# Section 10 – Discipline

## Responsibility

Teachers may provide student names and information to a campus administrator trained in discipline procedures for purpose of coding and recording discipline. A trained administrator will determine the correct codes and may forward that information to data-entry personnel. **In no case should data entry/clerical personnel be responsible for determining disciplinary coding.**

Principals must ensure that reports from the Texas Education Agency (TEA), which reflect actual Public Education Information Management System (PEIMS) data, are compared to locally produced reports for reasonableness and accuracy.

Under TEC 37.008(m-1), *failure to report all disciplinary removals and truancy actions as required by state and federal law may result in a review by the commissioner of education and notice to the local school board of any problems noted in the district’s data, or a violation of a law or other rule. This review may also result in a notification to the county attorney, district attorney, criminal district attorney, as appropriate, and the attorney general. This provision can apply to missing, inaccurate, and/or falsified information/data.*

**Required Notification to CPS**

TEA requires school districts to provide notice to a foster child’s educational decision-maker and caseworker regarding certain events that may significantly impact the child’s education (HB 2619). Be sure to notify the student’s caregiver and case manager if he/she is removed from class due to suspension, in-school suspension, DAEP referral or JJAEP referral. List the case manager’s contact information on the student’s Chancery Contacts screen.

**Disciplinary Action Data – Student**

Discipline records are reported to PEIMS at the end of the current school year and are a part of PEIMS Submission 3.

The Annual DAEP Evaluation and the Performance-Based Monitoring Analysis System (PBMAS) are both dependent on the accuracy of the PEIMS discipline record data.

Discipline record data is required by TEC, Chapter 37, P.L. 107-110 - No Child Left Behind, and IDEA '97, which includes students who are receiving special education and related services. Portions of this data are the foundation for the annual evaluation of disciplinary alternative education programs (DAEPs), as required by TEC, Chapter 37.008(m). TEA will maintain the privacy of this personally identifiable information in accordance with FERPA.

A discipline record is required for each disciplinary action taken against any student which results in the removal from his regular classroom for any part of a day or when truancy charges have been filed against a student and/or his parent. A single student will have multiple discipline records if removed from his classroom more than once and will be categorized in one of the following general categories: In-School Suspension (ISS), Out-of-School Suspension (OSS), Disciplinary Alternative Education Program (DAEP), or expulsion to Juvenile Justice Alternative Education Program (JJAEP).

Multiple violations are sometimes committed in the course of one disciplinary event. When completing a discipline record only the offense code representing the most serious violation should be entered on a discipline record. ***NOTE: DO NOT MAKE MULTIPLE ENTRIES FOR THE DISCIPLINE REASON (OFFENSE) CODE***.

If a student is involved in a reportable disciplinary incident and the parent/student attempts to withdraw the student from school before the final disposition of the case, the district/school should complete the due process proceedings that result in a disciplinary assignment. At the time of withdrawal, the parent should be notified of the date for a hearing and should be advised that the district will continue the due-process proceedings whether the student and parent attend the hearing. The district is required to report the discipline record reflecting that assignment in order to remain in compliance with TEC §37.009.

The Offenses-Consequences chart provides a summary of PEIMS discipline coding, appropriate options and reminders regarding required documentation. This chart should be referred to when determining appropriate PEIMS discipline coding and appropriate disciplinary actions (consequences).

Schools should use a discipline referral form with all required PEIMS elements (See “HISD Referral Form”) to document administrative designations of discipline coding. **Administrators should be cognizant that they—not clerical staff—are responsible for documenting the coding**. Designations of discipline coding should include either the local coding or two-digit PEIMS discipline offense, consequence, and appropriate dates.

A PEIMS 425 record is required for each disciplinary action taken against any student which results in the removal from his/her Instructional setting. For purposes of discipline data reported to TEA, the attendance/PEIMS data personnel are only responsible for entering information that has been provided to them by the **Superintendent or their designee(s) who are responsible for applying the Student Code of Conduct to student behavior**. In no case should attendance/PEIMS data personnel be responsible for determining a student's coding information for discipline actions taken.

