

# RIO GRANDE CITY CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

## STUDENT CODE OF CONDUCT 2009 - 2010

MR. ROEL A. GONZALEZ  
SUPERINTENDENT OF SCHOOLS

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"DESTINY IS NOT A MATTER OF CHANCE; IT IS A MATTER OF  
OUR INDIVIDUAL CHOICE."

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JULY 2009

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# Acknowledgement

Dear Student and Parent:

The Rio Grande City Consolidated Independent School District Board of Trustees officially adopted the Student Code of Conduct in order to promote a safe and orderly learning environment for every student.

We urge you to read this publication thoroughly and to discuss it among your family. If you have any questions about the rules and consequences, we encourage you to ask for an explanation from the student's teacher, the school counselor, or campus administrator.

The student and parent should each sign this page on the space provided below, then return the page to the student's school. Thank you.



**We acknowledge that we have received the Rio Grande City Consolidated ISD Student Code of Conduct for this school year, and that we are responsible for reading and understanding the rules and other information contained in the Student Code of Conduct.**

Student's Name: \_\_\_\_\_  
(Please print)

Student's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Parent's Name: \_\_\_\_\_  
(Please print)

Parent's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

School: \_\_\_\_\_ Grade Level: \_\_\_\_\_

**Please sign this page, remove it, and return it to the student's school. Thank you.**

## **Purpose of a Student Code of Conduct**

The Student Code of Conduct that follows is the District's response to the requirements of Chapter 37 of the Texas Education Code. The law requires the District to establish standards of student conduct and to identify the circumstances, under which a student may be removed from a classroom, campus, or disciplinary alternative education program, transferred to a disciplinary alternative education program, suspended, or expelled. The Code provides information to parents and students regarding expectations for behavior, consequences of misconduct, and procedures for administering discipline.

We provide you a copy of or access to the Code annually; a copy is also available for review in the principal's office of each campus in the District. The Code is posted on the District's website ([www.rgccisd.org](http://www.rgccisd.org)) and can be accessed or printed at any time from that site. If you do not have access to a computer, the principal's office at your child's campus will print one for you, upon request.

Violations of the Code of Conduct are documented by teachers, school employees, and other professional employees using campus discipline referral forms.

Teachers and principals may impose campus or classroom rules in addition to those found in the Student Code of Conduct. These rules may be posted in classrooms or given to the student and may or may not also constitute violations of the Student Code of Conduct.

In case of conflict between the Student Code of Conduct and the student handbook, the Student Code of Conduct will prevail. The Student Code of Conduct is adopted by the District's Board of Trustees and has the force of policy.

## **Expectations for Student Behavior**

Each student is expected to:

- Demonstrate courtesy and respect for others.
- Behave in a responsible manner.
- Attend all classes, regularly and on time.
- Be prepared for each class; take appropriate materials and assignments to class.
- Be well groomed and dressed appropriately, as articulated in the Rio Grande City CISD student handbook for each campus.
- Obey all campus and classroom rules.
- Respect the rights and privileges of other students and of teachers and other District staff.
- Respect the property of others, including District property and facilities.
- Cooperate with or assist the school staff in maintaining safety, order and discipline.
- Avoid violations of the Student Code of Conduct.

## General Authority to Impose Discipline

The Texas Legislature has delegated the authority to manage independent school districts and to discipline students to the Board of Trustees and its employees.

The school has the authority to administer discipline whenever the interest of the school is involved, on or off school property, in conjunction with or independent of classes and school-sponsored activities. The District's disciplinary authority applies:

- during the regular school day and while the student is going to and from school on District transportation;
- within 300 feet of school property;
- while the student is participating in any activity during the school day on school grounds;
- during lunch (whether on or off school campus);
- while the student is in attendance at any school-related activity of the District, regardless of time or location;
- while the student is on school property of another Texas school district or attending a school activity of a school in another Texas school district;
- for any school-related misconduct, regardless of time or location;
- when the student retaliates or threatens retaliation against a school employee, regardless of time and location;
- when the district has a reasonable belief that the student has engaged in conduct that would be punishable as a felony, as provided by Texas Education Code § 37.006;
- when the student commits a felony, as provided by Texas Education Code § 37.006; and
- when the student is involved in criminal mischief on or off school property or at a school-related event;
- when the student makes false alarm or report of bombing, fire, or other emergency involving a public school, regardless of time or location;
- when the student makes a terroristic threat involving a public school, regardless of time and location, and
- when the student commits aggravated robbery against another student, regardless of time or location.

**All District facilities, any other real property that is owned, rented, or leased by the District, and the area within 1,000 feet of any of those facilities is a **gang-free zone** under state law. The penalties from the juvenile or criminal justice systems for certain organized criminal activity occurring within a "gang-free zone" will be**

enhanced. See “Gang-Free Zones” in the Definitions, page 53, for more complete information.

## **Discipline of Students with Disabilities**

Federal law regarding the education of students with disabilities (IDIEA and Section 504) imposes specific procedures and limitations on the discipline of students with disabilities. For further information on this topic, please contact the principal, who will direct you to special education staff, or Mr. Joseph Ellert, Special Education Director. Information is also available to parents of students with disabilities in the “Explanation of Rights and Procedural Safeguards of a Parent with a Child with Disabilities in School,” which is provided to parents at the time of admission to special education and annually, upon initial referral, upon request for an evaluation, upon the filing of a request for a special education due process hearing, or upon request by a parent.

## **Prohibited Conduct**

A significant part of the district’s educational mission is to inculcate or instill the habits and manners of civility and to teach students the boundaries of socially appropriate behavior. In furtherance of this mission, students will be subject to disciplinary consequences if they engage in any of the following prohibited conduct while they are subject to the school’s jurisdiction as described in this Code of Conduct:

1. Scholastic dishonesty, which includes, but is not limited to, cheating on a test or any other assignment, plagiarism, or unauthorized collaboration with another person in preparing written work or any other assignment for which a grade is awarded
2. Conduct that can cause injury to person or property
3. Leaving classrooms, school grounds, or school-sponsored events without permission
4. Using profanity, lewd or vulgar language, or obscene gestures
5. Scuffling or fighting or other inappropriate physical contact that does not meet the definition of simple assault
6. Stealing
7. Lying about the conduct of other students or making false accusations about district employees
8. Disobeying school rules about conduct on school buses
9. Failing to comply with lawful directives given by school personnel
10. Failing to comply with campus or district policies
11. Bullying or harassment, which may include the following offenses:
  - a. Committing extortion, coercion, or blackmail (obtaining money or another object of value from an unwilling person), or forcing an individual to act through the use of force or threat of force
  - b. Making ethnic, racial, or religious slurs or any other harassment based on race, color, national origin, religion, or disability
  - c. Verbal abuse or derogatory or offensive remarks addressed to others
  - d. Damaging or vandalizing property of other students

- e. Conduct that constitutes sexual harassment or sexual abuse whether the conduct is by word, gesture, or any other sexual conduct, including without limit, requests for sexual favors
  - f. Dating violence, meaning the intentional use of physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person in a dating relationship
12. Making a hit list, i.e., a list of people targeted to be harmed using a firearm, knife, or any other object to be used with intent to cause bodily harm
  13. Harassing or threatening school employees or volunteers through inappropriate, offensive, or sexually explicit or suggestive comments made orally in person or by telephone or in writing through letters, emails, text messages, journals, or in any other way
  14. Committing or assisting in a robbery, theft, or burglary
  15. Any misbehavior that gives school officials reasonable cause to believe that the conduct will substantially disrupt the school program or incite violence
  16. Damaging or vandalizing district property or property of any school employee or volunteer
  17. Possessing stereo head sets, CD players, cassette players, MP3 players, iPods, electronic games, or any other contraband entertainment device without permission
  18. Possessing or displaying sexually explicit photographs, films, or images
  19. Possessing a paging device, cellular telephone, camera telephone, hand-held computer or PDA, or a similar device without permission
  20. Using a paging device, cellular telephone, camera telephone, hand-held computer or PDA, or a similar device without permission or in any way, such as recording a voice or image, that invades the privacy of others or without the consent of those being recorded.
  21. Using or possessing a pellet gun, air-powered rifle, toy gun, or any other instrument that may be perceived by a third party as a firearm
  22. Using or possessing a taser, stun-gun, or similar device
  23. Using or exhibiting school supplies (i.e., pencils, pens, scissors, etc.), or any other item in a manner that threatens to inflict or actually inflicts bodily harm to another person
  24. Possessing drug paraphernalia (roach clips, rolling papers, needles, baggies with residue, razor blades, pipes, etc.)
  25. Possessing or using martial arts objects, other than those that would be prohibited weapons, unless the conduct amounts to assault resulting in bodily injury
  26. Possessing or using fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device
  27. Inappropriate or offensive physical or sexual contact, whether or not it is consensual.
  28. Inappropriate exposure of a student's body parts, including exposure of any portions of the body that are ordinarily covered by clothing or required to be covered by the dress code
  29. Behaving in any way that disrupts the school environment or educational process
  30. Possessing, smoking, or using tobacco products
  31. Possessing or using matches or a lighter
  32. Possessing or using a knife with a blade of 5 ½ inches or less or possession or using of a knife of 5 ½ inches or more

33. Truancy, i.e., skipping school or cutting class without the parent's or school's knowledge or permission
34. Possessing or using any substance represented to be an illegal drug, a dangerous drug, a controlled substance, or alcohol
35. Violating computer or acceptable use policies, regulations, or guidelines
36. Gambling of any kind
37. Violating safety rules
38. Violating dress or grooming standards
39. Being a member of, pledging to become a member of, or soliciting another person to join or pledge a public school fraternity, sorority, secret society, or gang
40. Gang-related behavior or activity
41. Attempting to commit any serious offense
42. Assisting, encouraging, promoting, or attempting to assist in the commission of a serious offense
43. Failing to report the commission of a serious offense by another student to a school official
44. Threatening death or injury to other student(s), school employee(s) or volunteer(s)
45. Hazing
46. Making a false alarm or report of bombing, fire, or other emergency involving a public school, which includes the following offenses:
  - a. Pulling a fire alarm or discharging a fire extinguisher in a building owned or operated by Rio Grande City CISD, when there is no smoke, fire, or danger that requires evacuation
  - b. Calling 911 when no emergency exists
47. Making a terroristic threat involving a public school
48. Retaliating against any school employee or volunteer
49. Repeatedly violating previously communicated campus or classroom standards of behavior
50. Violating DAEP rules while assigned to the DAEP
51. Engaging in any conduct punishable as a felony, which includes the offenses of:
  - a. causing an employee to be in contact with the blood, bodily fluids, saliva, urine, or feces of any person or animal
  - b. placing graffiti on any tangible property owned by the district
  - c. distributing, selling, delivering, or attempting to distribute, sell or deliver any substance represented to be an illegal drug, a dangerous drug, a controlled substance, or alcohol
  - d. online harassment
52. Committing an assault of any kind
53. Selling, giving, or delivering to another person or possessing, using or being under the influence of marijuana or a controlled substance or a dangerous drug

54. Selling, giving, or delivering to another person an alcoholic beverage; committing a serious act or offense while under the influence of alcohol; or possessing, using, or being under the influence of alcohol
55. Engaging in conduct that would be an offense relating to an abusable volatile chemical
56. Engaging in conduct that would be public lewdness or indecent exposure
57. Engaging in conduct that would be disorderly conduct
58. Using, exhibiting, or possessing a firearm, except as permitted for participation or preparation for a school-sanctioned shooting sports educational activity sponsored by Texas Parks & Wildlife and that is not located on school property
59. Using, exhibiting, or possessing an illegal knife
60. Using, exhibiting, or possessing a club
61. Using, exhibiting, or possessing a prohibited weapon of any kind
62. Engaging in conduct that would be aggravated assault, sexual assault, or aggravated sexual assault
63. Engaging in conduct that would be arson
64. Engaging in conduct that would be murder, capital murder, or criminal attempt to commit murder or capital murder
65. Engaging in conduct that would be indecency with a child
66. Engaging in conduct that would be aggravated kidnapping
67. Engaging in conduct that would be aggravated robbery against another student
68. Engaging in conduct that would be manslaughter
69. Engaging in conduct that would be criminally negligent homicide
70. Engaging in conduct that would be deadly conduct
71. Engaging in conduct that would be continuous sexual abuse of a young child or children

## **Disciplinary Consequences**

In assessing discipline, administrators will consider:

1. The seriousness of the offense.
2. The student's age.
3. The student's attitude.
4. The potential effect of the misconduct on the school environment.

