

Chapter 37 Discipline Chart

Published online in [TASB School Law eSource](#)

This chart is designed to assist school officials in determining the appropriate disciplinary responses to student misconduct both on and off campus. The chart is based on the requirements of Texas Education Code chapter 37 and common provisions of local districts' Student Codes of Conduct. Before making any final disciplinary decision, school officials should always consult their local Student Code of Conduct.

Key: ★ Mandatory consequence; state law requires this penalty. [See Mitigating Factors, below.]

✓ Permissive consequence; a local district may choose to impose this penalty if the district's SCOC provides for this option.

SCOC	Student Code of Conduct
TEC	Texas Education Code
TPC	Texas Penal Code
H&SC	Texas Health & Safety Code
ISS	In-School Suspension
DAEP	Disciplinary Alternative Education Program
JJAEF	Juvenile Justice Alternative Education Program

Important Notes

Campus Behavior Coordinator: A school district is required to appoint one campus behavior coordinator per campus to be responsible for maintaining student discipline and implementing discipline management techniques. The duties of the campus behavior coordinator may be executed by a designee if the coordinator is unavailable or unable to promptly address the situation. [TEC 37.0012]

Procedures: Before a student is removed from the regular classroom setting, school officials must typically follow an established procedure. The formality of these proceedings varies according to the seriousness of the penalty; for example, the Texas Education Code includes procedures for a conference in the case of a DAEP placement and a formal due process hearing in the case of an expulsion. For more detail on the required procedures, see the FO series of policies and your SCOC.

Temporary Placement: Pending expulsion or DAEP placement, a student may be placed in ISS, out-of-school suspension for up to 3 days, or another appropriate placement in accordance with the district's SCOC.

Notice of Student Discipline: A campus behavior coordinator is required to provide prompt notice to a parent or guardian of a student who is placed in ISS, out-of-school suspension, DAEP, JJAEP, or is taken into custody by law enforcement. This notice must be provided by telephone or in writing. If the coordinator is unable to make contact with the parent or guardian by 5pm of the first business day after the day the disciplinary action was taken, the coordinator must mail written notice to the parent or guardian. [TEC 37.0012]

Notice of Educational Opportunities: The district is required to provide notice to the parent of a student who has been removed to DAEP of the opportunity to complete coursework required for graduation and any available methods to obtain such coursework. [TEC 37.008(l-1)].

Length of Removal: The district's SCOC includes guidelines on the length of a removal to DAEP or an expulsion. [TEC 37.001(a)(5)].

Mitigating Factors: The district must consider self-defense, intent, a student's disciplinary history, or a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the conduct in deciding whether to order out-of-school suspension, removal to DAEP, expulsion, or placement in JJAEP, regardless of whether the decision involves a mandatory or discretionary action. [TEC 37.001(a)].

New Students: If a student withdraws from school before an order of expulsion or DAEP is entered, the district may complete the proceedings and enter the order. If the student reenrolls in the district during the same or the subsequent school year, the district may enforce the order, reduced for time served. If the student enrolls in another school district, the new district may honor the order, or, if the preceding district failed to enter an order, the new district may complete the proceedings and enter an order. [TEC 37.009(i)].

Old Misconduct: School officials are permitted, but not required, to remove students for mandatory DAEP misconduct if school officials did not learn of the conduct for more than one year after the conduct occurred. [TEC 37.006(n)].

Elementary Students: Students younger than 10 must receive services in a DAEP if they engage in expellable misconduct. [TEC 37.007(e)(3), (h)]. However, a student younger than 6 may not be sent to a DAEP unless the student brings a firearm to school under TEC 37.007(e)(2). [TEC 37.006(l)]. Students below third grade may not be placed in out-of-school suspension unless the student engages in misconduct that is drug- or alcohol-related or that contains the elements of certain weapons offenses or violent offenses under the Texas Penal Code. [TEC 37.005] A district may adopt and implement a positive behavior program as an alternative to traditional discipline for students below third grade. [TEC 37.0013]

Special Education Students: Special state and federal laws apply to the discipline of special education students. See policy FOF(LEGAL) and your SCOC.

Weapons

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Intentionally, knowingly, or recklessly carrying on or about the student's person a handgun [TPC 46.01(5)] on campus or at a school-related activity				20 U.S.C. 7151; TEC 37.007(a)(1), 37.007(e) ★	The federal Gun-Free Schools Act, which is incorporated into Chapter 37, requires expulsion for one year except that a superintendent may modify the expulsion in writing on a case-by-case basis. [20 U.S.C. § 7151(b)(1); Tex. Educ. Code § 37.007(e).] Exception: The Act does not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or to firearms used in activities approved and authorized by the district when the district has adopted appropriate safeguards to ensure student safety. [20 U.S.C. § 7151(g).]

