engaging in assault, aggravated assault, sexual assault, aggravated sexual assault, or assault against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent. In accordance with federal law, the placement of a student with disabilities may be changed only by a duly constituted ARD committee. (See Procedures for Teacher Removal.)

#### **Request for Continued DAEP Enrollment Beyond Original Term of Placement**

Upon a voluntary, written request (or documentation of such request) by the student's parent(s), the review committee may consider placement in the DAEP beyond the original term of the placement in the DAEP. The review committee has the discretion to grant or deny the parental request. If the request is granted, the review committee shall determine the term of the voluntary placement. The voluntary placement shall extend to a natural transition point such as the end of a grading cycle, a semester, or the school year in which the original term ends. The parent shall provide a signed acknowledgement that the student will not be allowed to return to a regular campus during the term of the voluntary placement.

#### **Early Release**

In addition, at the discretion of the Office of Student Support/DAEP and upon review, a student may be released prior to the end of the student's assigned days when the assigned length of placement would end within 15 days after the start of the next semester for high school students and within 15 days after the start of the next grading cycle for middle-school students.

#### **Pre/Post Assessments for Students Assigned for 90+ Days**

Any student assigned to the DAEP for a period of 90 school days or longer shall be administered an assessment instrument designed to assess at least a student's basic skills in reading and mathematics. The instrument shall be administered initially on placement of the student in the DAEP and again on the date of the student's departure from the DAEP or as near that date as possible.

#### **Continued Misconduct While at DAEP**

The HISD *Code of Student Conduct* governs student conduct at the DAEP. Continued misconduct may result in placement for an additional period of time in the DAEP and may further result in expulsion from HISD and placement in the Harris County Juvenile Justice Alternative Education Program if involved in documented serious misbehavior while placed in a Chapter 37 DAEP in spite of documented behavioral interventions. Serious misbehavior is defined as (1) deliberate violent behavior that poses a direct threat to the health or safety of others; (2) extortion, meaning the gaining of money or other property by force or threat; (3) conduct that

constitutes coercion as defined by Section 1.07, Penal Code; or (4) conduct that constitutes the offense of: (a) public lewdness under Section 21.07, Penal Code; (b) indecent exposure under Section 21.08, Penal Code; (c) criminal mischief under Section 28.03, Penal Code; (d) personal hazing under Section 37.152; or (e) harassment under Section 42.07(a)(1), Penal Code, of a student or District employee.

### **Procedures for Continuation of DAEP Placement After Receipt of Notice Under Article 1527(g)**

The principal shall review the placement of a student in a Disciplinary Alternative Education Program (DAEP) upon receipt of notice under Article 1527(g), Code of Criminal Procedure:

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

On receipt of a notice under this article, the principal or his/her designee shall review the student's placement in the DAEP. The student may not be returned to the regular classroom pending the review. The principal or his/her designee shall schedule a review of the student's placement with the student's parent or guardian no later than the third class day after the principal receives notice from the office or official designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the principal or his/her designee may continue the student's placement in the DAEP 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 or guardian may appeal the principal's decision to the appropriate area superintendent, who shall rule on the record made before the principal and may consider additional matters. The student may not be returned to the regular classroom pending the appeal. The student, parent, or guardian may appeal the decision of the area superintendent to the Board of Education.

The Board shall, at the next scheduled meeting, review the notice provided under Article 15.27(g), Code of Criminal Procedure, and receive information from the student, the student's parent or guardian, and the principal or principal's designee contained in the record made at the lower-level appeals and confirm or reverse the decision under Subsection (h).

The Board shall make a record of the proceedings. If the Board confirms the decision of the area superintendent or his or her designee, the Board shall inform the student and the student's parent or guardian of the right to appeal to the Texas Commissioner of Education.

### **Procedures for Students Transitioning to a Regular Classroom from a Juvenile Justice Facility/Program or a Disciplinary Alternative Education Program**

The following procedures shall apply to any student who is subject to compulsory attendance who is enrolling or reenrolling at a regular campus after being released from any juvenile justice facility, a juvenile justice alternative education program or a disciplinary alternative education program.

- (1) As soon as practicable after the DAEP determines a student's release date from the DAEP, the DAEP administrator shall notify the parent or guardian and the principal and behavior coordinator provide written notice of that date to the student's parent or guardian and the administrator of the zoned campus. In addition to the notification, the campus shall be provided an assessment of the student's academic growth while attending the

DAEP and the results of any assessment instruments administered to the student.

- (2) Within 5 days after a student's release from the DAEP, the campus administrator shall coordinate the student's transition from the DAEP to a regular classroom. The coordination shall include recommendations from the school counselor, the school police officer, a licensed clinical social worker, the campus behavior coordinator, any teacher responsible for implementing the students transition plan, and any other appropriate personnel.
- (3) The coordination must include the development of a personalized transition plan that includes recommendations for the best educational placement of the student and may include recommendations for counseling, behavioral management, or academic assistance for the student with a concentration on the student's academic or career goals; assistance for obtaining access to mental health services provided by the district, the school, a local mental health authority, or another private or public entity; provision of information to the student's parent or a person standing in parental relation to the student about the process to request a full individual and initial evaluation of the student for purposes of special education services; and a regular review of the student's progress toward the student's academic or career goals.
- (4) If practicable, the campus administrator or the administrator's designee shall meet with the student's parent or guardian to coordinate plans for the student's transition.
- (5) For students with disabilities eligible under IDEA, the coordination should include an ARD/IEP meeting. The ARD/IEP meeting should review the special education, related services and behavioral supports provided to the student and determine whether any changes are needed in order to support the academic and behavioral progress of the student in the least restrictive environment.
- (6) For students receiving accommodations under Section 504, the coordination should include a Section 504 meeting. The purpose of the meeting is to review the academic and behavioral accommodations and determine whether any changes are needed in order to support the academic and behavioral progress of the student in the general education classroom.

### **Procedures for Expulsion and the Appeal of Expulsion**

Decisions to expel a student shall not be made until there has been a full hearing, unless such hearing is specifically waived by the student and his or her parents or guardian in writing. An accurate record of any hearing will be maintained through written minutes or a recording of the hearing. Records of expulsions shall be filed in the principal's office of the school where the misconduct occurred with evidence attached. Pending the expulsion hearing, the student may be suspended for up to three (3) days and must then be placed in in-school suspension pending the hearing. The hearing must be scheduled within three (3) days. Additionally, the hearing should be held within seven (7) school days from the date of the offense. The date for the hearing may be deferred beyond seven (7) school days with the mutual agreement of the parties; however, the student may not be placed in an unsupervised setting beyond suspension for three days while awaiting the hearing. The school official conducting the hearing shall make a decision concerning the case within seven (7) school days from the hearing date and inform the student and his or her parents or guardians of their right and of the process to appeal the decision to the next-higher administrative level. No student may enroll in any other school within the District until eligible for readmission to his or her school of record. A student may be expelled for up to a full academic year.

If an expulsion is proposed by the principal or his or her designee or assistant principal, the following procedures shall apply:

- (a) **NOTIFICATION OF EXPULSION:** The student and his/her parent or guardian must be notified in writing of the reason(s) for the proposed expulsion, and a prompt hearing at the school must be arranged unless waived by the student and his/her parents in writing. The reasons for the proposed expulsion that clearly

detail the nature of the offense must be furnished so the student and his/her parent or guardian may prepare a defense. They must also be furnished a copy of the expulsion procedures. They shall be advised that they may present witnesses and documentary evidence to defend against the allegations. The administration may be represented by any person involved in discipline at the school level or by the school attorney, whoever is deemed appropriate.