In making a decision concerning suspension, removal to the DAEP, expulsion, or placement in a JJAEP, regardless of whether the decision concerns mandatory or discretionary disciplinary action, administrators shall also consider:

1. Whether the student was defending himself or herself.
2. The student's intent or lack of intent at the time the student engaged in the conduct.
3. The student's disciplinary history.

4. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, but only as required by federal law and regulations related to discipline of students with disabilities.

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

- Oral correction
- Cooling-off time or "time-out" in a setting separate from other students that is not locked and from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object
- Seating changes within the classroom
- Counseling by teachers, counselors, or administrative personnel
- Parent-teacher or parent-administrator conferences
- Confiscation of items that disrupt the educational process. The principal or designee will determine the period of confiscation, generally not to exceed the end of the school year
- Confiscation of paging devices, cellular telephones, camera phones, and the like. The District will charge the student or parent an administrative fee of \$15 before releasing a confiscated device. The District may also dispose of a confiscated paging device, cellular phone, camera phone, or similar device in any reasonable manner after 30 days notice to the parent and company whose name and address or phone appear on the device.
- Grade reductions as permitted by policy
- Rewards or demerits
- Behavioral contracts
- Sending the student to the office or other assigned area
- Assigned school duties other than class tasks
- Withdrawal of privileges, such as participation in extracurricular activities, participation in graduation exercises, and eligibility for seeking and holding honorary offices, and/or membership in school-sponsored clubs or organizations
- Consequences or penalties identified in individual student organizations' codes of conduct, bylaws, constitutions, or rules
- Withdrawal or restriction of bus privileges
- School-assessed and school-administered probation
- Citation or ticket from School Resource Officers or school security personnel
- Referral to outside agency and/or legal authority for criminal prosecution in addition to disciplinary measures imposed by the District
- Corporal Punishment
- In-school suspension
- Detention
- Suspension from school, not to exceed three school days at one time
- Formal removal from class by the teacher
- Removal to a disciplinary alternative education program
- Extension of disciplinary alternative education program removal term for additional offenses while in the alternative program
- Expulsion from school

***What minimum procedures will be provided to each student facing discipline other than detention?*** Each student will be told what infraction the administrator believes the student to have committed. Each student will then be given the opportunity to tell his or her side of the incident. The student's admission of the offense negates the need for further investigation or procedures, though the administrator may seek further information if desired.

***How and when will we contact you about disciplinary action?*** Parents are responsible to provide to the campus administration each year the address and telephone number(s) at which parents can be reached and to update those numbers as necessary during the school year. School officials will use the information provided by the parent to contact parents about disciplinary matters. Parents will be notified of code of conduct violations that can result in suspension, removal to DAEP, or expulsion in a reasonable amount of time by telephone or in writing. Campus administrators may, but are not required to, notify parents of incidents by telephone on the day of the incident.

***What consequences will occur when a student is an accomplice in an offense?*** Any student who assists, encourages, promotes, or attempts to assist in the commission of a serious offense will receive the same punishment as a student who actually engages in the conduct.

***What are the expectations for student reporting of offenses?*** A student who has knowledge that another student or students have committed a serious offense is expected to report that information to a school official. If the administrator learns that a student failed to report the commission of a serious offense, the student will be subject to a lesser disciplinary consequence, either one step lower than that imposed for the serious offense of which the student had knowledge or a shorter term of discipline.

## **Corporal Punishment**

Corporal punishment has been approved by the Rio Grande City CISD Board of Trustees as an appropriate consequence for Code of Conduct violations.

***Are there any guidelines for administering corporal punishment?*** Corporal punishment is limited to spanking or paddling the student and will be administered only in accordance with the following guidelines:

1. Corporal punishment shall be administered only after less stringent disciplinary measures have been attempted.
2. The student shall be told the reason corporal punishment is being administered.
3. Corporal punishment shall be administered only by the principal, assistant principal, or a teacher after discussion with the Superintendent's designee.
4. The instrument to be used in administering corporal punishment shall be approved by the principal or a designee.
5. When corporal punishment is administered, it shall be done in the presence of one other District professional employee and shall take place in a designated place out of view of other students.

Coaches, physical education teachers, and classroom teachers supervising students outdoors during recess or lunch may use reasonable physical exercises or activities as a measure to enforce class or team rules in their classes and activities, and these exercises or activities are not considered to be “corporal punishment.” No other employees may use exposure to the physical elements, e.g., standing outside in heat or cold, or physical exertion, e.g., running, sit-ups, etc., as a disciplinary measure.

## **Detention**

For minor infractions of the Student Code of Conduct or campus or classroom rules, teachers or administrators may detain students after school hours or during lunch on one or more days. Administrators will make the necessary notification to a parent if a student were to require transportation for being assigned detention. Prior to assigning a student to detention, the student will be provided the opportunity to explain his or her version of the incident. Board policy FO (LOCAL)

## **In-School Suspension**

For minor infractions of the Student Code of Conduct or campus or classroom rules, teachers or administrators may assign a student to one or more days of in-school suspension where students will complete assignments given them by their regular teachers. Both the length of the suspension and restrictions on participation in school-sponsored or school-related extracurricular activities during the suspension are left to the discretion of the administrator.

If we place your child in in-school suspension for an extended period of time, we will offer an opportunity for the student to complete the courses in which he or she was enrolled at the time of the placement before the beginning of the next school year. This opportunity may be by summer school, correspondence courses, distance learning, or other avenues. You will be responsible for the ordinary charges associated with the program.

## **Suspension**

***When and for how long will a student be suspended?*** The principal or other appropriate administrator may suspend a student for a maximum of three school days at a time if the student violates the Code of Conduct by engaging in any prohibited conduct. Both the length of the suspension and restrictions on participation in school-sponsored or school-related extracurricular activities during the suspension is left to the discretion of the administrator.

***Procedurally, what will occur prior to a suspension?*** Prior to any suspension, the student will be told the Code of Conduct offense the student is accused of violating and will be afforded an opportunity to explain his or her version of the events.

***Will the parents be informed of this action?*** Ordinarily, we will call you at the number you have provided for contact during the school day when a student is suspended. We will follow up with a written notice by regular mail.

*How many times can a student be suspended?* Neither state law nor this Code of Conduct imposes a limit on the number of times a student may be suspended during a semester or school year.

## **Formal Removal from Class by Teacher**

*What is the difference between being sent to the office and formal teacher removal?*

Students may be sent to the principal's office for committing minor classroom infractions. However, a student who has been documented to repeatedly interfere with a teacher's ability to communicate effectively with the students in the class or with the ability of the students to learn, or who behaves in a manner the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students or with the ability of other students to learn will be formally removed from the teacher's classroom.

*What is the process for formally removing a student from a teacher's classroom?*

Within three days of the removal, a conference will be held between the principal or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, and the student. Pending the conference, the principal may place the student in another appropriate classroom, in-school suspension, or a disciplinary alternative education program. Following the conference, the principal will order the placement of the student. The principal will not return the student to the teacher's class without that teacher's consent, unless the Placement Review Committee determines that such placement is the best or only alternative.

*Are there any special limitations associated with formal teacher removal?* If a teacher removes a student from class because the student committed any kind of assault against the teacher, the student may not be returned to the teacher's class without the teacher's consent.

## **Physical Restraint**

In some circumstances, it may be necessary for a district employee to use force, but not deadly force, to physically restrain a student in order to lead, guide, and direct the student or to protect the student or any other person from physical injury, to obtain possession of a weapon or other dangerous object, to protect property from serious damage, to remove a student who is refusing to comply with a legitimate directive from a school employee from a specific location in order to restore order, to restrain an irrational student, or to maintain order and discipline in the class or activity..

Texas Education Code § 37.0021 and the rules adopted under its authority at 19 TAC § 89.1053 severely restrict the use of any physical restraint with any student who is a student with a disability. Those rules do not, however, apply to any other students. Teachers must be fully cognizant of which students in their classes are in special education and must follow the commissioner's rules in regard to those students.

## **Disciplinary Alternative Education Program**

*What is a DAEP?* The District [operates or provides for] two Disciplinary Alternative Education Programs (DAEP) for students who have committed certain serious offenses (see pages 22 - 32). The DAEP:

- 1) is in a setting other than the student's regular classroom;
- 2) is located [on or off] a regular school campus;
- 3) separates students in the DAEP from students in the regular program or in another disciplinary setting in the same building as the DAEP;
- 4) separates elementary students assigned to DAEP from secondary school students assigned to DAEP;
- 5) focuses on English language arts, mathematics, science, history, and self-discipline;
- 6) provides for students' educational and behavioral needs;
- 7) provides supervision and counseling;
- 8) employs only teachers who are fully certified; and
- 9) provides at least a 7-hour school day, including lunch and other breaks, but not longer than 10 hours each day.

No student who has engaged in behavior warranting a DAEP assignment will be placed in an unsupervised setting, other than an out-of-school suspension pending the DAEP conference. The Students Educational Adjustment & Success (SEAS) Disciplinary Alternative Education Program (DAEP) is a counseling based program supported by a strong academic program. The SEAS Center is a short term placement Center for students who are assigned less than 91 cumulative days of enrollment to a DAEP. The SEAS Center is located at 6667 FM-1430 (Old La Union Elementary School) in Garciasville, Texas. In addition, Rio Grande City CISD offers a long term DAEP operated by Rio Grande City CISD. This program operates under the name of the Rio Grande City Instructional Learning Center (RGC-ILC). The RGC-Instructional Learning Center is operated as a long-term disciplinary alternative education program, which utilizes the American Preparatory Institute (API) curricula; a module driven self-paced program addressing more than twenty-six (26+) courses for our students and/or individual teacher instruction in diversified teaching areas. The RGC-Instructional Learning Center serves students assigned 91 or more days during a school year; or any student who continues to violate the student code of conduct after being placed in the short term SEAS Center Disciplinary Alternative Education Program; a third time repeater during a school year to the SEAS Center; a student who is expelled [**Persistent and/or serious misconduct by a student enrolled at the RGC-ILC will result in removal from the (RGC-ILC) and withdrawal from school for the initial recommended period of expulsion**]; or any student who may enter RGCCISD as a student coming from another district who was in an Disciplinary Alternative Education Program and has met all requirements for admission to Rio Grande CISD. The site for the Rio Grande City Instructional Learning Center is located at 6667 FM-1430 (Old La Union Elementary School) in Garciasville, Texas.

***Where is the DAEP? Will it operate during the school day? Is transportation provided?***

Rio Grande City CISD's disciplinary alternative education programs are located on the Old La Union Elementary campus and operate between the hours of 6:00 a.m. and 8:00 p.m. depending on the needs of students. Furthermore, in order to effectively meet the needs of students when a student is expelled from the mandated disciplinary alternative education program, a dual shift disciplinary alternative education program may be provided. The dual shift program operates the first shift (morning shift) from

6:00 a.m. to 1:00 p.m. and the second shift (afternoon shift- if necessary) operates from 1:00 p.m. to 8:00 p.m. District transportation will be provided as required by law for the students assigned to the SEAS - DAEP Center (Short Term DAEP). Students assigned to the Rio Grande City Instructional Learning Center (RGC-ILC) – [Long Term DAEP] will not be provided transportation unless required by law; otherwise, parents are responsible for making sure students attend while assigned to either the SEAS Center or the Rio Grande City Instructional Learning Center. Failure to attend the DAEP is a violation of compulsory attendance laws, and students and parents may be prosecuted for failure to attend while assigned.