Weapons

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Possessing a firearm [18 U.S.C. 921] within 300 feet of school property				TEC 37.007(b)(3) ✓	Exception: Use, exhibiting, or possessing a firearm at an approved off-campus target range facility while participating in or preparing for a shooting sports competition or activity sponsored by the district or affiliated with the Texas Parks and Wildlife Department [TEC 37.007(k)]
Intentionally, knowingly, or recklessly carrying on or about the minor student's person a location-restricted knife on school property or at a school-related activity				TEC 37.007(a)(1); TPC 46.02(a-4) ★	<i>Location-restricted knife</i> means a knife with a blade of over five and one-half inches. [TPC 46.01(6)]
Same conduct within 300 feet of school property or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	

Weapons

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Intentionally, knowingly, or recklessly going with or possessing a location-restricted knife on the premises of a school, any grounds or building where a school-sponsored activity is taking place, or a passenger vehicle of the school			TEC 37.006(a)(2)(A); TPC 46.03(a)(1), (g-1) ★		Possessing a location-restricted knife on school premises, school passenger vehicle, or a school-sponsored activity is a felony offense. [TPC 46.03(a)(1), (g-1)] District must place in DAEP a student who engages in conduct punishable as a felony on or within 300 feet of school property or while attending a school-related activity. [TEC 37.006(a)(2)(A)]
Intentionally, knowingly, or recklessly carrying, or intentionally or knowingly possessing, manufacturing, transporting, repairing, or selling a prohibited weapon [TPC 46.05], on campus or at a school-related activity				TEC 37.007(a)(1) ★	<i>Prohibited weapon</i> means an explosive weapon, machine gun, short-barrel firearm, knuckles, armor-piercing ammunition, chemical dispensing device, zip gun, tire deflation device, improvised explosive device, or certain silencers. [TPC 46.05]

Weapons

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Intentionally, knowingly, or recklessly carrying a club [TPC 46.01(1)], on campus or at a school-related activity				TEC 37.007(a)(1) ★	E.g., blackjack, nightstick, mace, tomahawk
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Possessing or using look-alike weapons	✓	✓	✓		As listed in the SCOC
Possessing or using air guns or BB guns	✓	✓	✓		As listed in the SCOC
Possessing or using razors, box cutters, pocket knives, chains, or knives with a blade of less than 5 1/2 inches	✓	✓	✓		As listed in the SCOC
Possessing or using various other dangerous objects	✓	✓	✓		As listed in the SCOC

Violence

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Murder or attempt to commit murder [TPC 19.02(b), 19.03(a) & 15.01(a)], on campus or at a school-related activity				TEC 37.007(a)(2)(C) ★	
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Aggravated assault [TPC 22.02(a)], on campus or at a school-related activity				TEC 37.007(a)(2)(A) ★	
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Aggravated kidnapping [TPC 20.04(a)], on campus or at a school-related activity				TEC 37.007(a)(2)(E) ★	
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	

Violence

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Aggravated robbery [TPC 29.03], on campus or at a school-related activity				TEC 37.007(a)(2)(F) ★	
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, criminal attempt to commit murder or capital murder, or aggravated robbery against another student, on or off school property				TEC 37.007(b)(4) ✓	
Manslaughter [TPC 19.04], on campus or at a school-related activity				TEC 37.007(a)(2)(G) ★	
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Criminally negligent homicide [TPC 19.05], on campus or at a school-related activity				TEC 37.007(a)(2)(H) ★	

Violence

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Assault with bodily injury [TPC 22.01(a)(1)], on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(B) ★		
Title 5 felony or aggravated robbery off campus and not at a school-sponsored or school-related activity if: student receives deferred prosecution; court finding of delinquent conduct based on the conduct; or superintendent reasonably believes that student engaged in the conduct			TEC 37.006(c) ★		<i>Title 5 felonies</i> are violent offenses defined in Texas Penal Code chapters 19-22. A list of Title 5 felonies can be found in the TASB Model SCOC glossary.