- (b) **FAIR & IMPARTIAL HEARING:** The student is entitled to a fair and impartial hearing. The principal may conduct the hearing if he/she is impartial and disinterested, and his/her acts, judgment, or decisions are not an issue in the hearing. If not, the principal shall select an impartial designee to conduct the hearing.
- (c) **DUE PROCESS:** A student is entitled to be represented by the student's parent or guardian or another adult who can provide guidance to the student and who is not an employee of the school District. The student's representative may be an attorney. If a parent or guardian is unable to attend, he/she may designate an adult to represent the student. The District may require evidence of the appointment by the parent or guardian of any such representative. The hearing will be recorded either by audio recording or court reporter. If the school makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the District may hold the hearing, regardless of whether the student, the student's parent or guardian, or another adult representing the student attends. The school may proceed with expulsion, even though the student withdraws from the District.
- (d) **ORDER OF EXPULSION:** If the evidence presented at the hearing warrants an expulsion in the judgment of the school official conducting the hearing, the hearing official may issue the appropriate expulsion order. A copy of the order should be sent to the student and his/her parents or guardians and to the HISD administrator in charge of the Harris County Juvenile Justice Alternative Education Program (HCJJAEP), who shall forward a copy to the county. If the decision is to expel the student, the administration shall inform the student and the parents or guardians in writing of the decision within seven school days of the hearing date and inform the student and the parents or guardians of the right to appeal the decision to the appropriate area superintendent/designee. Factors that will be considered in determining the length of expulsion may include seriousness of the offense, student's age, frequency of misconduct, student's attitude, potential effect of the misconduct on the school environment, state law requirements for certain disciplinary consequences, and whether the facts of the case warrant consideration of self-defense as a mitigating factor in the assessment of any punishment. The decision of the school official conducting the hearing must be supported by the evidence and based exclusively on evidence presented at the hearing.
- (e) **APPEAL PROCEDURES:** Any student or his/her parent or guardian who wishes to appeal an expulsion decision shall notify the appropriate area superintendent/designee within three (3) school days of receipt of the decision of the principal or his/her designee. Information concerning the respective Area Office contact may be obtained from the administrator at the campus where student is enrolled. The area superintendent will arrange a time for the appeal hearing. Such notification to the area superintendent shall include or be followed immediately by a letter from the school official who conducted the hearing. The school official who conducted the hearing will provide a complete record of the hearing with a description of the student's conduct, including all offenses and dates. The audio recording or court reporting of the hearing shall accompany and become a part of the record. The area superintendent/designee shall notify the student and the parent, guardian, or representative of the time and place of the hearing. The hearing shall be held within seven (7) calendar days of the date the student and parent or guardian notify the area superintendent of his/her intention to appeal, unless an extension is given.
- (f) **APPEAL HEARING:** At the hearing on appeal, the area superintendent/designee shall conduct a hearing attended

by school officials, the student, and the parent or guardian. The appeal is based on the record developed before the principal or his/her designee. Both the administration and the student will be allowed to make a short oral presentation based on the record. The time allowed for the oral presentation is left to the discretion of the hearing officer. The area superintendent/designee may affirm the action of the principal or his/her designee, overrule it, or issue any other appropriate order. A copy of the order shall be sent to the student and his/her parents or guardian and to the HISD administrator in charge of the HCJJAEP. The area superintendent/designee shall inform the student and parent or guardian in writing of the decision within seven (7) school days of the hearing date and inform the student and parent or guardian of the right of appeal to the Board of Education.

- (g) **APPEAL TO BOARD:** The student or parent or guardian may appeal the decision of the area superintendent/designee to the Board of Education by notifying the Board Services Office in writing of his/her intention to appeal. The notice must be filed within five (5) school days of the receipt of the area superintendent's decision. Appeals to the Board of Education are also appeals on the record; no new evidence may be introduced for any purpose. The appeal before the Board will be limited to a 10-minute oral presentation by both the appropriate administrative representative and by the student or parent or guardian. The hearing will be in closed session, unless an open hearing is requested by the student or parent or guardian. Decisions of the Board of Education may be appealed to state district court in Harris County. Before ordering the expulsion of a student, the Board of Trustees must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, the student's status in the conservatorship of the Department of Family and Protective Services or the student's status as a student who is homeless, regardless of whether the decision of the Board concerns a mandatory or discretionary action.
- (h) **LENGTH OF EXPULSION:** The default length of an expulsion is 45 days unless otherwise required by law. Depending on the severity of the offense and student's previous discipline history, an expulsion can be for a maximum of 180 days. Ordinarily, a student may not be expelled for a period that exceeds one year, unless the area superintendent/designee also makes a determination after a review that:
  - (1) the student is a threat to the safety of other students or District employees;
  - (2) extended placement is in the best interest of the student; or
  - (3) the student engaged in sexual assault or aggravated sexual assault against another student, in which case any limitation on the length of placement does not apply

At whatever appellate level in which an expulsion order becomes final, a copy of the final written order expelling the student shall be delivered to the student and the student's parent or guardian by the HISD administrator in charge of the HCJJAEP, who shall forward a copy to the chief juvenile probation officer of Harris County.

When necessary to ensure effective communication, any notice required to be sent to the parent or guardian of a student shall be written in the language spoken by the parent or guardian. If the language spoken by the parent or guardian is other than English or Spanish, such notice shall be written in such other language necessary for communication.

HISD will honor expulsion orders from other school districts and shall not admit a student expelled from another district until the student completes the period of expulsion.

### **Discipline of Students Receiving Special Education Services (Under the Individuals with Disabilities Education Act)**

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.

### **Identified Special Education Students**

A student with disabilities is one who has been determined by an Admission, Review, and Dismissal/Individual Education Plan (ARD/IEP) committee as having a noncategorical early-childhood condition, an intellectual disability, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments or specific learning disabilities, and who, because of those impairments, needs special education and related services.

Students with disabilities are expected to exhibit appropriate conduct and may be subject to the requirements of this *Code of Student Conduct*. Nothing in these rules prevents District personnel from reporting a crime committed by a student with a disability, and nothing prevents the police from arresting and prosecuting a student with disabilities for commission of a criminal act. Upon request or subpoena, copies of special education and disciplinary records are required to be provided to appropriate law-enforcement or judicial authorities investigating or prosecuting reported criminal conduct. The parent or guardian shall be notified of such transmittal, and in the absence of a subpoena, parents shall be asked to consent to the release of the records.

In some instances, the ARD/IEP committee of a student with disabilities may have developed a behavior-intervention plan that must be followed in administering discipline in situations addressed by the behavior-intervention plan. If the ARD/IEP committee developed a behavior-intervention plan for a student with disabilities, that plan will be contained on the ARD/IEP supplement: Behavior Intervention Plan (BIP) form, which is placed in the special education folder.

Additionally, it may become necessary for the ARD/IEP committee to determine whether the alleged conduct in question was related to the student's disability (manifestation determination). If the ARD/IEP committee determines there is a connection, it must also determine what educational action is appropriate to minimize the misbehavior. In the implementation of any discipline that will result in a change in the student's educational placement, the ARD/IEP committee must review the behavior-intervention plan and/or determine whether there is a relationship between the conduct and the disability prior to changing the student's placement for disciplinary reasons. In accordance with Tex. Educ. Code Education Code § 37.001(b-1), a student who receives special education services may not be disciplined for bullying, harassment, or making hit lists until an ARD committee meeting has been held to review the conduct. The BIP of a student with disabilities shall be reviewed prior to taking disciplinary action in order to determine that a selected discipline technique, is not prohibited by the student's plan.

### **Suspension or Removal to a Disciplinary Alternative Education Program (DAEP) for Under 10 Days**

Students with disabilities may be suspended in the same manner as nondisabled students for a period not to exceed three school days per occurrence, so long as the total number of days of cumulative suspensions does not constitute a change in placement. Additionally, students with disabilities may be referred to a DAEP for a period of up to 10 days. An ARD/IEP meeting is not required for suspensions or removals to a DAEP totaling less than 10 cumulative days during any school year.

Except as described in the next paragraphs, procedures regarding the suspension and the length of suspension shall be the same as those for nondisabled students, so long as the suspensions do not constitute a change in placement, and the discipline imposed would be applied to nondisabled students. A student's placement may be changed for more than 10 days for violating the *Code of Student Conduct* to the same extent the rules allow discipline of a nondisabled student, if an ARD/IEP committee

has determined that the misconduct is not a manifestation of the student's disability; however, the student must still be provided a free and appropriate public education (FAPE) during the period of any removal.

### **Expulsion or removal to a DAEP for disciplinary action that will remove a student with disabilities from his or her educational placement for more than 10 consecutive school days or change the student's educational placement**

**MDR:** Students with disabilities may be disciplined in the same manner as nondisabled students subject to the requirement to continue to provide a free and appropriate public education (FAPE) and subject to the requirement to conduct a manifestation determination review, if the student will be removed for more than 10 school days during the year. When imposing discipline for a violation of this Code, a student may not be placed in an interim alternative-educational setting or DAEP beyond 10 days, unless an ARD/IEP committee determines that it is appropriate and that it can provide a FAPE while the student is placed in the alternative setting. Additionally, HISD may not place a disabled student in a DAEP unless he or she has engaged in conduct for which placement in a DAEP is permitted or required as a consequence for violation of this *Code*.