Every disciplinary action that results in the ***removal*** of a student from any part of their regular academic program will be categorized in one of the following general categories:

* **Suspensions (in & out of school)**
* **DAEP assignments**
* **Expulsions to the Juvenile Justice Alternative Education Program**
* **DAEP & JJAEP Continuations**

## Role of the Campus Behavior Coordinator

Under the requirements of **Senate Bill 107, 84th legislature, TEC 37.0012**, each campus must have a staff person designated as the Campus Behavior Coordinator. The person designated may be the principal of the campus or any other campus administrator selected by the principal. **The campus behavior coordinator is primarily responsible for maintaining student discipline and the implementation of this subchapter.**

* The campus behavior coordinator is required to promptly notify a student's parent or guardian if the student is placed into in-school or out-of-school suspension, placed in a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer.
* A campus behavior coordinator must comply with this subsection by:   
  (1) promptly contacting the parent or guardian by telephone or in person; and  
  (2) making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.
* If a parent or guardian entitled to notice of a student’s disciplinary removal has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, the campus behavior coordinator must mail written notice of the disciplinary action to the parent or guardian at the parent's or guardian's last known address. If a Campus Behavior Coordinator is unable or not available to promptly provide the required notice to a parent or guardian of a student, the principal or other designee shall provide the notice.

## Removal of Students who Receive Special Education and Related Services

* For disciplinary removals of a student who is receiving special education and related services from the student's current educational placement, a change of placement occurs if the removal is for more than 10 consecutive days (CFR §300.530 - §300.536**)**.
* The ARD committee that deals with the change of placement must review the student's IEP to detail the special education and related services to be administered to the student while he is removed for discipline reasons.
* Be careful not to confuse the 10-day change of placement requirement for special education purposes with the 1-day removal requirement for 425 record reporting purposes.
* A 425 record is required for all students who are receiving special education and related services and are removed from their regularly scheduled classes for one day or more.
* A change of placement occurs when the removal is for more than 10 **consecutive** days, and a change of placement may occur when the removal is for more than 10 **cumulative** days in a school year based on factors such as the length of each removal, the total amount of the time the child is removed, and the proximity of the removals to one another.
* An ARD committee must be involved when the removal or series of removals constitute a change in placement.

## Important Legislation Regarding Discipline

**Discipline Reporting Updates for 2020 – 2021 School Year**

* School Districts will be required to report data on incidents for students who were either Suspended out of school, placed at DAEP or JJAEP, that were inconsistent with the guidelines included in the student code of conduct.
* A new data element will be added: INCONSISTENT-CODE-OF-CONDUCT-INDICATOR-CODE – indicates whether an out of-school suspension(OSS), Disciplinary Alternative Education Program (DAEP) placement(not by court order), or expulsion action is inconsistent with the local school district’s student code of conduct.
* Guidance associated with this new element will be added to the Texas Education Data Standards (TEDS) and it will be added to reports.
* Validation rules will also be added to reflect these changes.
* **House Bill (HB) 446, 86th Texas Legislature,** amended certain sections of the Texas Penal Code **effective September 1, 2019**. It is no longer an offense under Section 46.02 to carry a club as defined by Section 46.01(1) in unrestricted areas. Local education agencies (LEAs) should no longer report students with discipline reason code 13. Knuckles, as defined by Section 46.01(8) of the Texas Penal Code, are no longer listed as one of the prohibited weapons defined in Section 46.05, Penal Code. LEAs should no longer report students found with knuckles with discipline reason code 14.
* As a result of HB 446, TEA proposes updating code table DISCIPLINARY-ACTION-REASON-CODE (C165) to remove code 13 – Unlawful Carrying of a Club under Penal Code 46.02 – TEC 37.007(a)(1), updating Appendix E discipline guidance related to clubs and prohibited weapons (knuckles), and updating business data validation rules that reference code 13 for the 2020-2021 school year

**Proposed Data Collection Requirements changes 2020-2021 School Year:**

* Update code table DISCIPLINARY-ACTION-REASON-CODE (C165) to remove code 13 - Unlawful Carrying of a Club under Penal Code 46.02 - TEC 37.007(a)(1).
* Update Appendix E discipline guidance related to clubs and prohibited weapons (knuckles).
* Update business data validation rules that reference disciplinary action reason code13

**HB 674 Out-of-School Suspensions for Students Below Grade Level Three**

HB 674, passed during the 85th Legislative session (2017), amends Texas Education Code [TEC 37.005](http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.37.htm) to limit the conditions under which a **student below grade three** may be placed in an out-of-school suspension (OSS).

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

* Conduct that contains the elements of an offense related to weapons under Section [46.02](http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.46.htm) or [46.05](http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.46.htm) Penal Code;
* Conduct that contains the elements of a violent offense under Section [22.01](http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.22.htm), [22.011](http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.22.htm), [22.02](http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.22.htm), or [22.021](http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.22.htm) Penal Code;
* Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:
  + Marihuana or controlled substance,
  + A dangerous drug, or
  + An alcoholic beverage.