***What kinds of courses are taught at the DAEP?*** Instruction in the DAEP will focus on English language arts, mathematics, science, history and self-discipline with a major emphasis in counseling. The DAEP curriculum for students in grades K-5 shall include all core areas and elective subjects including Physical Education and self-discipline. The curriculum in grades 6-12 shall be focused on English Language Arts, mathematics, science, history, and self-discipline while providing each student the opportunity to remain current in and pass all core and elective courses in which they are enrolled at the time of assignment to the DAEP through any method available.

The District will provide an opportunity for students who have been placed in the DAEP to complete a foundation curriculum course in which the student was enrolled at the time of removal before the beginning of the next school year, if the term of the student's placement is such that the student is not able to continue enrollment in all his or her courses. The opportunity to complete coursework will be provided through any method available, which may include summer school, distance learning, or correspondence courses. The district will not assess any charge for the student to complete a course under this provision. In addition, a pre-assessment (within three days of placement) and a post assessment (administered to each student with 90 day or longer placement or when multiple DAEP placements total 45 school days or longer) will be provided to DAEP students in basic skills in the areas of mathematics and reading.

***What are the guidelines for the term of DAEP placement?*** A removal to DAEP may be for as brief a time as 5 school days up to one full year from the date of the order. The administrator issuing the removal order will use his or her best professional judgment, taking into account the factors considered in all disciplinary actions, in setting the term of a DAEP placement.

Ordinarily a DAEP assignment will not extend beyond the end of a school year. However, if the administrator making the placement determines: 1) that the student's presence in the regular classroom or at the student's regular campus poses a danger of physical harm to the student or another individual; or 2) the student has engaged in serious or persistent misbehavior that violates the District's Student Code of Conduct, then the assignment may be continued to the next school year. Serious offenses occurring during the last grading period of the school year will generally extend into the next school year.

The DAEP administrator may extend the original term of removal based on new violations that occur while the student is assigned to the DAEP, including violation of

DAEP rules, by following the procedures for initial DAEP placement, i.e., a conference with the student and parents.

**TERM OF PLACEMENT:** Students are assigned to DAEP with a written removal order that states a specific term of placement that is the number of successful school days that must be served. Students will be credited with a “successful day” of DAEP assignment if the student is present, completes all assigned work, follows all rules of the DAEP, and engages in no additional violations of the Student Code of Conduct. The length of all DAEP assignments is at the discretion of the administration, within the guidelines stated below. A student who is placed at the Rio Grande City Instructional Learning Center (RGC-ILC) will be assigned for the remainder of the current school year unless, the incident occurred on the last six weeks of the sixth six weeks. A student who is expelled during the last six weeks of the school year from a campus, the SEAS Center, or the RGC-ILC will be expelled for the remainder of the current school year and the first semester of the following year. The superintendent and / or his designee may alter the length of time assigned to any of the Disciplinary Alternative Education Programs offered by Rio Grande City CISD on a case-by-case basis.

The purpose of the Rio Grande City CISD Code of Conduct is to ensure that every student, administrator, teacher, support person, etc. has a full understanding of the rights and responsibilities directly associated with the Texas Education Code, specifically Chapter 37; Discipline: Law and Order. Furthermore, the full intent of the Student Code of Conduct is to ensure that everyone in the school community is provided a positive school climate and a safe and orderly environment. A list of the most common infractions and terms of placement will follow.

**NOTE:** Administrators and / or designees will continue to utilize effective disciplinary techniques currently utilized at the different campuses. Behavior management techniques, parent conferences, disciplinary avenues available at different campuses and counseling will be utilized to modify student behavior. When avenues have been exhausted at the individual campus, the administrators and/or designees will order placement to the Students Educational Adjustment & Success (SEAS) Center, a Disciplinary Alternative Education Program (DAEP), in accordance to local and state criteria. The Rio Grande City CISD Student Code of Conduct identifies unacceptable behaviors that will result in removal to a disciplinary alternative education program (DAEP) and / or expulsion from school.

***Are some offenses subject to a different length of assignment?*** Yes. A student who has received punishment through the criminal justice system for sexually assaulting another student, regardless of whether the conduct occurred on or off school property, and who cannot be assigned to a campus other than a campus where the victim of the assault is assigned may be assigned to the DAEP for so long as both students are enrolled in the district.

**SCHOOL-RELATED ACTIVITIES:** Students assigned to a DAEP may **not** attend or participate in extracurricular activities during the term of their assignment.

**STUDENTS YOUNGER THAN TEN:** Students younger than ten who commit an expellable offense will be placed in a disciplinary alternative education program for elementary students.

**STUDENTS YOUNGER THAN SIX:** Students younger than six will not be placed in a disciplinary alternative education program for any reason other than bringing a firearm to school.

**EFFECT OF WITHDRAWAL:** Withdrawing a student from school does not affect the District's authority to schedule and conduct a conference on the conduct and enter an order of removal, regardless of whether the student or parent is present to participate. The order of removal will be included with the records sent to any transferring school, including but not limited to, another public school, a campus charter program, or an open-enrollment charter school and that district will be empowered to exercise its authority to honor the removal. Furthermore, even if we do not complete the removal process and issue a removal order, we will send disciplinary records to the next school, and that school has the authority to complete the removal process and issue a removal order. Students who transfer out of this District to another public or private school, including students who withdraw from this District for the purpose of home schooling, and students who do not attend Rio Grande City CISD's Disciplinary Alternative Education Programs for the duration of the placement for any reason (other than reasons which constitute an "excused absence" under District policy), will be required upon return to this District to complete the number of days missed in the Disciplinary Alternative Education Program before being allowed to return to the regular campus, unless their records indicate that the term of removal was served in another school district or charter school.

**EFFECT OF TRANSFER INTO DISTRICT:** If a student transfers into this District from another school district in which the student was placed in a Disciplinary Alternative Education Program, Rio Grande City CISD may continue the Disciplinary Alternative Education Program placement under the terms of the order provided by the sending school district. The designated Disciplinary Alternative Education Program will be at the Rio Grande City Instructional Learning Center (RGC-ILC).

If the student transfers into this District from an open-enrollment charter school or from another state and the District receives a copy of the removal order in the records from the other school, the district may enforce the terms of that removal order, provided the grounds for removal to DAEP in the charter school or other state are grounds for removal in the District.

**GRADUATING STUDENTS IN THE DAEP:** When a student is placed in the DAEP, the District will allow that student to participate in graduation ceremonies, provided that all prerequisites for graduation are met and provided that the student has successfully completed all of the days that the student was placed in the DAEP. If the student in question has unexcused absences or has not successfully completed his or her days in the DAEP for any other reason, such as withdrawal or transfer to another school district, the student will not be allowed to participate in graduation ceremonies.

**CONDUCT UNRELATED TO SCHOOL - TITLE 5 OFFENSES:** A student will be removed from class and placed in a disciplinary alternative education program based on off-

campus criminal conduct punishable as a felony under Title 5, Texas Penal Code. See the chart on page \_62\_ in the Definitions for a list of these offenses. However, if more than a year passes from the date of the off-campus criminal offense to the time that a school administrator learns of the offense, the administrator is not required to place the student in the DAEP.

**CONDUCT UNRELATED TO SCHOOL - NON-TITLE 5 OFFENSES:** A student will be removed from class and placed in a disciplinary alternative education program for off-campus criminal conduct punishable as a felony, other than offenses defined by Title 5, Texas Penal Code, if the administration determines that the student's continued presence in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process. However, if more than a year passes from the date of the off-campus criminal offense to the time that a school administrator learns of the offense, the administrator is not required to place the student in the DAEP.

**RELATIONSHIP OF CRIMINAL OR JUVENILE JUSTICE SYSTEM AND THE SCHOOL DISTRICT:** The school district may place a student in the DAEP regardless of any action or lack of action taken by the criminal or juvenile justice system. However, in some circumstances, the district may re-assess the punishment based on information from law enforcement authorities.

*When will the school contact law enforcement about a student's conduct?* The principal or designee is required to notify the sheriff's department or the city police department if he or she has reasonable grounds to believe that a student or anyone else has engaged in certain criminal conduct on school property or at a school activity. Those activities include any conduct that would be an offense listed in Government Code § 508.149 (see Definitions); deadly conduct; a terroristic threat; drug, paraphernalia, or marijuana offenses; possession of a prohibited weapon; organized criminal activity; criminal conduct that would support mandatory expulsion. The District may contact law enforcement officials at any time the administrator determines that their presence will assist the District.

*Does a student have to be arrested or convicted of a felony offense before the District can place the student in a DAEP?* No. A student may be removed from class and placed in a DAEP if the administration determines that the student committed an offense requiring DAEP assignment while he or she was under the school's jurisdiction. The district will send the required information about the removal to the juvenile authorities.

When the assignment is necessary because of CONDUCT UNRELATED TO SCHOOL, the removal is based on the administrator's reasonable belief that the student has committed a felony offense. If the out-of-school offense is a non-Title 5 felony, before the student is placed in the DAEP, the administration must also determine 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.

In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense in the Penal Code, the administrator may consider all information available, including information furnished by law enforcement.

***What options does the school have if the student is found guilty of a Title 5 felony offense?*** The administration must place the student in DAEP if the conviction, deferred prosecution, or determination of delinquency occurs during the school year while the student is enrolled in a district school and the student is not otherwise confined under the authority of the criminal or juvenile justice system. The administration also has the authority to expel the student to the DAEP or a JJAEP in which the district participates. See PERMISSIVE EXPULSION TO JJAEP OR DAEP OF STUDENTS WITH CRIMINAL HISTORIES in the Expulsion portion of the Code for more complete information.

***What happens if the courts say the student did not commit the offense or the student is not prosecuted for other reasons?*** If, after the placement, the administration receives notice from an appropriate law enforcement agency that the student was found not guilty of the felony offense and the case was dismissed with prejudice, or that the student was not prosecuted and no formal proceedings, deferred adjudication, or deferred prosecution was initiated, the administration will review the student's placement in the DAEP. The student will remain in the DAEP pending the review, which will take place within three class days of the administration's receiving the notice. The parents or guardian will be provided an opportunity for input. However, if after the review the administration believes that the presence of the student in the regular classroom threatens the safety of other students or teachers, the administration may continue the student's placement in the DAEP.

**This review is not necessary if the reason for the removal is an offense that must result in DAEP placement because (1) it is a false report or terroristic threat or (2) the conduct occurred on or within 300 feet of school property or at any school-related activity or event, regardless of time or place. The student will ordinarily remain in the DAEP until the term of removal has been completed, regardless of additional information from an appropriate law enforcement agency.**

***If the student is not being prosecuted for the out-of-school offense, but the school wants to continue the DAEP placement, what rights of appeal does the student have?*** The student or the parent or guardian may appeal the decision of the administration to continue the student's placement in the DAEP to the Rio Grande City CISD Board of Trustees. The appeal will be heard at the next regularly scheduled board meeting, where the board will review the notice letter from law enforcement and receive information from the administration and the student or the student's parent or guardian. The decision of the Board of Trustees is appealable to the Commissioner of Education. The student remains in the DAEP pending all appeals.

**JUVENILE COURT-ORDERED PLACEMENT IN DAEP:** The juvenile court may order a student to attend the district's DAEP as a condition of probation, regardless of whether the school district has a basis for imposing discipline on the student. When the juvenile court orders a student to attend the DAEP as a condition of probation, the district, after receiving a copy of the order, will immediately transfer the student to the DAEP for the period of time designated by the court. However, state law prohibits the juvenile court from ordering a student who has been expelled from the district to attend the DAEP.