### **Manifestation Determination Review**

If personnel seek to discipline in a manner that will remove a student from his or her current placement for more than 10 days, the school shall convene an ARD/IEP committee to conduct a manifestation determination. In conducting a manifestation determination, the ARD/IEP committee, which shall include a licensed psychologist, licensed specialist in school psychology, or other professional who is qualified to interpret the instructional implications of any evaluations that may be presented, shall review all relevant information in the student's file, including his or her IEP, evaluations, any teacher observations, and any relevant information provided by the parent(s), and may consider any unique circumstances on a case-by-case basis for a child with a disability who violates the *Code of Student Conduct* in determining whether a change in placement for discipline reasons is appropriate. The ARD/IEP committee shall review all of the foregoing information to determine:

- (a) whether the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- (b) whether the conduct in question was the direct result of a failure to implement the IEP

If the ARD/IEP committee determines that either (a) or (b) above is applicable for the student, the conduct shall be determined to be a manifestation of the child's disability. In order to determine that the conduct was a manifestation of the child's disability, the parent and the relevant members of the ARD/IEP committee must determine that the conduct in question is a direct result of the student's disability. In determining the conduct was a direct result, the ARD/IEP committee, along with the parents, should find that the conduct was caused by, or has a direct and substantial relationship to, the student's disability and is not an attenuated association to the child's disability, such as low self-esteem.

### **Determination behavior was not a manifestation**

If school personnel seek to change a disabled student's placement for more than 10 days, and the conduct is determined not to be a manifestation of the student's disability, the disciplinary procedures applicable to nondisabled students may be applied in the same manner and for the same duration that would be applicable to nondisabled students, subject to the requirement to provide a FAPE. Services necessary to provide a FAPE and the interim alternative setting are determined by the ARD/IEP committee. The services provided must allow the student to continue to participate in the general-education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. The student must receive, as appropriate, a functional behavior assessment and behavior-intervention services and modifications that are designed to

address the behavior violation so that it does not recur.

### **Determination behavior was a manifestation**

If the ARD/IEP Committee determines the conduct was a manifestation of the disability, the ARD/IEP committee shall:

- (1) conduct a functional behavioral assessment and implement a behavior-intervention plan for the student, if one had not been conducted prior to the determination, provided that HISD had not conducted such an assessment prior to the behavior that resulted in a change in placement.
- (2) in the situation where a behavior-intervention plan has been developed, review the behavior-intervention plan and modify it, as necessary, to address the behavior.
- (3) except as specified below in cases involving special circumstances, return the student to the placement from which the student was removed, unless the parent and the local educational agency agree to a change of placement as part of the modification of the behavior-intervention plan. However, Chapter 37 precludes placing a student with disabilities in a DAEP solely for educational reasons, unless the student has engaged in conduct that would allow the student to be placed in a DAEP.

### **Special circumstances involving weapons, drugs, and serious bodily injury**

Consistent with this *Code*, school personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, in cases where a student:

- (1) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a school district;
- (2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a school district. Controlled substance means a drug or other substance identified under schedule I, II, III, IV, or V in Section 202(c) of the Controlled Substances Act (21 U.S.C.); or
- (3) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a state- or local-education agency. Serious bodily injury means bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty as defined by 18 U.S.C. Section 1365(h)(3).

On the same day the decision is made to take disciplinary action, the school shall notify the parents of that decision and of all procedural safeguards.

### **Definitions (as used in this subsection)**

**Controlled Substance:** A drug or other substance identified under Schedule I, II, III, IV, or V in Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

**Illegal Drug:** A controlled substance not including a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that act or under any other provision of federal law.

**Weapon:** A device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury. This term definition does not include a pocket knife with a blade less than 2½ inches in length.

**Serious Bodily Injury:** An injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. The following constitutes bodily injury as defined by the law, but is not defined as serious bodily injury for purposes of this section: a cut, abrasion, bruise, burn, or disfigurement; physical pain; illness; impairment of the function of a bodily member, organ, or mental faculty; or

any other injury to the body, no matter how temporary.

### **Limitation on Days of Removal of Students with Disabilities**

When a student with disabilities has been suspended, removed to a DAEP, and/or removed for any reason for a combined total of 10 school days in any one school year, the members of the ARD/IEP committee must review all relevant information in the student's file, including his or her IEP, evaluations, any teacher observations, and any relevant information provided by the parents necessary to conduct the manifestation determination.

### **Appeal by the Parent or by HISD**

Either the parent of a disabled student or an adult student who disagrees with any decision regarding placement or with the manifestation determination under this subsection, or HISD, if it believes that maintaining the current placement of the student is substantially likely to result in injury to the student or to others, may request a hearing regarding placement from the Texas Education Agency.

**Authority of Hearing Officer:** A hearing officer shall hear and make a determination regarding an appeal requested under this section.

**Change of Placement Order:** In making the determination, the hearing officer may order a change in placement of a child with a disability. In such situations, the hearing officer may:

- (1) return a disabled student to the placement from which the child was removed; or
- (2) order a change in placement of a child with a disability to an appropriate interim alternative-educational setting for not more than 45 school days, if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

**Placement During Appeals:** When an appeal has been requested by either the parent or HISD:

- (a) the student shall remain in the interim alternative-educational setting pending the decision of the hearing officer or until the expiration of 45 school days in the case of a removal for weapons, drugs, or serious bodily injury, whichever occurs first, unless the parent and the State of Texas or HISD agree otherwise.
- (2) the State of Texas or HISD shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

## **Students not yet Identified but in the Process of Being Evaluated for Special Education Eligibility**

### **Protections for students not yet eligible for special education services**

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates the *Code of Student Conduct* may assert any of the protections provided for disabled students if HISD had knowledge (as determined in accordance with the section below) that the student was a disabled student before the behavior that precipitated the disciplinary action occurred.

### **Basis of Knowledge**

HISD shall be deemed to have knowledge that a student is a disabled student if, prior to the behavior that resulted in the recommendation to impose discipline:

- (1) the parent of the student expressed concern in writing to an administrator or teacher of the student that the student is in need of special education and related services;
- (2) the parent of the student requested a special education evaluation of the student; or
- (3) the teacher of the student or other personnel of HISD directly expressed specific concerns about a pattern of behavior demonstrated by the student to the director of special education of HISD or to other supervisory personnel of HISD.

**EXCEPTION:** HISD shall not be deemed to have knowledge that the student is a disabled student if the parent of the student has not allowed an evaluation of the student or has refused special education services, or the student has been evaluated, and it was determined that the student was not eligible for special education. Additionally, in cases where the student has previously been determined eligible and has been receiving special education, but the parent or adult student has withdrawn consent for the provision of special education services, HISD will be deemed to have no knowledge that the student is a disabled student.

#### **Conditions that apply if no Basis of Knowledge**

**IN GENERAL:** If HISD does not have knowledge that a student is a student with a disability (in accordance with the standards under “Basis of Knowledge”) prior to taking disciplinary measures against the student, the student may be subjected to disciplinary measures applied to students without disabilities who engaged in comparable behavior.

**LIMITATIONS:** If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures under this subsection, the evaluation shall be conducted in an expedited manner. If the student is determined to be eligible for special education, taking into consideration information from the evaluation conducted by HISD and information provided by the parents, HISD shall provide special education and related services in accordance with the IEP developed by the ARD/IEP committee, except that, pending the results of the evaluation, the student shall remain in the educational placement determined by HISD.

#### **State law and rules on Confinement, Restraint, and Time-Out**

HISD must protect the health and safety of all students. When dealing with discipline or behavior issues, HISD will not use any practice intended to injure or demean a student or deprive a child of basic human necessities. Ordinarily, if a student has been restrained on more than two occasions, the school should convene an ARD/IEP meeting, conduct a functional-behavior assessment, if one has not been conducted, and, if necessary, revise the behavior-intervention plan on the basis of the recommendation from the ARD/IEP committee.

##### **Confinement**

State law prohibits schools from confining students with disabilities. This means HISD will not lock a child in a room, closet, or other specially designed space. There is an exception to this requirement. A school can confine a student if he or she has a weapon, and confinement is necessary to prevent harm to the student or to others.

##### **Restraint**

Restraint is 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. Things such as holding a student’s hand or using adaptive equipment to meet a student’s educational needs are not restraint. The school can restrain a student only in an emergency that involves the threat of serious harm to a student or others or that involves the threat of serious property damage. If the school restrains a student, the school must try to reach the child’s parent on the day restraint is used. The school must also notify a parent in writing of the restraint. Staff members utilizing restraint must receive training in accordance with state requirements.

##### **Time-Out**

There are also requirements that the school must meet, if the school repeatedly uses Time-Out to address a student’s behavior. The school cannot use force or threats of force to put a student in Time-Out. Time-Out cannot take place in a locked setting, and no one is allowed to physically prevent a student from leaving time-out.