IF a student is below grade three and they are assigned **Out-Of-School Suspension** **DISCIPLINARY-ACTION-CODE 05** or **Partial Day Out-Of-School Suspension DISCIPLINARY-ACTION-CODE 25** then the reason **DISCIPLINARY-ACTION-REASON-CODE** for the assignment must be one of the following:

* **04** - Possessed, Sold, Used, or Was Under the Influence of Marihuana
* **05** - Possessed, Sold, Used, or Was Under the Influence of An Alcoholic
* **11** – Brought a Firearm to School
* **12** – Unlawful Carrying of a Location-Restricted Knife (Location-Restricted Knife - blade longer than 5.5 inches)
* **13** – Unlawful Carrying of a Club
* 1**4** –Conduct Containing the Elements of an Offense Relating to Prohibited Weapons
* **27** - Assault Against a school district employee or volunteer
* **28** – Assault Against someone other than a school district employee or volunteer
* **29**- Aggravated Assault Against a school district employee or volunteer
* **30** – Aggravated Assault Against someone other than a school district employee or volunteer
* **31** – Sexual Assault or Aggravated Sexual Assault Against a school district employee or volunteer
* **32** - Sexual Assault or Aggravated Sexual Assault Against someone other than a school district employee or volunteer

**HB 692 – Related to Suspensions for Students who are Homeless**

Under HB 692, suspension for homeless students are addressed: A student who is homeless cannot be placed in out of school suspension unless the student engages in conduct described in TEC 37.005(c) 1-3. [TEC 37](https://statutes.capitol.texas.gov/Docs/ED/htm/ED.37.htm).

**AN ACT relating to the suspension of a student who is homeless from public school.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: SECTION 1. Section 37.005, Education Code, is amended by adding Subsection (d) to read as follows:**

(d)  A school district or open-enrollment charter 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.

**Schools can only suspend homeless students if they commit any of the offenses below:**

* **04** - Possessed, sold or used marijuana or other controlled substance
* **05** - Possessed, sold, used or was under the influence of an alcoholic beverage
* **11** - Brought a firearm to school
* **12** - Unlawful carrying of a location-restricted knife
* **13** - Unlawful carrying of a club
* **14** - Conduct containing the elements of an offense relating to Prohibited weapon
* **27** - Assault against a school district employee or volunteer
* **28** - Assault against someone other than a school district employee or volunteer
* **29** - Aggravated assault against a school district employee or volunteer
* **30** - Aggravated assault against someone other than a school district employee or volunteer
* **31** - Sexual assault or aggravated sexual assault against a school district employee or volunteer
* **32** - Sexual assault or aggravated sexual assault against someone other than a school district employee or volunteer

**HB 2619 – Notifications and Foster Children**

TEA requires school districts to provide notice to a foster child’s educational decision-maker and caseworker regarding certain events that may significantly impact the child’s education (HB 2619). Be sure to notify the student’s caregiver and case manager if he/she is removed from class due to suspension, in-school suspension, DAEP referral or JJAEP referral. List the case manager’s contact information on the student’s HISD Connect Contacts screen.

**SB 179 Bullying Behaviors**

Under [SB 179](https://capitol.texas.gov/Search/DocViewer.aspx?ID=85RSB001795B&QueryText=%22SB+179%22&DocType=B) (85th), TEC section 37.0052 was added to allow a public school to expel a student from the classroom for certain bullying behaviors. The offense of bullying under TEC 37.0052, which addresses the expulsion of students for certain bullying behaviors allows for either a discretionary removal to DAEP or an expulsion.

**SB 2432**

Under [SB 2432](https://capitol.texas.gov/Search/DocViewer.aspx?ID=85RSB001795B&QueryText=%22SB+179%22&DocType=B) , TEC section 37.006(a) is expanded to allow the removal of a public school student from the classroom following engaging in conduct that contains 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.

**Discipline Resources**

* **Federal and State Compliance website**, <http://www.houstonisd.org/Domain/8334>.
* **Student Discipline website,** <https://www.houstonisd.org/Domain/15184>.
* **HISD Records Retention Schedule for Schools**, <http://www.houstonisd.org/Page/31617>.