Violence

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Same conduct plus charges, referral to juvenile court for delinquent conduct, probation, deferred adjudication, arrest, or conviction for a violent felony [TPC Title 5 or aggravated robbery], with special findings by board or designee, regardless of location or time or whether the student was enrolled at the time or completed court requirements			TEC 37.0081 ✓	TEC 37.0081 ✓	Provides for expulsion to an alternative placement, either DAEP or JJAEP
Fighting or scuffling	✓	✓	✓		As listed in the SCOC
Threats against students, staff, or school property	✓	✓	✓		As listed in the SCOC

Sexual Misconduct

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Aggravated assault [TPC 22.02], sexual assault [TPC 22.011(a)], or aggravated sexual assault [TPC 22.021(a)], on campus or at a school-related activity				TEC 37.007(a)(2)(A) ★	
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Aggravated assault, sexual assault, or aggravated sexual assault against another student, on or off school property				TEC 37.007(b)(4) ✓	
Conviction, deferred adjudication, or probation based on continuous sexual abuse of child or children [TPC 21.02], sexual assault, or aggravated sexual assault against another student attending the same campus, upon request of the victim's parent and if there is not another campus in the district to which the offending student may be transferred			TEC 25.0341(b)(2), 37.0051 ★		Student shall be removed and placed in DAEP or JJAEP. A limitation imposed by Chapter 37, Subchapter A, does not apply to placement under this section. [TEC 37.0051]

Sexual Misconduct

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Indecency with a child [TPC 21.11(a)], on campus or at a school-related activity				TEC 37.007(a)(2)(D) ★	
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Continuous sexual abuse of young child or children [TPC 21.02] on campus or at a school-related activity				TEC 37.007(a)(2)(I) ★	
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Public lewdness [TPC 21.07(a)] or indecent exposure [TPC 21.08(a)], on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(F) ★		
Voyeurism [TPC 21.17], on or within 300 feet of campus or at a school- related activity			TEC 37.006(a)(2)(A) ★		Mandatory DAEP if punishable as a felony.

Sexual Misconduct

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Invasive visual recording [TPC 21.15], on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(A) ★		<i>Invasive visual recording</i> means the student records or transmits a visual image of a person in a bathroom or changing room or of a person's <i>intimate area</i> (naked or clothed genitals, pubic area, anus, buttocks, or female breast), without the other person's consent and with intent to invade the person's privacy, if the person has an expectation that the intimate area is not subject to public view. [TPC 21.15]

Sexual Misconduct

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Disclosure or promotion of intimate visual material [TPC 21.16] on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(A) ★		Mandatory DAEP if punishable as a felony. <i>Intimate visual material</i> means film, photograph, or other physical medium allowing an image to be displayed on a screen that depicts a person with the person's intimate parts exposed or engaged in a sexual conduct. [TPC 21.16]
Sexual misconduct punishable as Title 5 felony off campus and not at a school-sponsored or school-related activity if: student receives deferred prosecution; court finding of delinquent conduct; or superintendent reasonably believes that student engaged in the conduct			TEC 37.006(c) ★		<i>Title 5 felonies</i> are violent offenses defined in Penal Code chapters 19-22. A list of Title 5 felonies can be found in the TASB Model SCOC glossary.
Possession or promotion of child pornography [TPC 43.26(a)] on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(A) ★		

Sexual Misconduct

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Registered sex offender—under court supervision			TEC 37.304 ★		If student is under court supervision, including probation, community service, or parole, district must assign to DAEP or JJAEP for at least one semester. [TEC 37.304, .309]
Registered sex offender—not under court supervision			TEC 37.305 ✓		A student not under any form of court supervision, may be placed in DAEP or JJAEP for one month. However, the student may not be placed in the regular classroom if the district determines that such placement threatens the safety of other students or teachers, will be detrimental to the educational process, or is not in the best interests of the district's students. [TEC 37.305]

Sexual Misconduct

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Inappropriate exposure of body parts	✓	✓	✓		As listed in the SCOC
Sexual harassment or sexual abuse	✓	✓	✓		As listed in the SCOC
Inappropriate sexual conduct toward a student or employee	✓	✓	✓		As listed in the SCOC

Substance Abuse

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Drug- or alcohol-related misconduct [TEC 37.006(a)(2)(C) & (D)], on campus or at a school-related activity, if punishable as a felony				TEC 37.007(a)(3) ★	
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Selling, giving, delivering, possessing, using, or being under the influence of any amount of marijuana, a controlled substance, or a dangerous drug, on or within 300 feet of campus or at a school-related activity, if not punishable as a felony			TEC 37.006(a)(2)(C) ★	TEC 37.007(b)(2)(A) ✓	District may not prohibit possession of low-THC cannabis pursuant to a valid prescription as authorized by Texas Health & Safety Code chapter 487.
Selling, giving, delivering, possessing, using, being under the influence of, or committing a serious act or offense while under the influence of alcohol, on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(D) ★	TEC 37.007(b)(2)(A) ✓	
Abusing a volatile chemical [H&SC 485.031-485.034], on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(E) ★	TEC 37.007(b)(2)(B) ✓	