### **Discipline of Students Served Under Section 504 of the Rehabilitation Act**

Persons covered by the provisions of Section 504 include any person who:

1. Has a physical or mental impairment that substantially limits one or more major life activities

2. Has a record of an impairment
3. Is regarded as having an impairment

This section applies to disciplinary actions that impact those students who are described in number one.

In addition to eligibility requirements, Section 504 requires a reevaluation of a student prior to any significant change of the student’s educational placement. A “significant change in placement” means a significant change in the type or amount of educational or related aids or services that HISD provides to a disabled student. A “significant change in placement” may include but is not limited to:

- initiating or terminating a service;
- disciplinary actions that removes a student from his/her current school setting for more than 10 consecutive school days in a school year; or
- disciplinary actions that create a pattern of exclusion from school (e.g., cumulative short-term suspensions that are each three school days or fewer in duration that create a pattern of exclusion due to the length of each suspension, the proximity in time of the suspensions, the total amount of time the student was excluded from school)

The U.S. Department of Education Office of Civil Rights (OCR) does not consider a series of suspensions that, in the aggregate, is for 10 or fewer days to be a significant change in placement. Some of the factors considered in determining whether a series of suspensions has resulted in a “significant change in placement” are:

- the length of each suspension
- the proximity of the suspensions to each other
- the total amount of time the child is excluded from school
- the similarities of the behaviors that led to the suspensions.

### **Suspension, DAEP Placement, and Expulsion of Students with Disabilities**

Section 504 and the ADA require that a school district evaluate a child believed to have a disability before making an **initial placement** of the child in a regular or special education program, before **significantly increasing or decreasing the amount of service**, and before **any significant change in placement**.

#### **Manifestation Determination (MDR)**

Before implementing a suspension, DAEP removal, or expulsion that constitutes a significant change in the placement of a student with a disability, a school district must conduct a reevaluation of the student to determine whether the misconduct in question is caused by the student’s disability and, if so, whether the student’s current educational placement is appropriate. (Reevaluation procedures that comply with IDEA fulfill the requirements of Section 504 and the ADA.)

Section 504 protects disabled students from being improperly removed from school for misconduct that is related to their disability. As a general rule, Section 504 and IDEA use the same analytical framework for the disciplinary removal of disabled students. This is referred to as a “manifestation determination.” A Manifestation Determination Review (MDR) is considered a reevaluation and satisfies the reevaluation requirement. The MDR must determine:

- whether the student’s misconduct was caused by or had a direct and substantial relationship to the students’ disability; or
- whether the misconduct was a direct result of the school’s failure to implement the student’s Section 504 plan.

This determination may be made by the same group of persons who make initial placement decisions in conformance with Section 504 and the ADA. The group must have available to it information that competent professionals would require, such as psychological evaluation information related to behavior, and the information must be recent enough to afford an understanding of the child’s current behavior. The determination may not be made by the individuals responsible for the school’s regular disciplinary procedures such as the school administrator or other

school official, who may lack the necessary expertise and personal knowledge about the child to make such a determination. These individuals, however, may participate as members of the placement decision group.

If a disabled student's misconduct is a manifestation of his or her disability, HISD cannot implement a disciplinary action that constitutes a significant change in the student's placement and must continue the evaluation, following the requirements of Section 504 and the ADA for evaluation and placement, to determine whether the child's current educational placement is appropriate.

If a disabled student's misconduct is not a manifestation of his or her disability, a district can discipline the student in the same manner that it disciplines non-disabled students for the same misconduct. Section 504 and the ADA would permit all educational services to the child to cease. However, the U.S. Dept. of Education, Office of Special Education and Rehabilitative Services, has determined that states receiving funds under the IDEA are required by that statute to continue providing educational services to children with disabilities who have been expelled.

#### **Due Process**

When the placement of a child with disabilities is changed for disciplinary reasons, the child and his or her parent or guardian are entitled to the procedural protections required by Section 504 and the ADA. Any parent having a complaint of discrimination on the basis of disability may file a complaint with the U.S. Dept. of Education, Office of Civil Rights. Alternatively, a parent may file a request for a due process hearing under Section 504 by sending the request to the HISD Section 504 coordinator. After receiving the request, HISD will appoint a Section 504 hearing officer to hear the complaint, and a written decision will be issued to all parties.

#### **Alcohol and Drug Recovery and Current Use**

Students currently being treated for drug or alcohol abuse may be covered by the provisions of Section 504; however, under federal law, a student who is currently engaging in the illegal use of drugs or alcohol is excluded from the definition of a disabled student under Section 504. HISD is under no obligation to evaluate such a student under Section 504 regardless of the educational impact the drug use is having on the student. HISD may treat such a student in the same manner as it treats non-disabled students.

Rules concerning current use or possession of illegal drugs and alcohol will be enforced evenly with respect to all students.

### **Students with Disabilities: Summary of Related Board Policies**

This *Code of Student Conduct* regarding discipline of students with disabilities is drawn from Board Policies and Administrative Regulations. Students with disabilities are subject to the Board Policies and Administrative Regulations now in effect and those that may be adopted or amended after publication of this edition. Those who desire more information concerning the policies and administrative procedures regarding discipline of students with disabilities should refer to them. Copies are available in all schools. In order to resolve problems, parents, guardians, and/or students can meet with a teacher at appropriate times to discuss existing problems. If the parents, guardians, or students are dissatisfied with the teacher's decision or explanation, they can meet with the building administrator to review the area of concern. The parents, guardians, or students can meet with the appropriate area superintendent if they are dissatisfied with the administrator's decision. As a practical matter, school problems can best be resolved at the campus level, where problems start.

The procedures stated in this manual do not alter the rights and remedies available to students with disabilities as stated in the Parent and Student Rights Booklet or available to Section 504 students as stated on the Notification of Rights form. The sections that relate to discipline of students with disabilities are as follows:

**DISCIPLINARY ACTION FOR STUDENTS WITH DISABILITIES.** Board Policy defines who is considered as having disabilities, addresses the effect of a discipline-management plan in a student with disabilities' IEP, and specifies the total number of days in a school year a disabled student may be suspended, removed to a Disciplinary Alternative Educational Program, or subjected to emergency removal before the ARD/IEP committee must meet to review the student's program.

**SUSPENSION.** Board Policy explains the circumstances in which a student with disabilities can be suspended.

**EXPULSION.** Board Policy explains the circumstances in which students with disabilities can be expelled and the ARD/IEP committee's role in this process.

**APPEAL.** Board Policy explains the routes of appeal open to students with disabilities who want to challenge a finding of guilt, the appropriateness of the disciplinary action, or decisions by the ARD/IEP committee in the discipline process.

#### **Options and requirements for providing assistance to students who have learning difficulties or who need or may need special education**

If a child is experiencing learning difficulties, the parent may contact the person listed below to learn about the District's overall general education referral or screening system for support services. This system links students to a variety of support options, including referral for a special education evaluation. Students having difficulty in the regular classroom should be considered for tutorial, compensatory, and other academic or behavioral support services that are available to all students.

At any time, a parent is entitled to request an evaluation for special education services. Within a reasonable amount of time, the District must decide whether the evaluation is needed. If evaluation is needed, the parent will be notified and asked to provide informed written consent for the evaluation. The District must complete the evaluation and the report within 60 calendar days of the date the District receives the written consent. The District must give a copy of the report to the parent.

If the District determines that the evaluation is not needed, the District will provide the parent with a written notice that explains why the child will not be evaluated. This written notice will include a statement that informs the parent of his/her rights if he/she disagrees with the District. Additionally, the notice must inform the parent how to obtain a copy of the Notice of Procedural Safeguards—Rights of Parents of Students with Disabilities.

The designated person to contact regarding options for a child experiencing learning difficulties or a referral for evaluation for special education is the principal of your child's school. The principal is familiar with the resources available and is able to direct you to the appropriate personnel to address the learning issues your child is having.

### **Procedures for Teacher Removal of Students**

The Texas Education Code provides teachers with three ways to maintain discipline by removing unruly or disruptive students from the classroom. Each alternative for removal of students carries different disciplinary and administrative consequences. This section sets forth the three different alternatives

#### **Reasons for Teacher Removal of Students Alternative I**

- A teacher may send a student to the principal's or Campus Behavior Coordinator's office to maintain effective discipline in the classroom as stated under Levels I and II (see pp. 6-7).

#### **Disciplinary Options Under Alternative I**

- If the student is removed to maintain effective discipline as stated under Alternative I, the principal or Campus Behavior Coordinator is free to employ any disciplinary management technique or option authorized by the *Code of Student Conduct* as determined by the level of the offense and the seriousness of

the misconduct. The student removed under this provision may be returned to the teacher's class. This alternative corresponds to Levels I and II and to the Optional Removal to a DAEP under Level III.