**OTHER COURT-ORDERED PLACEMENT IN DAEP:** When the district receives a copy of an order from a justice or municipal court indicating that a student must attend the DAEP as a condition of a term of probation under Code of Criminal Procedure 45.051, the principal or other administrator will hold a conference as described in Procedures for Removal to a DAEP and determine whether the student should be assigned to the DAEP or should remain in the regular school setting. The principal or other administrator will consider the nature of the misdemeanor offense resulting in the order in making this determination.

**PLACEMENT OF STUDENTS WHO ARE REGISTERED SEX OFFENDERS:** A student who is currently required to register as a sex offender may be removed from the regular classroom and placed in another setting according to the requirements of state law.

A student who is a registered sex offender under any form of court supervision must be placed in the DAEP or a JJAEP in which the District participates, in accordance with the District's agreement with the juvenile board or in accordance with a court order, for at least one semester. If a student who is a registered sex offender under court supervision moves or transfers into the District, the District may require the student to complete an additional semester in the appropriate alternative setting without conducting a review or it may count any time the student has been in an alternative setting toward the mandatory one semester assignment.

A student who is a registered sex offender and who is not under any form of court supervision may be placed in the DAEP or a JJAEP available to the District, in accordance with the District's agreement with the juvenile board or in accordance with a court order, for at least one semester or in the regular classroom. However, the District may not place a student in the regular classroom if District officials determine that the student's presence in the regular classroom (1) threatens the safety of other students or teachers, (2) will be detrimental to the educational process, or (3) is not in the best interest of the District's students.

At the end of the first semester of placement in an appropriate alternative setting, the District shall convene a committee to review the student's placement. The committee will be composed of a teacher from the student's home campus, the student's parole, probation, or juvenile probation officer, an instructor from the alternative setting, the principal of the home campus or other person designated by the District, and a District counselor. The committee by majority vote will determine a recommendation to be made to the superintendent or designee regarding whether the student should continue placement in the alternative setting or be returned to the regular campus.

The superintendent or designee shall follow the committee's recommendation on placement unless the superintendent or designee determines that the student's presence in the regular classroom (1) threatens the safety of other teachers and students, (2) will be detrimental to the educational process, or (3) is not in the best interest of the District's students. If the superintendent or designee determines that the student should remain in the alternative setting, then before the beginning of the next school year, and any additional school years, the District must convene the committee to review and determine the student's placement, using the same standards set out in this paragraph.

A student who is a registered sex offender not under court supervision who moves or transfers into the District will be placed in the regular classroom or an appropriate alternative setting using the committee recommendation and review process described above.

The student or parent may appeal the District's decision regarding placement by asking for a conference among the superintendent or designee, the parent, and the student. The conference is limited to the factual question of whether the student is or is not a registered sex offender. If the District determines that the student is a registered sex offender, then the student will be placed as described above, and that decision is final and cannot be appealed.

An ARD committee will make decisions about a student with disabilities who is a registered sex offender.

## **Conduct That Warrants a DAEP Placement**

**DEFINITIONS:** Definitions of offenses and other key terms are found in the Definition section of the Code, beginning on page 46.

**SCHOOL-RELATED CONDUCT:** The campus principal or other appropriate administrator will place a student in a DAEP if the student:

- Makes a false report of bombing, fire, or other emergency involving a public school, regardless of when the false report is made or the place from which the false report is made
- Makes a terroristic threat involving a public school, regardless of when the threat is made or the place from which the threat is made

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

- Conduct punishable as a felony
- Assault resulting in bodily injury
- First misdemeanor drug and alcohol offenses.(Refer to \*Note below.)
- Offenses relating to misdemeanor possession of marijuana, controlled substances or dangerous drugs. (Refer to \*Note below.)
- Offenses relating to misdemeanor possession of alcohol (Refer to \*Note below.)

**\*Note: The Board has chosen not to expel a student for a first time misdemeanor drug or alcohol possession offense, **UNLESS:** the student has committed a first drug or alcohol offense that constitutes a felony; or any student who sells, gives, transfers, distributes any dangerous drug, alcohol and/or controlled substance; or any student who intends to sell,**

**give, transfer, distribute any dangerous drug, alcohol and/or controlled substance; or any student who commits a second misdemeanor drug offense in the same school year will be expelled from school.**

- Offenses relating to abusable glue, volatile chemicals
- Indecent exposure
- Public lewdness
- Retaliation against a school employee, regardless of where the conduct takes place
- Serious or persistent misbehavior, subject to administrative discretion as described in the following section

A student who is charged with an offense warranting expulsion will be suspended for three days and then placed in the DAEP pending the expulsion hearing. The DAEP designated by the District is the Rio Grande City Instructional Learning Center (RGC-ILC) Disciplinary Alternative Education Program.

***What is “serious offense” or “persistent misbehavior?”*** “Serious offense” includes the following offenses, which will always result in DAEP placement:

- Conduct punishable as a felony, which includes without limitation:
  - distribution of any substance represented to be an illegal drug, a dangerous drug, or a controlled substance
  - placing graffiti on any tangible property owned by the district
  - harassment of a public servant, i.e., causing an employee to be in contact with the blood, bodily fluids, saliva, urine, or feces of any person or animal with the intent to assault, harass, or alarm
  - online harassment
- Assault resulting in bodily injury
- Making a false report of bombing, fire, or other emergency involving a public school, which includes the following offenses:
  - pulling a fire alarm or discharging a fire extinguisher in a building owned or operated by the district when there is no smoke, fire, or danger that requires evacuation
  - calling 9-1-1 when no emergency exists
- Terroristic threat involving a public school
- Offenses relating to marijuana, controlled substances and dangerous drugs
- Offenses relating to alcohol
- Offenses relating to abusable glue, volatile chemicals and aerosol paint
- Indecent exposure
- Public lewdness

- Retaliation against a school employee, regardless of where the conduct takes place

Serious misconduct also includes the following offenses. The campus administrator will exercise discretion in making assignments for the serious offenses listed here and will consider all the facts and circumstances in determining appropriate disciplinary action:

- Using profanity, lewd or vulgar language, or obscene gestures directed at a school employee
- Lying about the conduct of other students or making false accusations about district employees
- Failing to comply with campus or district policies
- Violating computer or acceptable use policies, regulations, or guidelines
- Bullying or harassment, which include the following offenses:
  - Committing extortion, coercion, or blackmail (obtaining money or another object of value from an unwilling person), or forcing an individual to act through the use of force or threat of force
  - Making ethnic, racial, or religious slurs or any other harassment based on race, color, national origin, religion, or disability, against students, employees, or volunteers
  - Verbal abuse or derogatory or offensive remarks addressed to others
  - Damaging or vandalizing property of other students
  - Conduct that constitutes sexual harassment or sexual abuse whether the conduct is by word, gesture, or any other sexual conduct, including without limit, requests for sexual favors
  - Dating violence, meaning the intentional use of physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control another person in a dating relationship
- Making a hit list , i.e., a list of people targeted to be harmed using a firearm, a knife, or any other object to be used with intent to cause bodily harm
- Threatening death or injury to other student(s), school employee(s), or volunteer(s)
- Harassing or threatening school employees or volunteers through inappropriate, offensive, or sexually explicit or suggestive comments made orally in person or by telephone or in writing through letters, emails, text messages, journals, or in any other way
- Possessing or displaying sexually explicit photographs, films, or images
- Committing or assisting in a robbery, theft, or burglary
- Damaging or vandalizing district property other than graffiti, when the value of the damage is less than \$1,500

- Using or possessing a pellet gun, air-powered rifle, toy gun, or any other instrument that may be perceived by a third party as a firearm
- Using or possessing a taser, stun-gun, or similar device
- Conduct that can cause injury to another person
- Possessing or using martial arts objects, other than those that would be prohibited weapons, unless the conduct amounts to an assault resulting in bodily injury (See also Expulsion for prohibited weapons)
- Any misbehavior that gives school officials reasonable cause to believe that the conduct will substantially disrupt the school program or incite violence
- Inappropriate physical or sexual contact, whether or not it is consensual, e.g., public displays of affection
- Inappropriate exposure of a student's body parts, including exposure of any portions of the body that are ordinarily covered by clothing or required to be covered by the dress code
- Possessing or using any substance represented to be an illegal drug, a dangerous drug, a controlled substance, or alcohol
- Gambling of any kind
- Gang-related behavior of any kind
- Hazing
- Repeatedly violating other previously communicated campus or classroom standards of behavior
- Committing an assault of any kind

“Persistent misbehavior” consists of two or more separate violations of the Student Code of Conduct in general or repeated violations of the same offense.

### **General Terms of DAEP Placement:**

#### **Major and Most Common Infractions and DAEP Consequences**

NOTE: Definitions of terms used within this policy are as follows:

(A) “ Center” refers to the short term Disciplinary Alternative Education Program (DAEP); the Students Educational Adjustment & Success (SEAS) Center; and the long term DAEP refers to the Rio Grande City Instructional Learning Center (RGC-ILC).

“ SEAS” refers to the Students Educational Adjustment & Success Disciplinary Alternative Education Program (DAEP).

(B) “ ... assignment after first offense” means the regular campus is expected to deal with the problem the first time; if the student again commits the same offense, the student may be referred to the Center.

(C) “ ... general definitions are used to serve as a guide...refer to the Texas Education Code and the Texas Penal Code official definitions found in this Code beginning on page 46.”

**Guidelines for Assignment to Center** The following violations of school policy will result in serious disciplinary action. Infractions will subject the student to referral to the Center.

**Use of Tobacco** 1. Smoking, possession, and / or use of any type of tobacco (including snuff, lighter, or matches.) Lighters and/ or matches will constitute an infraction when unlawfully used.

20 day assignment after the first offense.

**Gambling** 2. Gambling includes any type of “ game of chance” or betting in which money or items of value are wagered. Card games, pitching or matching coins, dice games, or sporting game pools are direct infractions, and both the organizers and participants are considered violators.

20 day assignment.

**Fighting (Mutual Combat)** 3. This violation may include more than one person when blows are either struck or exchanged. (Excludes all offenses under Penal Code 22.01.)

40 day assignment after the first offense, or on the first offense once school administration examines severity.

**Obscene Language** 4. While it is understood that the determination of certain language as obscene may be a value judgment, intent is to deem such words that are not readily acceptable and are offensive to standards of modesty and decency (such as “ four-lettered words” ) as obscene language. Any drawing(s) that are suggestive or connote sexual interaction may be identified as an infraction. Location, severity, and prompting situation should be considered to determine the severity of the offense.

20 day assignment.

**Improper Sexual Advances or Sexual Harassment** 5. Any person or persons who act, abet, or take part in improper sexual advances or harassment toward another or others of the same or different sex will be referred to the Center.

40 day assignment.

**Fireworks** 6. This violation includes the possession and/ or use of any combustible or explosive device that can be ignited or detonated to produce a brilliant display of light or loud

noise. (This section includes, but is not limited to; stink bombs, smoke bombs, and/ or any device used to disrupt the educational setting.)

40 day assignment.

**Hazing**

7. Any physical, oral, or written act directed at an individual or individuals with the intent to harass, humiliate, or to cause mental or physical abuse will be in violation of the district' s directive against hazing. (Definition on page 51.)

40 day assignment.

**Forgery**

8. Forgery includes any falsification of absence excuse notes, hall passes, doctor' s notes, substitution of the violator' s name on another student' s papers (with or without the permission of the other student), or changing names on textbooks, etc.

20 day assignment.

**Falsifying Records**

9. Falsifying in this section refers to the actual copying from another student' s paper, the unlawful use of study material, cheating paraphernalia, tampering of grades, records, (manually and/ or computer), etc.

30 day assignment.

**Theft**

10. The theft of minor objects, such as a pen or a pencil or a very small amount of money (one dollar or less) will not constitute a violation; however, habitual thievery, even of small items, may be cause for referral. **(Thefts that constitute a felony will result in a placement of 60 days.)**

20 day assignment.