## Problems Experienced During TEA Funding or Compliance Audits

**All discipline actions for any part of a day or more are to be posted in SIS.**

* **Incomplete data in SIS:**
* Incident severity should not be “**N/A**”, unless the incident has a consequence that was overruled by a special education MDR action.
* Student names, offenses, and consequences **should not** be left blank.
* The number of days assigned and completed by the student should be entered.
* An appropriate discrepancy code should indicate the relationship between the number of days assigned and completed.
* Incidents of fighting/mutual combat should have at least two students.
* Students who are reported with conduct requiring expulsion must be expelled to JJAEP.
* Students who are reported with conduct requiring DAEP placement must be sent to a DAEP.
* Offenses that require DAEP placement or mandatory expulsion must have documentation of the behavior as provided by a law enforcement agency.
* Students reported with in-school and out-of-school suspension for actions requiring DAEP placement must be reported as having a referral to a DAEP or Code 28/27.
* Students reported with in-school and out-of-school suspension for actions requiring expulsion must be reported as having a referral to a JJAEP or Code 28/27.
* Students may not be placed in a DAEP or expelled for reasons not authorized under TEC 37.007.
* Students who are younger than 6 years of age at the time they commit an offense that requires a mandatory placement to a DAEP may not be placed at the DAEP.
* Students who are younger than 10 years of age and commit an expellable offense may not be expelled to a JJAEP. They must be expelled to a DAEP.
* No student may be reported with an out-of-school suspension exceeding 3 days.
* No student may be reported with an in-school suspension exceeding 5 days unless the student is waiting for an alternative education placement approval.
* No more than one PEIMS offense code may be entered per incident. (Multiple offense codes may result in an increased number of suspension days.) More than one PEIMS consequence code per incident is permissible.

If either the offense or consequence code is a PEIMS code, both the offense and consequence must have a PEIMS code.

## Discipline Compliance Reviews

Sr. SIRs will review campus discipline records as required by the Federal and State Compliance Department. The process is as follows:

1. The Sr. SIR will select records for review from the discipline file exported from SIS. *(FSC generates this file.)*
2. Reviews will be scheduled with campus contact(s). The Sr. SIR will email the campus behavior coordinator and/or discipline clerk and send list of requested records.
3. The Sr. SIR will review records based on the following guidelines. **The discipline coding on documentation must match the coding in SIS.**

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| **In-School Suspensions** *(Original documents must be kept in student’s discipline folder. Templates are on the FSC website.)* |
| * 1. **Discipline Referral Form**   2. **Parent Notification Letter** * Addressed to parent * Signed and dated by administrator in blue/black ink * Include description of the offense * Include action(s) taken * Include dates and number of days |

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| **Out-of-School Suspensions** *(Original documents must be kept in student’s discipline folder. Templates are on the FSC website.)* |
| 1. **Discipline Referral Form** 2. **Parent Notification Letter**  * Addressed to parent * Signed and dated by administrator in blue/black ink * Include description of the offense * Include action(s) taken * Include dates and number of days |

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| **DAEP Placements** *(Original documents must be kept in student’s discipline folder. Templates for DAEP documents are on the Student Discipline website.)* |
| 1. **Discipline Referral Form** 2. **DAEP Placement notification**  * Addressed to parent * Signed and dated by administrator * Include description of the offense * Include action(s) taken * Include dates and number of days  1. **DAEP referral**  * Printed from DAEP system * Receive from administrator  1. **DAEP Email**  * Email if request is approved, denied, cancelled * Receive from administrator |

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| **JJAEP Placements***(Original documents must be kept in student’s discipline folder. Templates are on the FSC website.).* |
| 1. **Discipline Referral Form** 2. **Letter of Recommended Expulsion**  * *Addressed to parent* * *Signed and dated by administrator* * *Include description of the offense* * *Include action(s) taken* * *Include dates and number of days*  1. **JJAEP Email**    * *Email if request is approved, denied, cancelled*    * *Receive from administrator* 2. **For Special Education Students**    * *MDR’s findings and signature page(s)*    * *Receive from Special Ed Chair* 3. **Student Victim Letter**    * *Must be on file with appropriate signatures*    * *Include in discipline folder* |

1. If the campus has errors on the **Certify Student Behavior Scorecard or the Out-of-School Suspension Report**, the Sr. SIR will provide guidance on how to correct errors.
2. The Sr. SIR will document findings on the **Discipline Review Report** and **Discipline Review Summary Report** and discuss the findings and corrective actions (if any) with the Campus Behavior Coordinator and/or discipline clerk.
3. The Campus Behavior Coordinator and the Sr. SIR will sign and date the discipline review reports.
4. The Sr. SIR will provide the campus with copies of the reports. The Sr. SIR will follow up with non-compliant schools as required.
5. Original review forms will be filed in the FSC office.