#### **Alternative II**

- A teacher may remove a student from class who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn. Documentation should ordinarily be through a written factual account of the behavior that is occurring in the classroom.
- A teacher may remove a student from class whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

#### **Disciplinary Options Under Alternative II**

- If the student is removed by the teacher under Alternative II, and the teacher has appropriately documented the reasons for the removal, the student may not be returned to the teacher's class without the teacher's consent. Subject to the review procedures outlined in this section, the disciplinary options available to the principal include:
  - placement in another appropriate classroom
  - placement in in-school suspension
  - placement in a Disciplinary Alternative Education Program

#### **Review for Students Removed Under Alternative II**

- Not later than the third class day after the day on which a student is removed under this section, the school principal shall schedule a conference with the parent or guardian of the student, the teacher removing the student from the class, and the student.
- While waiting for the conference, the student may not be returned to the regular classroom without the teacher's consent. Pending the conference, the principal may place the student in in-school suspension or in another class.
- At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal.
- Following the conference and whether or not each requested person is in attendance after valid attempts to obtain the person's attendance, the principal may place the student in another class, in in-school suspension, in a DAEP, or may return the student to the class of the teacher who removed the student, unless the teacher objects to the student's return. If the teacher objects, the principal may refer the student to the Campus Placement Review Committee for a determination as to placement.
- The teacher may not be coerced to accept the student without a determination by the Campus Placement Review Committee. The Campus Placement Review Committee will make a determination as to whether the student may be returned to the removing teacher's class. The student may not be returned to the teacher's class without the teacher's consent, unless the committee determines that such placement is the best or only placement available. In the case of Special Education students, the decision on placement may be made only by a duly constituted Admission, Review, and Dismissal Committee (ARD).

#### **Placement Review Committee Under Alternative II**

Each school shall have a placement review committee composed of three members. The committee will determine placement of a student when a teacher has removed the student under Alternative II and refuses to allow the return of the student to the teacher's class. The committee will make a final determination of the student's placement when a student is removed under this section.

- The campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member.
- The principal shall choose one member from the professional staff of the campus.
- The teacher refusing to readmit the student may not serve on the committee.

If the teacher removed the student from class for engaging in assault, aggravated assault, sexual assault, aggravated sexual assault, or assault against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent. In accordance with federal law, the placement of a student with disabilities may be changed only by a duly constituted ARD committee.

#### **Alternative III**

A teacher is required to remove from class and send to the principal for placement in a Disciplinary Alternative Education Program or for expulsion any student who engages in Level IV or Level V misconduct.

#### **Disciplinary Options Under Alternative III**

If the student is removed under Alternative III for engaging in Level IV or Level V misconduct, then the student may be removed to a DAEP or expelled as appropriate or as required by state law. Procedures for removal to a DAEP or for expulsion shall be followed (see p. 17).

### **Student Complaints: Board Policy FNG(LOCAL)**

**INFORMAL PROCESS:** The Board of Education encourages students and parents to discuss their concerns and complaints through informal conferences with the appropriate teacher, principal, or other campus administrator.

**FORMAL PROCESS:** If an informal conference regarding a complaint fails to reach the outcome requested by the student or parent, the student or parent may initiate the formal process described below by timely filing a written complaint form, which can be found at [http://pol.tasb.org/Policy/Download/592?filename=FNG\(XHIBIT\).pdf](http://pol.tasb.org/Policy/Download/592?filename=FNG(XHIBIT).pdf).

Additionally, the Parent and Community Assistance Office can provide information on filing a complaint or may provide assistance with resolving issues within HISD. The contact information is by email at [parentassistance@houstonisd.org](mailto:parentassistance@houstonisd.org) or by telephone at 713-556-7121. Even after initiating the formal complaint process, students and parents are encouraged to seek informal resolution of their concerns. A student or parent whose concerns are resolved may withdraw a formal complaint at any time.

The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board Policy, nor to require a full evidentiary hearing or "mini-trial" at any level.

#### **FREEDOM FROM RETALIATION**

Neither the Board nor any HISD employee shall unlawfully retaliate against any student or parent for bringing a concern or complaint.

#### **OTHER SPECIFIC COMPLAINT AND GRIEVANCE PROCEDURES IN HISD BOARD POLICY**

Except as addressed below, this policy applies to all complaints or grievances from students or parents. HISD Board Policies may be accessed at the HISD website ([www.houstonisd.org](http://www.houstonisd.org)) or at <http://pol.tasb.org/Home/Index/592/>. Additionally, Board Policies are available through the Schools Office.

Complaints alleging certain forms of harassment shall be processed in accordance with Board Policy *FFH*.

For more information on how to proceed with complaints regarding:

1. Alleged discrimination, see Board Policy *FB*.
2. Loss of credit on the basis of attendance, see Board Policy *FEC*.
3. Removal to a Disciplinary Alternative Education Program, see Board Policy *FOC*.
4. Expulsion, see Board Policy *FOD* and this *Code of Student Conduct*.
5. Identification, evaluation, or educational placement of a student with a disability within the scope of Section 504, see Board Policy *FB*.
6. Identification, evaluation, educational placement, or discipline of a student with a disability within the scope of the Individuals with Disabilities Education Act, see Board Policies *EHBA* and *FOF* and the parents' rights handbook provided to parents of all students referred to special education.
7. Instructional materials, see Board Policy *EFA*.

8. On-campus distribution of non-school materials, see Board Policy *FNA*.
9. A commissioned peace officer who is an employee of HISD, see Board Policy *CKE*.

## DEFINITIONS

For purposes of this policy, terms are defined as follows:

The terms “*complaint*” and “*grievance*” shall have the same meaning. Complaint forms and appeal notices may be filed by hand delivery, fax, U.S. mail, or email. Hand-delivered filings shall be “timely filed” if received by the appropriate administrator or designee by the close of business by the deadline. Fax filings shall be “timely filed” if they are received on or before the deadline, as indicated by the date/time shown on the fax copy. Mail filings shall be “timely filed” if they are postmarked by U.S. mail on the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

At Levels I and II, “*response*” shall mean a written communication to the student or parent from the appropriate administrator. Responses may be hand delivered or sent by U.S. mail to the student’s or parent’s mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. mail by the deadline and received by the student or parent or designated representative no more than three days after the response deadline.

“*Representative*” shall mean any person who or organization that is designated by the student or parent to represent the student or parent in the complaint process. A student may be represented by an adult at any level of the complaint. The student or parent may designate a representative through written notice to the District at any level of this process. If the student or parent designates a representative with fewer than three days’ notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District’s counsel.

“*Days*” shall mean District business days. In calculating timelines under this policy, the day a document is filed is “day zero,” and all deadlines shall be determined by counting the following day as “day one.”

Complaints arising out of an event or a series of related events shall be addressed in one complaint. A student or parent shall not bring separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.

All time limits shall be strictly followed unless modified by mutual written consent.

If a complaint form or appeal notice is not timely filed, the complaint may be dismissed on written notice to the student or parent at any point during the complaint process. The student or parent may appeal the dismissal by seeking review in writing within 10 days, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

Each party shall pay its own costs incurred in the course of the complaint.

Complaints under this policy shall be submitted in writing on a form provided by the District.

Copies of any documents that support the complaint should be attached to the complaint form. If the student or parent does not have copies of these documents, copies may be presented at the Level I conference. After the Level I conference, no new documents may be submitted, unless the student or parent did not know the documents existed before the Level I conference.

A complaint form that is incomplete in any material aspect may be dismissed, but it may be refiled with all the requested information, if the refiled is within the designated time for filing a complaint.

## PROCEDURE FOR STUDENT COMPLAINTS

The student may be represented by an adult at any level of the complaint. For purposes of this policy, “*days*” means calendar days. Announcement of a decision in the student’s or parent’s presence shall constitute communication of the decision.

**Level I:** Complaint forms must be filed:

1. Within 15 days of the date the student or parent first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and
2. With the lowest-level administrator who has the authority to remedy the alleged problem. In most circumstances, students and parents shall file Level I complaints with the campus principal or his/her designee. If the only administrator who has authority to remedy the alleged problem is the superintendent of schools or his/her designee, the complaint may begin at Level II following the procedure, including deadlines, for filing the complaint form at Level I.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

The appropriate administrator shall hold a conference with the student or parent within 10 days after receipt of the written complaint. The administrator shall have 10 days following the conference to provide the student or parent with a written response.

### Level II

If the student or parent did not receive the relief requested at Level I, or if the time for a response has expired, the student or parent may request a conference with the appropriate area superintendent or designee to appeal the Level I decision.