**Extortion**

11. Extortion is committed when money, valuables, or favors are obtained through threats, force, abuse of authority, or other type of oppression. (See " Hazing" )

40 day assignment.

**Violent**

12. Any verbal violent insubordination directed at a person

**Insubordination** of authority or employee of the district may be grounds for referral to the Center. (The degree, location, and prompting situations should be considered to determine the severity of the offense.)

30 day assignment.

**Non-violent Insubordination** 13. A student who refuses to obey or cooperate with normal and reasonable directives of school employees may be referred to the Center. (This infraction involves non-violent behaviors.)

20 day assignment.

**Indecent Exposure** 14. A student commits an offense if he exposes his anus or any part of his genitals with the intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended by his act will be referred to the Center. (Definition on page 56.)

40 day assignment.

**Graffiti** 15. Any student found in violation of the offense of graffiti as defined under the Penal Code 28.08 will be referred to the Center. (Definition on page 54.)

40 day assignment.

**Misdemeanor Drug Offense** 16. Any student who has violated civil laws and/ or school policies governing the use, possession, or under the influence of a “ controlled substance” will be referred to the Center. (\*Note: A second drug offense during the same school year will result in expulsion.) (Definition on page 50.)

40 day assignment.

**Felony Drug Offense\*** 17. Students found to be selling, giving, or delivering a controlled substance described above in number 16 shall be recommended for expulsion. \*

**\* Expulsion from school.**

**Note:** \*Any student involved in a **felony drug offense** will be recommended to the Superintendent or his designee for expulsion.

**Abusable Volatile Chemicals** 18. Any student found in violation of the Penal Code section on Aerosol paint, abusable glue, or inhalant paraphernalia.. (Health & Safety Code, 481.002; 485.031 – 485.033) (“ Abusable glue or aerosol inhalant paint means glue or aerosol paint that is: (A) packaged in a container holding a pint or less by volume or less than two pounds by weight)... (“ Inhalant paraphernalia” means equipment, products, or material of any kind that are used or intended for use in inhaling, ingesting, or otherwise introducing into the human body an abusable glue or aerosol paint...) will be referred to the Center. (Definition on page 46; H & S 481.002)

40 day assignment.

**Public Lewdness** 19. Any student found in violation of the Penal Code section on public lewdness will be referred to the Center. (A person commits an offense of public lewdness if he knowingly engages in any of the following acts in a public place or, if not in a public place, if he is reckless about whether another is present who will be offended or alarmed by his: (1) act of sexual or deviate intercourse... (2) act of sexual contact; etc... will be referred to the Center. (Definition on page 60.)

40 day assignment.

**Criminal Mischief (Vandalism)** 20. Any student found in violation of the Penal Code section on criminal mischief will be referred to the Center. (A person commits an offense of criminal mischief if, without the effective consent of the owner; (1) he intentionally or knowingly damages or destroys the tangible property of the owner...) **Note: Expellable if damages exceed \$1,500.00. This constitutes a felony offense.** (Definition on page 50.)

60 day assignment.

**Terroristic Threat** 21. Any student who threatens to commit any offense involving violence to any person or property.. (Section 22.07 of the Penal Code); and to include bomb threats and the false reporting of fires, prevent or interrupts the occupation or use of a building; room; place of assembly...) will be referred to the Center. (Definition on page 61.)

60 day assignment.

**Alcoholic beverage**

22. The consumption or possession of any alcoholic beverages or the demonstration of inebriation, by anyone, on school property will be referred to the Center.

40 day assignment.

**Truancy**

23. An individual commits the offense of truancy if the student fails to attend school for three or more days or parts of days within a four-week period for unexcused reasons may be referred to the Center. The criteria must include;

- a. Parent conferences have been held by school officials;
- b. Inform parents of future consequences and attempts to resolve the student' s truancy problem;
- c. Juvenile authorities have been officially informed;
- d. School officials have filed truancy charges on student in accordance to local policy and adjudication has occurred.

20 day assignment. (TEC –25.094 – Failure to attend school)

**Assault**

24. Premeditated or unprovoked attack on a student or students. Such action goes beyond the classification of “ fighting” due to the element of surprise and non-retaliation by one of the parties. This section includes and is not limited to assault by a student on any school employee, visitor, parent, etc. which occurs on school property or while attending a school-sponsored or school related activity on or off school property. (Section 22.01 of the Texas Penal Code; Definition on page 48.)

60 day assignment.

**Unacceptable Classroom Behavior**

25. A student who has been documented by the teacher to repeatedly interfere with the teacher' s ability to communicate effectively with the students in class or whose behavior is so unruly, disruptive, or abusive after the principal and/ or his designee employs appropriate discipline management techniques consistent with the student code of conduct will be placed at the Center.

40 day assignment.

**Gangs**

26. A student who is a member of, pledges to become a member of, joins, or solicits another person to join or pledge to become a member of a prohibited public school fraternity, sorority, secret society, or gang shall be recommended

placement at the Center. Senate Bill 1, Section 37.121 refers to... gang “ means an organization composed wholly or in part of students of public primary or secondary schools that seeks to perpetuate itself by taking in additional members from the students enrolled in school on the basis of the decision of its membership rather than on the free choice of a student in the school who is qualified by the rules of the school to fill the special aims for the organization. This term does not include an agency of public welfare, including Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, or other similar educational organizations sponsored by state or national education authorities. (Definition on page 53.)

40 day assignment.

**Offenses not Covered**

27. The length of assignment for offenses not covered in this regulation will be determined by the Superintendent or his designee.

**Reasons for Referral**

Suggestions governing students’ action toward referral to the Center:

1. All students referred to and accepted by the Center are “ placed” at the Center; therefore, all students placed at the Center must attend the Center for the prescribed number of days in accordance to policy.
2. Any student who refuses to attend the Center and remains at home or away from the Center, with or without parental permission, shall be reported to the judiciary system as required by law .
3. Any student who is eighteen years of age and refuses to attend the Center should be advised of the student’ s right to protest an assignment to Center with the home campus principal, the Superintendent (or the Superintendent’ s designee), and the Board, in that order. Any student who waives this right or still refuses to attend the Center, after proper due process has been exercised shall be withdrawn from school. Before such student can be reinstated on any campus, the student would have to first fulfill any obligations to the Center.
4. If in the judgment of the superintendent and/ or designee the offense is serious enough, a referral may be made the first instance an offense is committed, regardless of the suggested time a regular campus is to deal with a particular problem. Other students committing infractions of the school rules may be referred to the Center on the first offense of any of the above listed violations. Such referral would be made because:

- a. If referral is not made, there is a reasonable forecast of future disruption.
- b. The nature of the first offense or response correction is particularly offensive or unresponsive.
- c. The principal may refer a student for a first time violation, if the administrator deems it absolutely necessary; however, this type of referral must be kept to a minimum.

When necessary, the Administrator of the Center may return a student back to the regular campus, before the student has completed the minimum assigned time at the Center, to make room for serious offenders.

The Center will afford the school administrator with additional means of handling all types of disciplinary problems on an individual basis; however, the Center's primary objective is to provide continued education for students who violate the district's student code of conduct. The Center specifically focuses on maintaining high standards on instructional disciplines by increasing attendance rates, decreasing expulsions, and reducing the dropout rate among all students.

Rio Grande City CISD Students Educational Adjustment & Success  
(SEAS) Center and  
RGC - Instructional Learning Center (RGC-ILC)  
**Disciplinary Alternative Education Programs (DAEP)**  
Orientation / Procedural Guidelines / Expectations / Policies

1. Students are to enter the building upon arrival and must be seated in their appropriate assigned areas. A parent or guardian is responsible for calling the administrator prior to 7:30 a.m., each time their son/ daughter will be late or absent. A doctor's medical excuse stating that son/ daughter is too ill to attend school will be requested at the discretion of the administrator. A tardy is unexcused and the student may lose privileges and/ or be assigned additional day(s). Class hours are from 7:00 a.m. - 9:00 p.m. depending on the single or dual shift program.
2. Students are expected to bring school supplies (i.e. paper, pen, pencils, own textbooks, etc.) and be ready to begin work at the DAEP. Folders, notebooks, textbooks, etc. provided by the DAEP are expected to be free of markings of any kind. Backpacks are not allowed. Students who fail to report to class without the required school supplies will be disciplined accordingly.
3. Students should notify the administrator and/ or designee of any prescribed medication they are taking; medication will be controlled by DAEP personnel and administered only after proper notification from a parent or doctor.

4. Students may not talk without permission or disrupt the instructional setting. They may not talk or touch another student at any time. (The instructor is allowed to make any changes in this area to improve instruction and/ or improve the classroom arrangement or environment to best meet the needs of the students.)
5. Students are to leave the campus immediately at dismissal time, unless they are waiting for transportation from parents or bus and/ or attending required counseling sessions. Students may not bring their vehicles on school property. (Transportation is **not** available for DAEP students at the RGC-ILC; furthermore, parents are responsible to make all transportation arrangements, unless the law requires for transportation to be provided.)
6. Teachers are always available to assist students with their assignments. Reference books, dictionaries, and other supplementary textbooks are available.
7. Students may leave their books in their desks, but students are held responsible for their books and any other instructional materials. Restitution will be required for damaged textbooks.
8. Students may be given one morning and one afternoon restroom break, unless conditions warrant additional trips to the restroom. (Refer to specific schedule)
9. Students will eat lunch at their desks and/ or assigned area; loud talking is not allowed during lunch. No carbonated drinks, sweets, or gum are permitted. [Outside food of any kind will **not** be allowed unless a physician has directed that a special diet be provided for the student.]
10. Students may receive class assignments from their regular classroom teachers. Completed assignments will be given to a DAEP teacher on time and delivered back to the home campus. Credit will be given for all assignments and grades will be recorded.
11. Shorts are not permitted for students. Hair should be neat and clean. Haircuts will be requested as needed to ensure that grooming does not have any disruption or interference with instruction and/ or school policies. Designs and/ or displays of any kind on hair or eyebrows will **not** be allowed. (Refer to Student Handbooks)
12. Students are expected to stay on task academically throughout their DAEP placement and/ or expulsion period. [Electronic devices of any kind, i.e. cellular phones, Ipods, camera telephones, and/ or paging devices, etc. are **not** allowed.]
13. Students will wear their shirttails inside their pants as defined by policy. Uniforms are required in accordance to home campus rules. The dress code policies will be adhered to by all students at all times. Pants will be worn in the traditional manner, secured at the waist. Torn jeans, mid-drift blouses, capri pants, open-toe shoes, purses, etc. will **not** be allowed. Failure to comply will result in requesting the parent to bring the proper uniform to the student, and/ or non-credit for the assigned day of expulsion and/ or placement will be considered.

14. Upon entrance to the DAEP, students will remove their jackets and place them in a designated area. Only approved uniform attire is allowed. [SEAS Center administration and/ or designees will conduct administrative searches as deemed necessary.]
15. During an expulsion or placement period, students in the DAEP are **not** allowed to attend any school-related activity, on or off campus. The District **shall not** allow a student to attend or participate in extracurricular activities including graduation ceremonies, unless the student has met all prerequisites for graduation and successfully completed all of the days that the student was placed and/ or expelled to the DAEP. (Refer to RGCCISD Student Code of Conduct)
16. Students who attend the DAEP are expected to be present every day. A student who is tardy once will be reminded of the importance of attending on time. A second tardy will require parental notification of the importance of the student being on time and a third tardy of a student will result in an unexcused absence and the student will return to their home with the parent and/ or guardian who transported the student to school.  
**A student who misses 10 or more days, in aggregate, during the expulsion period will be withdrawn from the RGC-ILC program. In addition, a student who fails to attend RGC-ILC - DAEP for three (3) or more days within a four-week period for unexcused reasons will be withdrawn from the DAEP program.** Upon withdrawal from the DAEP program, the student will serve the remainder of the expulsion period until the term is served in full.
17. Students who attend the RGC-ILC - DAEP will participate in random drug testing at any time. **Failure to be drug-free at any time will result in the student' s withdrawal from the RGC-ILC- DAEP program.** Upon withdrawal from the RGC-ILC – DAEP program, the student will serve the remainder of the expulsion period until the term is served in full.
18. **Persistent and/or serious misconduct by a student at the DAEP will result in expulsion from school. Any misconduct of any kind by a student at the RGC-ILC - DAEP will result in removal and/or withdrawal from the RGC-ILC – DAEP program for the recommended period of expulsion.**
19. A DAEP assignment consists of a predetermined number of days based on the policy violation of the student code of conduct; however, the student works on an “Incentive Plan.” **(Except for conduct punishable as a felony).** The terms of the Incentive Plan are as follows:

**First Referral to the “ Center”**: Student is eligible for 50% reduction of their DAEP placement if the student demonstrates appropriate behavior, exhibits a positive attitude, does not violate any disciplinary rules while at the DAEP, completes academic assigned tasks, and is in regular attendance.