The appeal notice must be filed in writing on a form provided by the District within 10 days after receipt of a response or, if no response was received, within 10 days of the response deadline at Level I.

The area superintendent or designee shall hold a conference within 10 days after the appeal notice is filed. At the conference, the area superintendent or designee shall consider only the issues and documents presented at Level I and identified in the Level II appeal notice. The area superintendent or designee shall have 10 days following the conference to provide the student or parent a written response.

### Level III

If the student or parent did not receive the relief requested at Level II, or if the time for a response has expired, the student or parent may appeal the decision to the Board of Education.

The appeal notice must be filed in writing, on a form provided by the District, within 10 days after receipt of a response or, if no response was received, within 10 days of the response deadline at Level II.

The area superintendent or designee shall inform the student or parent of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The area superintendent or designee shall provide the Board with copies of the complaint form, all responses, all appeal notices, and all written documentation previously submitted by the student or parent or the administration. The Board shall consider only those issues and documents presented at the preceding levels and identified in the appeal notice.

The District shall determine whether the complaint will be presented in open or closed session in accordance with the Texas Open Meetings Act and other applicable laws (see Board policy BE). The presiding officer may set reasonable time limits and guidelines for the presentation. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the board shall prepare a separate record of the Level III presentation. The Level III presentation, including the presentation by the student or parent or the student’s representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If for any reason the Board fails to reach a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level II.

## Students' Rights and Responsibilities: Title IX, Sexual Harassment/Sexual Abuse/Dating Violence

Title IX of the Education Amendments of 1972 protects people from sex discrimination in educational programs and activities at institutions that receive federal financial assistance. Under Title IX, discrimination on the basis of sex can include sexual harassment or sexual violence such as rape, sexual assault, sexual battery, and sexual coercion.

HISD does not discriminate on the basis of sex in education programs and/or District activities, and any member of the HISD community should promptly report any instances of harassment or violence. Questions regarding Title IX may be referred to HISD Title IX Coordinator, 4400 West 18th St., Houston, Texas 77092, 713-556-7285, TitleIXCoordinator@houstonisd.org.

### Sexual Harassment by Students

Students shall not engage in sexual harassment toward another student or a District employee. A substantiated charge of sexual harassment against a student shall result in disciplinary action. Sexual harassment by a 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.

### Sexual Harassment/Abuse by Employees

District employees are prohibited from sexually harassing or sexually abusing students. Romantic relationships between students and employees are prohibited.

### Date/Relationship Violence

The District prohibits sexual harassment, dating violence, and harassment based on a person's age, race, color, ancestry, national origin, sex, handicap or disability, marital status, religion, political affiliation, sexual orientation, gender identity, and/or gender expression. Dating violence occurs when one partner in a dating relationship, either past or current, intentionally uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other partner. Examples of dating violence against a student may include, but are not limited to, physical or sexual assaults, name-calling, put-downs, threats to hurt the student or the student's family members or members of the student's household, destroying property belonging to the student, threats to commit suicide or homicide if the student ends the relationship, attempts to isolate the student from friends and family, stalking, or encouraging others to engage in these behaviors against the targeted student.

For purposes of this policy, dating violence is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. affects a student's ability to participate in or benefit from an educational program or activity or creates an intimidating, threatening, hostile, or offensive educational environment;
2. has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. otherwise adversely affects the student's educational opportunities

### Reports to Lawful Authorities

Any District employee who receives information about sexual harassment or sexual abuse of a student that may reasonably be characterized as known or suspected child abuse or neglect shall make the report to appropriate authorities, as required by law. HISD shall notify the parents of all students involved in sexual harassment by a student or students. The District shall notify parents of all incidents of sexual harassment or sexual abuse by an employee. Notice shall include providing the parent a copy of Board Policy FFH(Regulation).

### Investigations

All reports of sexual harassment shall be referred to the Title IX coordinator. Oral complaints shall be reduced to writing to assist

in the District's investigation. Copies of any complaints made to the school shall be sent to the Title IX coordinator, regardless of whether the matter is being investigated by the HISD Police Department. To the greatest extent possible, complaints shall be treated as confidential. Limited disclosure may be necessary to complete a thorough investigation.

### Protection From Retaliation

The District prohibits retaliation by a student or District employee against a student alleged to have experienced discrimination or harassment, including dating violence, or another student who, in good faith, makes a report of harassment or discrimination, serves as a witness, or participates in an investigation.

Examples of retaliation may include threats, rumor-spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding discrimination or harassment, including dating violence, shall be subject to appropriate disciplinary action.

### PROCEDURE FOR SEXUAL HARASSMENT/DATING VIOLENCE COMPLAINTS (TITLE IX INVESTIGATIONS)

1. The principal or designee shall determine whether the allegations in the report, if proven, would constitute prohibited conduct as defined by policy FFH, including dating violence and harassment or discrimination on the basis of sex/gender. If so, the District shall proceed under policy FFH-LOCAL, and a written copy of the complaint, investigation, and actions taken shall be sent to the District Title IX coordinator.
2. The principal or designee shall conduct an appropriate investigation based on the allegations in the report. The principal or designee shall promptly take interim action calculated to prevent sexual harassment during the course of an investigation, if appropriate. Examples of mandatory interim actions included (not an exhaustive list) are: changing course schedules, assignments, or tests (to ensure complainant and alleged perpetrator are not sharing in such activities) and providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred. Careful consideration of the case's specific facts shall be made in developing appropriate interim actions.
3. Absent extenuating circumstances, the investigation should be completed within 10 District business days from the date of the initial report alleging sexual harassment/misconduct; however, the principal or designee shall take additional time if necessary to complete a thorough investigation. Written notice shall be made to parent if extenuating circumstances delay the investigation, and a copy of such notice shall be sent to District's Title IX coordinator. The District's investigation is not contingent upon completion of criminal investigation by HISD police.
4. The principal or designee shall prepare a final written report of the investigation. The report shall include a determination of whether sexual harassment/abuse occurred. A copy of the report shall be sent to complainant (and parents), alleged perpetrator (and parents), and District's Title IX coordinator. Such report must also include any individual remedies offered or provided to the complainant or any sanctions imposed on the perpetrator that directly relate to the complainant and other steps the school has taken to eliminate the hostile environment, if the school finds one to exist, and prevent recurrence. The perpetrator should not be notified of the individual remedies offered or provided to the complainant.
5. If an incident of sexual harassment/abuse is confirmed, the principal or designee shall promptly notify the parents of the targeted student and of the student who engaged in sexual harassment/abuse. The principal or designee shall promptly take interim action calculated to prevent sexual harassment from reoccurring.
6. If the results of an investigation indicate that sexual harassment/abuse occurred, the District shall promptly respond by taking

appropriate disciplinary action in accordance with the District's *Code of Student Conduct* and shall take corrective action reasonably calculated to address the conduct.

7. The discipline of a student with a disability is subject to applicable state and federal law in addition to the *Code of Student Conduct*.
8. To address a request for a transfer on the basis of sexual harassment/abuse, the principal or designee shall refer to FDE for transfer provisions.
9. The principal or designee shall notify the targeted student, the student who engaged in sexual harassment/abuse, and any students who witnessed the sexual harassment/abuse of available counseling options.
10. If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or sexual harassment/abuse, the District may take action in accordance with the *Code of Student Conduct* or any other appropriate corrective action.
11. To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation.
12. A student who is dissatisfied with the outcome of the investigation or the response to the alleged harassment may appeal through FNG(LOCAL) beginning at the appropriate level. Retention of records shall be in accordance with CPC(LOCAL).

### **Bullying and Other Types of Harassment**

The District encourages all students and staff members to foster a climate of mutual respect for others in order to enhance the District's educational purpose and the program designed to achieve that purpose. Each student is expected to respect the rights and privileges of other students, teachers, and District staff members. Students shall not engage in harassment motivated by age, race, color, ancestry, national origin, sex, handicap or disability, marital status, religion, political affiliation, sexual orientation, gender identity and/or gender expression directed toward another student. A substantiated charge of harassment against a student shall result in disciplinary action.

The term "harassment" includes repeated, unwelcome, and offensive slurs, jokes, or other oral, written, graphic, or physical conduct relating to an individual's race, color, religion, national origin, or disability that creates an intimidating, hostile, or offensive educational environment. The term also includes 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.

Reports of bullying shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the District's ability to investigate and address the prohibited conduct. Any parent, student or staff member may report concerns about bullying to the school administration. Anyone who knows of a student who is bullying or being bullied may alert the HISD Police Department Dispatch at 713-892-7777. Additionally, information on the submission of anonymous reports of bullying may be found on the Student Support Services webpage located at [www.HoustonISD.org/domain/40154](http://www.HoustonISD.org/domain/40154).

To obtain assistance and intervention, any student who believes that he or she has experienced bullying or believes that another student has experienced bullying should immediately report the alleged acts to a teacher, counselor, principal, or other District employee.

Any District employee who suspects or receives notice that a student or group of students has or may have experienced bullying shall immediately notify the principal or designee. A report may be made orally or in writing. The principal or designee shall reduce any oral reports to written form.

### **PROCEDURES FOR INVESTIGATION OF BULLYING**

1. The principal or designee shall determine whether the allegations in the report, if proven, would constitute prohibited conduct as defined by policy FFH, including dating violence and harassment or discrimination on the basis of race, color, religion, gender, national origin, or disability. If so, the District shall proceed under policy FFH. If the allegations could constitute both prohibited conduct and bullying, the investigation under FFH shall include a determination on each type of conduct.
2. The principal or designee shall notify the parent or guardian of the alleged targeted student within 24 hours after an incident of bullying is reported. The parent or guardian of the alleged bully shall be notified within a reasonable amount of time after the incident.
3. The principal or designee shall conduct an appropriate investigation based on the allegations in the report. The principal or designee shall promptly take interim action calculated to prevent bullying during the course of an investigation, if appropriate.
4. Absent extenuating circumstances, the investigation should be completed within 10 District business days from the date of the initial report alleging bullying; however, the principal or designee shall take additional time if necessary to complete a thorough investigation.
5. The principal or designee shall prepare a final written report of the investigation. The report shall include a determination of whether bullying occurred and if so, whether the targeted student(s) used reasonable self-defense. A copy of the report shall be sent to the superintendent or designee.
6. If an incident of bullying is confirmed, the principal or designee shall within 24 hours notify the parents of the targeted student(s) and of the student who engaged in bullying.
7. If the results of an investigation indicate that bullying occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the District's *Code of Student Conduct* and may take corrective action reasonably calculated to address the conduct.
8. A student who is a target of bullying and who used reasonable self-defense in response to the bullying shall not be subject to disciplinary action.
9. In accordance with Tex. Educ. Code Education Code § 37.001 (b-1), a student who receives special education services may not be disciplined for bullying, harassment, or making hit lists until an ARD committee meeting has been held to review the conduct and to conduct a manifestation determination if the proposed discipline may result in a change in the educational placement.
10. To address a request for a transfer on the basis of bullying, the principal or designee shall refer to FDB for transfer provisions.
11. The principal or designee shall notify the targeted student(s), the student who engaged in bullying, and any students who witnessed the bullying of available counseling options.
12. If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take action in accordance with the *Code of Student Conduct* or any other appropriate corrective action.
13. To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation.
14. A student who is dissatisfied with the outcome of the investigation may appeal through FNG(LOCAL), beginning at the appropriate level.
15. Retention of records shall be in accordance with CPC(LOCAL).

Allegations and investigation of claims of sexual harassment are addressed above in the section entitled "Procedure for Sexual Harassment/Dating Violence Complaints (Title IX Investigations)."

### **Student Publications and Prior Review**

#### **School-Sponsored Material**

All publications edited, printed, or distributed in the name of

## Summary of Related Board Policies

or within HISD schools shall be under the control of the school administration and the Board of Education. All publications approved and issued by individual schools shall be part of the instructional program, under the supervision of a faculty sponsor, and shall be carefully edited to reflect the high ideals and expectations of the citizens of the District for their schools. The exercise of appropriate economy in materials and production is expected without jeopardy to the content. The principal shall be responsible for all matters pertaining to the organization, issuance, and sale of such publications and any other publication procedure, subject to the superintendent of schools' approval.

### Advertising

Advertising in individual school publications may be accepted from bonafide business firms, subject to the approval of professional employees exercising editorial supervision over the publications. Advertising deemed inappropriate for student readers or that advertises products presenting a health hazard, such as alcohol or tobacco products, shall not be accepted.

### Complaints

Students who have a complaint regarding the procedures or a professional decision affecting the content or style of a school-sponsored publication shall present that complaint in accordance with Board Policy FNG(LOCAL).

### Non-School Materials Distribution

The District's classrooms during the school day are provided for the limited purpose of delivering instruction to students in the courses and subjects in which they are enrolled. Classrooms shall not be used for distribution of any materials over which the school does not exercise control. Hallways in school buildings are provided for the limited purpose of facilitating the movement of students between classes and allowing access to assigned lockers. Hallways shall not be used for the distribution of any materials over which the school does not exercise control.

Each school campus shall designate an area where materials over which the school does not exercise control that have been approved for distribution to students, as provided below, may be made available to students or distributed to students in accordance with reasonable time, place, and manner restrictions developed and approved by the campus principal.

### Prior Review

No written material consisting wholly or primarily of commercial advertising may be distributed on school property.

All other written material over which the school does not exercise editorial control that is intended for distribution to students shall be submitted for prior review according to the following procedures:

1. Material shall be submitted to the building principal or a designee for review.
2. Using the standards listed above, the principal or designee shall approve or disapprove submitted material within 24 hours of the time the material is received. Failure to act within the 24-hour period shall be interpreted as disapproval.
3. The student may appeal disapproval to the superintendent of schools, who shall decide the appeal within three days of its receipt. Failure of the superintendent to act within the three-day period shall be interpreted as disapproval.
4. If the request to distribute material was initiated by a student, disapproval may be appealed to the Board using the complaint procedures specified in this *Code* and in Board Policy FNG(LOCAL), beginning at Level III. If the request to distribute material was initiated by someone other than a student, disapproval may be appealed to the Board under Board Policy GF(LOCAL), beginning at Level III.

Students who fail to follow the procedures for submitting material for approval shall face disciplinary action. Appropriate law-enforcement officials shall be called when someone other than a student refuses to follow the procedures for submitting materials and fails to leave the premises when asked.

This *Code of Student Conduct* is drawn from Board Policies and Administrative Regulations. Students are subject to the Board Policies and Administrative Regulations now in effect and those that may be adopted or amended after the publication of this *Code*. Those who desire more information concerning the policies and administrative procedures upon which this *Code* is based should refer to them. Copies are available in all schools. The sections that relate to student conduct are as follows:

**ATTENDANCE.** Board Policy and Administrative Regulations state that regular attendance and punctuality shall be required of every student. Board Policies state the District's attendance policy for students for course credit. In addition, Texas Education Code Section 25.087 pertains to excused absences.

**COMPLAINTS.** Board Policy states that students may present any complaint to the District, either personally or through a representative, through appropriate complaint procedures.

**STUDENT DRESS AND PERSONAL GROOMING.** Board Policy describes the District's policy with regard to student dress and personal grooming; it calls for the establishment of standards in each school. Additionally, each school may establish a mandatory uniform policy in conformance with state law and District policy.

**ILLEGAL DRUGS AND ALCOHOL.** Board Policy and state law prohibit any student from selling or possessing an illegal drug or alcohol on school grounds.

**STUDENT PUBLICATIONS.** Board Policy describes the District's policies regarding student participation in the publication of school newspapers, yearbooks, literary magazines, and other school-sponsored publications; it also covers the publication and distribution of publications that are not school-sponsored.

**SMOKING/VAPING.** Board Policy states that students are prohibited from possessing, smoking, or using tobacco products or vaping on school property and at any school-related or school-sanctioned activity on or off of school property.

**SCHOOL PROPERTY.** Board Policy notes that the student's responsibility for school property is the same as his or her responsibility for other public property; it holds the student accountable for malicious damage, the defacing of property, and vandalism.

**STUDENT GOVERNMENT.** Board Policy gives students the right to formulate procedures for student government.

**INFORMATION AND PRIVACY RECORDS.** Board Policy spells out District policies with regard to the right to information and privacy of student records. In addition, the Texas Public Information Act, Article 6251.17a, and the Family Educational Rights and Privacy Act of 1974, Public Law 93-480, describe the student's rights in this regard. Additionally, certain special education records will be destroyed after seven years upon proper notification.

**DISCIPLINE.** Board Policy states that the principal shall have full authority to maintain adequate discipline in the school, and that teachers shall have the responsibility for the discipline of students. Further, it states that students shall be dealt with reasonably, fairly, and consistently, but serious or persistent misconduct shall not be tolerated. By Board action, this *Code of Student Conduct* carries the force of policy in discipline matters.

**SUSPENSION/EXPULSION.** Board Policy details policies regarding suspensions and expulsions.

**OTHER DISCIPLINARY ACTIONS.** Board Policy details District policies with regard to other disciplinary actions.  
**HEARINGS.** Administrative Regulations establish the guidelines for the format of hearings.