**Second Referral to the “ Center”**: Student referred will serve 100% of his/ her DAEP placement time during the same school year, unless the student is referred for a drug or alcohol offense for the 2nd time in a school year.

**\*Note:** A referral for a drug or alcohol offense for a second time during a school year will result in expulsion for the school year. (Refer to pages 22 and 27.)

**Third Referral to “ Center”** : Student referred for a third time during a school year must attend the Rio Grande City Instructional Learning Center (RGC-ILC) for the period of time assigned by the DAEP administrator.

**Distributes, sells, or gives Drugs or Alcohol (1st Off.)** The expulsion period will be for the remainder of the school year, unless the offense occurs during the last six weeks of the school year, in which case the student will be expelled for the remainder of the school year and the first semester of the following school year.

**Failure to attend a Disciplinary Alternative Education Program (DAEP)**  
Refusal of an order of placement to a Disciplinary Alternative Education Program (DAEP), whether it be the Students Educational Adjustment & Success (SEAS) Center or the Rio Grande City CISD Instructional Learning Center (RGC-ILC) program by any student will result in advising the proper law enforcement agencies and may result in withdrawal and/ or expulsion for the student. **(The period of time for a student expulsion or a withdrawal shall be for the remainder of the school year, unless the incident occurs on the last six-weeks of the year, then the student will be recommended for expulsion or withdrawal for the remainder of the year and the first semester of the following year.)** A firearm infraction will require expulsion for a minimum of one year.

**Mandatory Referral to a Disciplinary Alternative Education Program (DAEP)**  
It is of vital importance that students recognize that the Texas Education Code, Section 37.006 (c)(1), and (d)(1) state, “a student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student ... (c)(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code; (d)(1) the superintendent or the superintendent’s designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than those in Title 5, Penal Code and 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; ... therefore, any student who committed an offense as determined by school officials and has been provided due process shall be placed at the Disciplinary Alternative Education Program (DAEP) designated by the district.

### **Notice to Parent(s) and Student**

Students shall not be assigned for a period of 91 or more days, in aggregate, or more than two times during a school year to the short-to-intermediate term SEAS Center. Any student who, in aggregate, accumulates an assignment of 91 days or more during a school year or is assigned more than two times during a school year must attend the Rio Grande City Instructional Learning Center as assigned by the campus administrator. **[Any misconduct of any kind by a student at the RGC-ILC- DAEP will result in expulsion, (if the home campus ordered placement to the RGC-ILC - DAEP for a**

**third time during one school year) and/or withdrawal from the RGC-ILC - DAEP program for the recommended period of expulsion.]**

### Message to Students and Parents

The staff and administration at the SEAS Center and the RGC-ILC - DAEP Program operate on the philosophy that “destiny is not a matter of chance; it is a matter of our individual choice”. The SEAS Center and the RGC-ILC - DAEP administration and staff are committed to ensure the highest quality of education and achievement from each of our students. We encourage our parents to continue parental involvement, a critical attribute to the success of each student. Effective communication with school personnel, parents, administration, teachers, counselors, etc. is the key to continued success; therefore, working together we will make a difference in the education of our students.

These rules, regulations, expectations, and policies are provided in order to clarify to all students and parents the benefits and / or consequences that may follow when any student exhibits acceptable and / or unacceptable behavior. The goal at any of the DAEP’s in the District (SEAS Center and RGC-ILC) is to ensure that every student is successful.

## **Procedures for Removal to a DAEP**

***Will the student have a chance to dispute the allegations?*** Before a student is placed in a disciplinary alternative education program, the principal or other administrator will tell the student briefly why he or she is being removed to that program and explain that the student will have an opportunity to give his or her version of events at a conference to be scheduled and held within three class days. In most circumstances, the student will be suspended pending the placement conference.

***Will parents have an opportunity to provide input?*** Within three class days after the date the student is charged with the offense, the principal or other administrator will contact the parent by telephone or in writing to schedule and hold a conference with the student, the teacher who removed the student from class (if any), and the parents and will make efforts to ensure that all invited parties can attend.

***What if the parent cannot attend the conference?*** The District may proceed with the conference without the parents or student present, so long as the parents and student have been notified of the conference. Whether or not the parents attend the conference, the student will receive oral or written notice at the conference from the administrator of the reason(s) for the removal and the offense the student is charged with violating. The student will have an opportunity at that time to explain or respond to the reasons for removal. The student and parents will receive a written notice no later than two days after the conference memorializing the conference and stating the length of the removal to the DAEP, if applicable, and any conditions or other requirements related to the DAEP assignment, i.e., a written removal order.

***What information will be provided to the juvenile authorities?*** When a student is placed in the DAEP for a mandatory placement reason, a copy of the removal order, the child and parent’s names and address, names and addresses of any witnesses, and a complete statement of the circumstances surrounding the conduct will be forwarded

to the authorized officer of the juvenile court in the county in which the student resides.

## **Emergency Placement**

A campus administrator or the Superintendent may order a student to immediately be placed in a disciplinary alternative education program if his or her behavior is so unruly, disruptive, or abusive that it seriously interferes with school operations or activities. At the time the student is placed in DAEP under this emergency provision, the student will be told of the reason for the placement and must be one of the District's reasons for DAEP placement under this Code.

## **Appeal of a DAEP Placement**

**The student remains in the DAEP during all appeals.**

A decision by the principal or designee to place a student in the DAEP may be appealed to the Superintendent or designee. The appeal must be in writing and filed with the Superintendent or designee within five days of date of the order. The appeal must state all bases for the appeal and what remedy the student or parent is seeking. The Superintendent or designee will review the written appeal and the record of the removal prepared at the campus level. At his or her discretion, the Superintendent or designee may schedule a conference with the student or parent. If a conference is not scheduled, a written decision will be issued within seven days after receipt of the appeal.

If no conference is scheduled, the Superintendent or designee will issue a written decision within seven days after the appeal is received. The Superintendent or designee's decision may be appealed to the Board of Trustees by filing a written appeal with the Superintendent within three days after receipt of the decision. The written appeal must state all the bases for appeal and the remedy the student or parent is seeking. At the next regular Board meeting after the appeal is received and for which proper notice can be posted, the Board will review the complete record of the disciplinary action, including all written appeals. The Board may choose to take no action after reviewing the record and appeal, which has the effect of sustaining the last administrative decision. The Board may also choose to schedule an appeal at a future meeting at which the parents and administration may make an oral presentation. The Board's decision in either case is final and may not be appealed.

## **Academic Assessment**

*How will the District assess a student's academic growth in DAEP?* In order to determine performance levels and measurement of academic and behavioral curriculum of students placed in a DAEP, a pre-assessment [within three days of placement] and a post assessment [administered to each student with 90 school days or longer placement and each student who had multiple DAEP placements during a school year that, when combined, totaled 45 school days or longer] will be administered to DAEP students in basic skills in the areas of mathematics and reading.

## **120-Day Review of DAEP Status**

**What does a review consist of? Who attends?** Both the discipline and the academic status of students assigned to the DAEP will be reviewed every semester, but in any event, at least every 120 calendar days. At the review, the parents may make arguments for the student's return to the regular classroom. If the student is in high school and is to remain in the DAEP, the administration, together with the parents, will establish a plan designed to assist the student's progress toward meeting high school graduation requirements. The District is not required to provide all a student's courses necessary for graduation while the student is assigned to the DAEP, but must offer an opportunity for the student to complete courses before the beginning of the next school year without charge to the student.

## **Expulsion of Students**

**STUDENTS YOUNGER THAN TEN:** Students younger than ten who commit an expellable offense will be placed in a disciplinary alternative education program.

**STUDENTS YOUNGER THAN SIX:** Students younger than six will not be expelled or placed in a disciplinary alternative education program for any reason other than bringing a firearm to school.

## **Conduct that Warrants Expulsion**

**MANDATORY EXPULSION:** A student will be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off school property:

1. Uses, possesses, or exhibits a firearm, an illegal knife or any knife prohibited by local policy, a club, or a prohibited weapon, unless pursuant to written regulations or written authorization of the District;
2. Commits aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, or criminally negligent homicide or continuous sexual abuse of a young child or children;
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of marijuana or a dangerous drug, if the conduct is punishable as a felony.
4. Sells, possesses, gives, or delivers to another person an alcoholic beverage, or commits a serious act or offense while under the influence of alcohol, or uses or is under the influence of an alcoholic beverage, if the conduct is punishable as a felony.

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

Definitions of the above offenses can be found in the Definitions section of the Code of Conduct.

Please note that a student **will not** be expelled **solely** because of a firearm offense when the use, possession, or exhibition of the firearm occurs at an approved target range facility that is not located on school property while the student is participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Texas Parks & Wildlife Department or a shooting sports organization working with TPWD. Furthermore, the exception stated in this paragraph does not by itself authorize a student to bring a firearm on school property.

**PERMISSIVE EXPULSION FOR CONDUCT ON OR IN PROXIMITY TO SCHOOL:** A student may be expelled, in the discretion of the administration in view of all the facts and circumstances, for any of the following offenses when they occur on or within 300 feet of school property, as measured from any point on the school's real property boundary line:

1. Drug, alcohol, or abusable volatile chemical offenses, regardless of the amount.
2. Assault resulting in bodily injury against a school employee or volunteer.
3. Deadly conduct.
4. Making a false alarm or report of bombing, fire, or other emergency involving a public school.
5. Making a terroristic threat involving a public school.
6. Committing any offense stated in item 1 and 2 under MANDATORY EXPULSION.
7. Committing a serious offense or engaging in persistent misconduct while assigned to the DAEP.

**PERMISSIVE EXPULSION FOR CONDUCT OUTSIDE OF SCHOOL:** A student may be expelled, in the discretion of the administration in view of all the facts and circumstances, for any of the following offenses, regardless where they occur:

1. Intentionally or knowingly damaging personal property, including real estate and tangible personal property belonging to any public school or institution of higher education, and the amount of loss is greater than \$1,500.
2. Intentionally or knowingly damaging the property of any other person without the person's consent, and the amount of loss is greater than \$1,500.
3. Making a false report or alarm or a terroristic threat involving a public school.
4. Assaulting an employee or volunteer in retaliation for or because of the person's relationship with the school and the assault results in bodily injury.
5. Committing aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery against another student.

6. Committing any offense listed in items 1 - 4 under MANDATORY EXPULSION on the school property of another Texas school district or while attending a school-sponsored or school-related activity of another Texas school district.

**PERMISSIVE EXPULSION TO JJAEP OR DAEP FOR STUDENTS WITH CRIMINAL HISTORIES:**

Unless a student would be subject to mandatory expulsion, a student may be expelled and placed in a JJAEP in which the District participates or the DAEP if the student has any criminal history described as follows:

1. Received deferred adjudication under the Family Code for a Title 5 felony offense;
2. Been found to have engaged in delinquent conduct under the Family Code for a Title 5 felony offense;
3. Is charged with engaging in a Title 5 felony offense;
4. Has been referred to a juvenile court for allegedly engaging in a Title 5 felony offense;
5. Has received probation or deferred adjudication for a Title 5 felony offense;
6. Has been convicted of a Title 5 felony offense; or
7. Has been arrested for or charged with a Title 5 felony offense.

A student will be expelled and placed as indicated if the board or its designee determines, after the student has an opportunity for a hearing, that the student has a criminal history as described above and that the student's presence in the regular classroom (1) threatens the safety of other students or teachers, (2) will be detrimental to the educational process, or (3) is not in the best interests of the District's students. At the hearing, the issues shall be limited to the determination whether or not the student has a criminal history, as described, and the District's determination as indicated.

The decision of the board or its designee is final and may not be appealed.

The student may be expelled and placed in a JJAEP in which the District participates or the DAEP regardless of the date on which the conduct occurred, the location at which the conduct occurred, whether the student was enrolled in the District at the time the conduct occurred, or whether the student has completed any court disposition requirements associated with the conduct.

A student expelled and placed under these circumstances is subject to that placement until one of the following occurs:

1. The student graduates from high school;
2. The charges described above are dismissed or reduced to a misdemeanor offense; or
3. The student completes the term of the placement or is assigned to another program.

The term of placement continues to apply if the student transfers to another Texas school district.

The student will receive the periodic assessment and review during the expulsion and JJAEP or DAEP placement as described above for students assigned to the DAEP.

## **Procedures for Expulsion**

Before a student is expelled, the student will have an opportunity for a due process hearing that will include the following:

1. At least three days prior written notice of the charges and the proposed sanctions so as to afford a reasonable opportunity for preparation, including a written invitation to the student's parent or guardian to attend the expulsion hearing. The notice will also include the date, time, and location of the hearing and the names of adult witnesses who will present evidence at the hearing;
2. Right to a full and fair hearing before the Superintendent or a designee;
3. Opportunity to testify and to present evidence and witnesses in his or her defense; and
4. Opportunity to examine the evidence presented by the school administration and to question the administration's witnesses.

**REPRESENTATIVE:** At the hearing, the student is entitled to an adult representative or legal counsel who can provide guidance to the student and who is not an employee of the District. The District may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends, provided the District makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing.

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

**EXPULSION ORDER:** The administration will deliver a copy of the order expelling the student to the student's parent or guardian, who is responsible for providing adequate supervision for the student during the period of expulsion. In addition to notifying the parents, and not later than the second business day after the date an expulsion hearing is held, the administration will deliver a copy of the expulsion order to the authorized officer of the juvenile court in the county in which the student resides. The administration will also provide the child and parent's names and address, names and addresses of any witnesses, and a complete statement of the circumstances surrounding the conduct to the juvenile board, as required by Family Code § 52.041.

**GUIDELINES FOR TERM EXPULSION:**

An expulsion may be for as brief a time as four school days up to one full year of the date of the order. The administrator issuing the expulsion order will use his or her best professional judgment, taking into account the factors considered in all disciplinary actions, in setting a term of expulsion. In some circumstances, an expulsion term may be longer than one year if, after a review, the administrator determines that the student is a threat to the safety of other students or to employees or that an extended expulsion would be in the student's best interest.

**EFFECT OF WITHDRAWAL:**

Withdrawal from school does not affect the District's authority to schedule and conduct a hearing on the conduct and enter an order of expulsion, regardless of whether the student or parent are present to participate. The order of expulsion will be included with the records transferred to the new school district, including another public school, a campus charter program, or an open-enrollment charter school, and that district will be empowered to exercise its authority to honor the expulsion. Furthermore, even if we do not complete the expulsion process and issue an expulsion order, we will send disciplinary records to the next school, and that school has the authority to complete the expulsion process and issue an expulsion order.

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

**EFFECT TO TRANSFER INTO DISTRICT:**

If a student transfers into this District from another school district in which the student was expelled, Rio Grande City CISD shall continue the expulsion under the terms of the order provided by the sending school district.

If a student transfers into this District from an open-enrollment charter school or from another state and the District receives a copy of the expulsion order in the records from the other school, the District shall enforce the term of expulsion order, provided the grounds for expulsion in the open-enrollment charter school or other state are grounds for expulsion in the District.

**EFFECTS ON CREDITS:** When a student is expelled, the District will allow credit for courses successfully completed utilizing the American Preparatory Institute (API) Curricula and/or other forms of instructional arrangements during the assigned period at the Rio Grande City Instructional Learning Center. Students may use correspondence courses or credit by examination, within the limits set by the District to earn other graduation units. Students are responsible for all costs associated with correspondence courses or credit by examination.

**GRADUATING STUDENTS AND EXPULSION AND/OR DAEP PLACEMENT:** When a student is placed in the DAEP and / or in the DAEP for expelled students (Site E), the District will allow that student to participate in graduation ceremonies, provided that all prerequisites for graduation are met and provided that the student has successfully

completed all of the days that the student was placed in the DAEP. If the student in question has unexcused absences or has not successfully completed his or her days in the DAEP for any other reason, such as withdrawal or transfer to another school district, the student **will not** be allowed to participate in graduation ceremonies.

## **Emergency Expulsion**

A campus administrator or the superintendent may order the immediate expulsion of a student if the administrator reasonably believes that the action is necessary to protect people or property from imminent harm. At the time of the emergency expulsion, the student will be given oral notice of the reasons for the action, which must be a reason for which the student could be expelled on a non-emergency basis. Formal due process as explained on pages 34 and 35 will occur within a reasonable time thereafter.

## **Appeal of Expulsion to Board of Trustees**

**A student is expelled during all appeals.**

A decision by the administration to expel a student may be appealed to the Board by filing a written appeal within five days of the date of the order. The written appeal must state all the bases for appeal. At the next regular meeting after the appeal is received and for which proper notice can be given, the Board will review the complete record of the expulsion, including all written appeals. The Board may choose to take no action after reviewing the record and appeal, which has the effect of sustaining the expulsion. The Board may also choose to schedule an appeal at a future meeting at which the parents may make an oral presentation of the appeal. The Board's decision regarding an oral appeal is final and may not be appealed. If the Board permits an oral presentation, the administration may also be asked to speak. No new evidence or information, including witnesses or documents, will be permitted or considered. The Board may set reasonable time limitations for presentations.

## Summer School

The following information is provided to ensure that every parent and student recognize the importance of maintaining a safe and orderly environment not only during the regular school year but also during summer school, (if summer school is offered). Our summer school program is not part of the regular school year program. Some students voluntarily attend summer school to earn additional credits or to re-take courses they did not pass in the regular school year, or to complete courses necessary for graduation that were incomplete because of the student's expulsion or placement in the DAEP. Other students are required to attend summer school in order to receive intensive instruction in those subjects or areas where the student was not successful on the state assessment instruments. During summer school, all students are expected to abide by the rules of conduct that are in place during the school year. We will handle minor, isolated violations of conduct expectations through parent conferences; however, students who commit serious offenses or who have persistent behavior problems while enrolled in summer school will be withdrawn from the program after a parent conference for DAEP removal or expelled after a expulsion hearing if the conduct warrants expulsion. When a student is withdrawn from summer school for conduct that would warrant DAEP removal or expulsion, the summer campus administrator may withdraw the student and defer the assessment of the term of removal or expulsion to be served during the following school year.

**Note:** A student who is expelled during the last six weeks of the current school year and the first semester of the following school year **will not** be eligible to attend summer school.

## RGCCISD Disciplinary Incentive Plan (DIP)

In an effort to provide expelled students an opportunity to continue their academic course education, exhibit appropriate behavior, maintain a high attendance record, deter and eliminate drug use, and attend mandatory counseling sessions, the following “RGCCISD Disciplinary Incentive Plan (DIP)” is offered to eligible students who are expelled from the home campus.

**Students who are expelled for a firearms or weapons offense or based on persistent or serious misconduct while assigned to the Disciplinary Alternative Education Program (DAEP) are not eligible to participate in the DIP.**

### Disciplinary Incentive Plan (DIP) Components

A student who is expelled under the Rio Grande City CISD Student Code of Conduct and who qualifies to participate in the RGCCISD Disciplinary Incentive Plan will be offered the opportunity to attend the Rio Grande City Instructional Learning Center (RGC-ILC)—DAEP during the term of the expulsion. The RGCCISD Disciplinary Incentive Plan allows a student to continue his or her education under the following conditions, which must be fully and completely met in order to satisfy the expulsion order:

- Attend the RGC-ILC Site E for the expulsion period set out in the expulsion order. **A student who misses 10 or more days, in aggregate, during the expulsion period will be withdrawn from the program. In addition, an individual commits the offense of “ truancy” , (TEC 25.094 – failure to attend school), if the student fails to attend school for three (3) or more days or parts of days within a four-week period for unexcused reasons; therefore, the student will be withdrawn from the RGC-ILC - DAEP program. Upon withdrawal from the DIP, a student will serve the remainder of the expulsion period.**
- Complete all assigned academic tasks from the RGC-ILC Site E personnel.
- Exhibit appropriate behavior while at the RGC-ILC Site E, meaning no disciplinary referral or violation of any discipline rule.
- Participate in random drug testing at any time while voluntarily fulfilling the DIP at the RGC-ILC - DAEP. **Failure to be drug-free at any time will result in the student’s withdrawal from the program. Upon withdrawal from the DIP, a student will serve the remainder of the expulsion period.**
- Attend five mandatory counseling sessions as assigned. Counseling sessions will be focused on the area of the offense that resulted in expulsion. Parents will be required to attend a minimum of two (2) counseling sessions, as determined by the counselor.

### SPECIAL CONDITIONS

Students must complete all required components of the DIP before they are eligible to return to the home campus.

**Failure to comply with any of the required components of the Rio Grande City CISD Disciplinary Incentive Plan will result in enforcement of the original expulsion order. The student will be withdrawn from the program and will not be eligible to return to the home campus until the term of expulsion is served in full.**

DATE ISSUED: 06/12/07 FOD (LOCAL)

# Definitions

## **ABUSABLE VOLATILE CHEMICAL OFFENSES**

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

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

Health and Safety Code 485.031

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

Health and Safety Code 485.032

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

Health and Safety Code 485.033

## **AGGRAVATED ASSAULT**

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

Penal Code 22.02(a)

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

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

Penal Code 1.07(46), (17)

## **AGGRAVATED KIDNAPPING**

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

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

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

Penal Code 20.04

### **AGGRAVATED ROBBERY**

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

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

Penal Code 29.031

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

Penal Code 29.02

### **AGGRAVATED SEXUAL ASSAULT**

“Aggravated sexual assault” is defined as sexual assault (see page 57) in which the actor:

1. Causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode; or
2. By acts or words, places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person; or
3. By acts or words occurring in the presence of the victim, threatens to cause death, serious bodily injury, or kidnapping; or
4. Uses or exhibits a deadly weapon in the course of the same criminal episode; or

5. Acts in concert with another, who commits a sexual assault directed toward the same victim and occurs during the same criminal episode; or
6. Assaults a victim who is younger than 14 years of age or is 65 years of age or older.

Penal Code 22.021

### **ARSON**

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

Penal Code 28.02

### **ASSAULT**

Assault is defined as:

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

“Bodily injury” is defined as physical pain, illness, or any impairment of physical condition. Penal Code 1.07(8)

## **BULLYING**

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

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

Education Code 25.0341 (a)

### **CONDUCT UNDER TEX. GOV'T CODE § 508.149 (A)**

- (2) murder (first or second degree felony);
- (3) capital murder;
- (4) aggravated kidnapping (first or second degree felony);
- (5) harassment of a public servant;
- (6) sexual assault (felony);
- (7) aggravated assault (first or second degree felony);
- (8) aggravated sexual assault (first degree felony);
- (9) injury to a child, elderly individual, or disabled person (first degree felony)
- (10) arson (first degree felony);
- (11) robbery (second degree felony);
- (12) aggravated robbery (first degree felony);
- (13) bribery (first degree felony);
- (14) an offense enhanced because it occurred in a drug-free school zone;
- (15) sexual performance of a child; or
- (16) continuous sexual abuse of a young child or children

### **CONTINUOUS SEXUAL ABUSE OF A YOUNG CHILD OR CHILDREN**

A person commits an offense if:

- (1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and

(2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is a child younger than 14 years of age.