**FRATERNITIES, SORORITIES, GANGS, AND OTHER SECRET ORGANIZATIONS.** Board Policy and state laws disallow fraternities, sororities, and other secret organizations in District schools.

**DISRUPTIVE ACTIONS AND INTERFERENCES.** Board Policy calls for the removal from school, on disciplinary reassignment, any student who, while at school or at school-sponsored activities, incites, encourages, promotes, or participates in a riot, a sit-in, a walkout, a blockage of entrances, or a trespass violation or otherwise interferes with normal educational processes.

**SEARCH AND SEIZURE.** Board Policy details policies regarding search and seizure on campuses.

**CORPORAL PUNISHMENT.** Board Policy details District prohibition of corporal punishment.

**STUDENT ACTIVITIES AND AWARDS.** Board Policy notes that students shall be encouraged to participate in school-sponsored clubs, organizations, and activities that represent their particular interests.

## Additional Rights of Students with Disabilities

HISD does not discriminate on the basis of disability and complies with all provisions of Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act.

The Section 504 coordinator for HISD is:  
Angie Maxey  
Angie.Maxey@HoustonISD.org  
Holden Field Office  
713-556-1908

Any questions or concerns regarding Title II of the Americans with Disabilities Act (ADA) should be addressed to the ADA coordinator. The coordinators for the Houston Independent School District are:

**For Employees:**  
HISD Equal Employment Opportunity Office  
4400 West 18th Street, Houston, Texas 77092  
713-556-7313

**For Students:**  
Angie Maxey  
Angie.Maxey@HoustonISD.org  
Holden Field Office  
713-556-1908

Any questions or concerns regarding discrimination on the basis of sex under Title IX of the Education Amendments of 1972, as amended, should be addressed to:

Erica Deakins  
EDeakins@HoustonISD.org  
Title IX Coordinator  
4400 West 18th Street, Houston, Texas 77092  
713-556-7000

## Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services

For those students who are having difficulty in the regular classroom, all school districts and open enrollment charter schools must consider tutorial, compensatory, and other

academic or behavior support services that are available to all students, including a process based on Response to Intervention (RTL). The implementation of RTL has the potential to have a positive impact on the ability of districts and charter schools to meet the needs of all struggling students.

If a student is experiencing learning difficulties, his or her parent may contact the individual(s) listed below to learn about the school's overall general education referral or screening system for support services. This system links students to a variety of support options, including making a referral for a special education evaluation or for a Section 504 evaluation to determine if the student needs specific aids, accommodations, or services. A parent may request an evaluation for special education or Section 504 services at any time.

### Special Education Referrals

If a parent makes a written request for an initial evaluation for special education services to the director of special education services or an administrative employee of the school district, the district must respond no later than 15 school days after receiving the request. At that time, the district must give the parent a prior written notice of whether it agrees to or refuses to evaluate the student, along with a copy of the Notice of Procedural Safeguards. If the school district agrees to evaluate the student, it must also give the parent the opportunity to give written consent for the evaluation.

Please note that a request for a special education evaluation may be made verbally and does not need to be in writing. Districts and charter schools must still comply with all federal prior written notice and procedural safeguard requirements and the requirements for identifying, locating, and evaluating children who are suspected of being a child with a disability and in need of special education. However, a verbal request does not require the district to respond within the 15-school-day timeline.

If the district decides to evaluate the student, it must complete the student's initial evaluation and evaluation report no later than 45 school days from the day it receives a parent's written consent to evaluate the student. However, if the student is absent from school during the evaluation period for three or more school days, the evaluation period will be extended by the number of school days equal to the number of school days that the student is absent.

There is an exception to the 45-school-day timeline. If a district receives a parent's consent for the initial evaluation at least 35 but less than 45 school days before the last instructional day of the school year, it must complete the written report and provide a copy of the report to the parent by June 30 of that year. However, if the student is absent from school for three or more days during the evaluation period, the June 30th due date no longer applies. Instead, the general timeline of 45 school days plus extensions for absences of three or more days will apply.

Upon completing the evaluation, the district must give the parent a copy of the evaluation report at no cost.

Additional information regarding special education is available from the district in a companion document titled Parent's Guide to the Admission, Review, and Dismissal Process.

### Contact for Special Education Referrals

The designated person to contact regarding options for a student experiencing learning difficulties or regarding a referral for evaluation for special education services is the Special Education Department Chair at your child's campus. Any additional questions may be directed to the HISD Evaluation and Dyslexia Department. Phone Number: 713-556-8000

### Section 504 Referrals

Each school district or charter school must have standards and procedures in place for the evaluation and placement of students in the district's or charter school's Section 504 program. Districts and charter schools must also implement a system of procedural safeguards that includes notice, an opportunity for a parent or

guardian to examine relevant records, an impartial hearing with an opportunity for participation by the parent or guardian and representation by counsel, and a review procedure.

### Contact Person for Section 504 Referrals

The designated person to contact regarding options for a student experiencing learning difficulties or regarding a referral for evaluation for Section 504 services is the Campus Section 504 Chair. Any additional questions may be directed to the HISD Section 504 Coordinator, Angie Maxey, Angie.Maxey@HoustonISD.org. Phone Number: 713-556-7122

The following websites provide information and resources for students with disabilities and their families.

Legal Framework for the Child-Centered Special Education Process: <http://framework.esc18.net/display/Webforms/LandingPage.aspx>

Partners Resource Network: <http://www.partnerstx.org/>

Special Education Information Center: <http://www.spedtex.org/>

Texas Project First: <http://www.texasprojectfirst.org/>

## Equal Educational Opportunity for Students with Sensory Impairments

In compliance with Title II of the Americans with Disabilities Act, HISD is committed to taking steps to ensure communications with individuals with hearing, vision, speech, or other sensory impairments are as effective as communications with others. When an auxiliary aid or service is required to assist with communication, HISD will provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice and must give primary consideration to the choice expressed by the individual. "Primary consideration" means that the district must honor the choice, unless it can demonstrate that another equally effective means of communication is available, or that use of the means chosen would result in a fundamental alteration in the service, program, or activity or in an undue financial and administrative burden.

Auxiliary aids and services include:

1. Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed-caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing
- (2) Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen-reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision
- (3) Acquisition or modification of equipment or devices; and
- (4) Other similar services and actions

Deference to the request of the individual with a disability (or an appropriate family member, such as a parent or guardian) is desirable because of the range of disabilities, the variety of auxiliary aids and services, and different circumstances requiring

effective communication. When determining what is appropriate for that student, the school must provide an opportunity for the person with the disability (or an appropriate family member, such as a parent or guardian) to request the aid or service the student with a disability thinks is needed to provide effective communication. It is the person with the disability (or his or her appropriate family member) who is most familiar with his or her disability and can provide relevant information about which aids or services will be most effective.

HISD has the burden of proving that providing a requested auxiliary aid or service would result in a fundamental alteration or an undue burden, and in HISD, the District Section 504/ADA coordinator is the designee who must make the determination that a particular auxiliary aid or service would result in a fundamental alteration in the nature of the service, program, or activity or result in undue financial or administration burden. The determination the requested service would result in an undue financial burden must be determined after considering all resources available for use by the HISD in funding and operation of the service, program, or activity. Such a determination must be accompanied by the decisionmaker's written statement of the reasons for concluding that the requested auxiliary aid or service would cause such alteration or burdens.

Students or other persons needing assistance at the Hattie Mae White Educational Support Center may make a request to the Information Center. Such requests should be made as early as possible in order to permit timely scheduling of the service. Persons or students needing assistance at schools may make a request for assistance to the administration of the school, which shall contact the School Support Office for scheduling of the service as soon as the need is identified. Additional information regarding this matter may be obtained by consulting FBI (Regulation), which may be found at <https://pol.tasb.org/Policy/Code/592?filter=FBI>.

## Requests for Adding a Sport on Your Campus

Through the use of an Athletic Interest and Survey Tool, persons may request that a sport be added at their campus. The administration will make a determination based on the number of interested parties, adequate skill levels, and the ability to compete against other like teams in their area.

- If the sport is **not** a sanctioned University Interscholastic League (UIL) sport, the campus principal will administer the interest survey for the sport requested and render a decision.
- If the sport is a sanctioned UIL sport, the campus principal must petition the District Executive Committee for approval.
- **Or**, you may complete the form below and submit your request to **Director of Athletics, Houston Independent School District, 4400 West 18th Street, Houston, Texas 77092.**

Name \_\_\_\_\_

Phone Number \_\_\_\_\_

School \_\_\_\_\_

Date Submitted \_\_\_\_\_

Sport Request \_\_\_\_\_