For purposes of this definition, “act of sexual abuse” means any of the following:

- (1) aggravated kidnapping, if with the intent to violate or abuse the victim sexually;
- (2) indecency with a child in a manner other than by touching, including touching through clothing, the breast of a child;
- (3) sexual assault;
- (4) aggravated sexual assault;
- (5) burglary punishable as a felony if with the intent to commit an offense listed in items (1) – (4);
- (6) sexual performance of a child.

Certain affirmative defenses may apply.

Penal Code 21.02

#### **CONTROLLED SUBSTANCE AND DANGEROUS DRUG**

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

Policy FNCF Local

#### **CRIMINAL MISCHIEF**

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

Penal Code 28.03

#### **CRIMINALLY NEGLIGENT HOMICIDE**

Causing the death of an individual by acting with criminal negligence, i.e., with respect to circumstance surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances

exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's viewpoint.

Penal Code 19.05, 6.03(d)

### **DATING RELATIONSHIP**

“Dating relationship” means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of the relationship will be determined based on consideration of the (1) the length of the relationship, (2) the nature of the relationship, and (3) the frequency and type of interaction between the persons involved in the relationship. A casual acquaintance or ordinary fraternization in a school or social context does not constitute a “dating relationship.”

Family Code 71.0021 (b)-(c)

### **DATING VIOLENCE**

“Dating violence” includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship.

Education Code 37.0831 (b)

### **DEADLY CONDUCT**

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

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

Penal Code 22.05, 6.03(c)

### **DISRUPTION OF CLASSES, TRANSPORTATION, AND/OR LAWFUL ASSEMBLY**

Conduct by students either in or out of class that for any reason - whether because of time, place, or manner of behavior - materially disrupts class work or involves substantial disorder or invasion of the rights of others is prohibited.

Student demonstrations and similar activities shall be prohibited when there is evidence that may reasonably lead school authorities to forecast substantial disruption of, or material interference with, normal school operations or approved school activities.

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

Conduct that disrupts the educational activities of a school includes:

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

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

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

Education Code 37.124

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

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

A lawful assembly is disrupted when any person in attendance is rendered incapable of participating in the assembly due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur.

Education Code 37.123

A person commits an offense if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally exhibits, uses, or threatens to exhibit or use a firearm:

- (1) in or on any property, including a parking lot, parking garage, or other parking area, that is owned by a public school; or
- (2) on a school bus being used to transport children to and from school-sponsored activities of a public school.

Education Code 37.125

**GANG ACTIVITY**

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

Gang activities and gang involvement are described as:

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

**GANG-FREE ZONES**

All District schools and any other property owned, rented, or leased by the District are “gang-free zones.” Certain criminal offenses that occur in, on, or within 1,000 feet of a school or any other property owned, rented, or leased by the District will be enhanced in the criminal justice system to the next highest category of offense if they are determined to be committed by a person who is a member of a criminal street gang, unless the offense

is already punishable as a first degree felony. Affected offenses include (1) murder, capital murder, arson, aggravated robbery, robbery, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, and assault resulting in bodily injury; (2) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons; (3) obscene display or distribution, obscenity, sale, distribution, of display or harmful material to a minor, sexual performance by a child, employment harmful to children, possession or promotion of child pornography when a child younger than 18 years of age is depicted or involved in the offense.

Penal Code 72.028; Subchapter B, Chapter 43, Penal Code

### **GRAFFITI**

A person commits an offense if, without the effective consent of the owner, the person intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings on the tangible property of the owner with (1) paint; (2) an indelible marker; or (3) an etching or engraving device.

Penal Code 28.08 (a)

### **HARASSMENT**

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

Education Code 37.001 (b) (1)

### **HARASSMENT OF PUBLIC SERVANT**

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

Penal Code 22.11 (a)(2)

### **HAZING**

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

1. Any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.
2. Any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other activity that

subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.

3. Any activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the student to any unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.
4. Any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame, or humiliation, or that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution, or that may reasonably be expected to cause a student to leave the organization or the institution rather than submit to acts described above.
5. Any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code.

Education Code 37.151

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

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

Education Code 37.152

### **HIT LIST**

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

Education Code 37.001(b)(2)

### **INDECENCY WITH A CHILD**

- (a) A person commits an offense if, with a child younger than 17 years of age and not the person’s spouse, whether the child is of the same or opposite sex, the person:
  - (1) engages in sexual contact with the child or causes the child to engage in sexual contact; or
  - (2) with intent to arouse or gratify the sexual desire of any person:
    - (A) exposes the person’s anus or any part of the person’s genitals, knowing the child is present; or

(B) causes the child to expose the child's anus or any part of the child's genitals.

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

Penal Code 21.11

#### **INDECENT EXPOSURE**

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

Penal Code 21.08

#### **MANSLAUGHTER**

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

Penal Code 19.04, 6.03(c)

#### **MURDER**

A person commits an offense of murder if he:

- (1) intentionally or knowingly caused the death of an individual;
- (2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual; or
- (3) commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or

attempts to commit an act clearly dangerous to human life that causes the death of an individual.

Penal Code 19.02 (b)

### **CAPITAL MURDER, CRIMINAL ATTEMPT TO COMMIT CAPITAL MURDER**

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

Penal Code 19.03

### **ONLINE HARASSMENT**

(a) A person commits an offense if the person uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site:

- (1) without obtaining the other’s consent; and
- (2) with the intent to harm, defraud, intimidate, or threaten any person.

(b) A person commits an offense if the person sends an electronic mail, instant message, text message, or similar communication that references a name, domain address, phone number, or other item of identifying information belonging to any person:

- (1) without obtaining the other person’s consent;
- (2) with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication; and
- (3) with the intent to harm or defraud any person.

Penal Code 33.07

“Identifying information” means (A) name, social security number, date of birth, and government-issued identification number; (B) unique biometric data, including the individual’s fingerprint, voice print, and retina or iris image; (C) unique electronic identification number, address, and routing code, financial institution account number; and (D) telecommunication identifying information or access device.

Penal Code 32.51

#### **PAGING DEVICE OR CELLULAR TELEPHONE**

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

Education Code 37.082

#### **PERSISTENT MISBEHAVIOR**

“Persistent misbehavior” consists of two or more separate violations of the Student Code of Conduct in general or repeated violations of the same offense.

#### **POSSESSION**

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

#### **PROHIBITED WEAPONS**

“Prohibited weapons” are defined as follows:

1. A firearm (any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use; any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, the frame or

receiver of any such weapon, any firearm muffler or firearm silencer). Penal Code 46.03(a), 46.01(3); 18 U.S.C. § 921(a)(3)

2. A destructive device (any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than ¼ ounce, mine, or device similar to any of these devices. The term does not include an antique firearm). 18 U.S.C. § 921(a)(4)
3. An illegal knife as defined by law (knife with a blade over 5 ½ inches, hand instrument designed to cut or stab another by being thrown, dagger, bowie knife, sword, spear) Penal Code 46.01(6), 46.03(a)
4. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made or adapted for delivery or shooting an explosive weapon). Penal Code 46.01(2)
5. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). Penal Code 46.01(9)
6. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches). Penal Code 46.01(10)
7. A switchblade knife (any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or by the force of gravity or centrifugal force, but not a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife). Penal Code 46.01 (11)
8. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). Penal Code 46.01(8)
9. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). Penal Code 46.01(12)
10. A chemical dispensing device (device other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of causing an adverse psychological or physiological effect on a human being). Penal Code 46.01(14)
11. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or

rifled-bore barrel by using the energy generated by an explosion or burning substance). Penal Code 46.01(16)

12. A club (an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace and tomahawk). Penal Code 46.01(1), 46.03(a)

### **PUBLIC LEWDNESS**

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

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

Penal Code 21.07

### **RETALIATION**

A person commits an offense if he intentionally or knowingly harms or threatens to harm another by an unlawful act:

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

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

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

Penal Code 1.07 (25), 36.06

### **SELF-DEFENSE**

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

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

- (1) in response to verbal provocation alone;
- (2) to resist an arrest or search that the actor knows is being made by a peace officer, or by a person acting in a peace officer's presence and at his direction, even though the arrest or search is unlawful, unless the resistance is justified under Subsection (c);
- (3) if the actor consented to the exact force used or attempted by the other;
- (4) if the actor provoked the other's use or attempted use of unlawful force, unless:
  - (A) the actor abandons the encounter, or clearly communicates to the other his intent to do so reasonably believing he cannot safely abandon the encounter; and
  - (B) the other nevertheless continues or attempts to use unlawful force against the actor; or
- (5) if the actor sought an explanation from or discussion with the other person concerning the actor's differences with the other person while the actor was:
  - (A) carrying a weapon in violation of Section 46.02; or
  - (B) possessing or transporting a weapon in violation of Section 46.05.

Penal Code 9.31 (a)-(b)

**SERIOUS OFFENSE** [See pages 22 –25]

**SEXUAL ASSAULT**

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

Penal Code 22.011

**TERRORISTIC THREAT**

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

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

Penal Code 22.07

## TITLE 5 FELONY OFFENSE

| Chapter                            | § and Offense   | A felony when:  |
|------------------------------------|---|---|
| 19                                 | 19.02 Murder  | always  |
|                                    | 19.03 Capital Murder  | always  |
|                                    | 19.04 Manslaughter  | always  |
|                                    | 19.05 Criminally Negligent Homicide                                 | state jail felony   |
| 20                                 | 20.02 Unlawful Restraint  | the actor recklessly exposes the victim to substantial risk of serious bodily injury  |
|                                    | 20.03 Kidnapping  | always  |
|                                    | 20.04 Aggravated Kidnapping   | always  |
| 21                                 | 21.02 Continuous Sexual Abuse of a Young Child or Children          | always  |
|                                    | 21.06 Homosexual Conduct  | never   |
|                                    | 21.07 Public Lewdness   | never   |
|                                    | 21.08 Indecent Exposure   | never   |
|                                    | 21.11 Indecency with a Child  | always  |
|                                    | 21.15 Improper Photography or Visual Recording                      | state jail felony   |
| 22                                 | 22.01 Assault   | against a person the actor knows is a public servant while servant lawfully discharging an official duty or in retaliation or on account of an exercise of official power |
|                                    | 22.011 Sexual Assault   | always  |
|                                    | 22.015 Coercing Gang Membership                                     | always  |
|                                    | 22.02 Aggravated Assault  | always  |
|                                    | 22.021 Aggravated Sexual Assault                                    | always  |
|                                    | 22.04 Injury to a Child, Elderly Individual, or Disabled Individual | always  |
|                                    | 22.041 Abandoning or Endangering Child                              | always  |
|                                    | 22.05 Deadly Conduct  | knowingly discharge a firearm at or in direction one or more individuals or a habitation, building, or vehicle and is reckless as to whether it is occupied               |
|                                    | 22.07 Terroristic Threat  | cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service                              |
|                                    | 22.08 Aiding Suicide  | causes suicide or attempted suicide that results in serious bodily injury   |
|                                    | 22.09 Tampering with Consumer Product                               | always  |
| 22.10 Leaving a Child in a Vehicle | never   |   |
|                                    | 22.11 Harassment of Public Servant                                  | state jail felony   |

### UNDER THE INFLUENCE

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

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

**USE**

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