Substance Abuse

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Off-campus non-violent felony, with special findings by superintendent or designee [see TEC 37.006(d)]			TEC 37.006(d) ✓		
Possessing or using tobacco products or e-cigarettes, including any component, part, or accessory for the e-cigarette	✓	✓	✓		As listed in the SCOC
Possessing, selling, giving, or using drug paraphernalia	✓	✓	✓		As listed in the SCOC
Possessing or selling seeds or pieces of marijuana in less than a usable amount	✓	✓	✓		As listed in the SCOC
Possessing, selling, or using look-alike drugs or items attempted to be passed off as drugs	✓	✓	✓		As listed in the SCOC
Improper use, possession, or being under the influence of prescription drugs	✓	✓	✓		As listed in the SCOC
Improper use or being under the influence of over-the-counter drugs	✓	✓	✓		As listed in the SCOC

Retaliation

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
On- or off-campus retaliation through conduct containing the elements of a violent offense [TEC 37.007(a)] against a school employee or volunteer				TEC 37.007(d) ★	
Assault with bodily injury against a school employee or volunteer, on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(B) ★	TEC 37.007(b)(2)(C) ✓	
On- or off-campus retaliatory assault with bodily injury on a school employee or volunteer			TEC 37.006(a)(2)(B) [on campus] or TEC 37.006(c) [off campus] ★	TEC 37.007(d) ✓	
On- or off-campus retaliation against any school employee [TPC 36.06(a)]			TEC 37.006(b) ★		

Mistreatment of Others					
Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Bullying [TEC 37.0832(a)] that occurs on or is delivered to the site of a school-sponsored or school-related activity on or off school property	✓	✓	✓		As listed in the SCOC
Bullying [TEC 37.0832(a)] that occurs on a publicly or privately owned school bus or vehicle used for transportation of students to or from school or a school-sponsored or school-related activity	✓	✓	✓		As listed in the SCOC
Cyberbullying [TEC 37.0832(a)] that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying: interferes with a student's educational opportunities; or substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity	✓	✓	✓		As listed in the SCOC
Bullying [TEC 37.0832(a)] that encourages a student to commit or attempt to commit suicide	✓	✓	TEC 37.0052 ✓	TEC 37.0052 ✓	

Mistreatment of Others					
Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Inciting violence against a student through group bullying [TEC 37.0832(a)]	✓	✓	TEC 37.0052 ✓	TEC 37.0052 ✓	
Releasing or threatening to release intimate visual material [Tex. Civ. Prac. & Rem. Code 98B.001] of a minor or of an adult student without the student's consent	✓	✓	TEC 37.0052 ✓	TEC 37.0052 ✓	<i>Intimate visual material</i> means film, photograph, or other physical medium allowing an image to be displayed on a screen that depicts a person with the person's intimate parts exposed or engaged in a sexual conduct. [TPC 21.16]
Directing profanity or obscene gestures at students or staff	✓	✓	✓		As listed in the SCOC
Hazing [TEC 37.151], dating violence [TEC 37.0831], harassment [TEC 37.001(b)(2)], or making a hit list [TEC 37.001(b)(3)]	✓	✓	✓		As listed in the SCOC
Assault (no bodily injury) with threat of imminent bodily injury [TPC 22.01(a)(2)]	✓	✓	✓		As listed in the SCOC
Assault by offensive or provocative physical contact [TPC 22.01(a)(3)]	✓	✓	✓		As listed in the SCOC

Other Misconduct

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Arson [TPC 28.02(a)], on campus or at a school-related activity				TEC 37.007(a)(2)(B) ★	
Same conduct within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Documented serious misbehavior while in DAEP				TEC 37.007(c) ✓	
Terroristic threat [TPC 22.07(a)] or false alarm [TPC 42.06(a)] involving a public school			TEC 37.006(a)(1) ★	TEC 37.007(b)(1) ✓	
Deadly conduct [TPC 22.05], on or within 300 feet of campus or at a school-related activity				TEC 37.007(b)(2)(D) ✓	
On- or off-campus felony criminal mischief [TPC 28.03(a)]				TEC 37.007(f) ✓	<i>Felony criminal mischief</i> includes damage to property equal to or in excess of \$2,500. [TPC 28.03]
Non-felony criminal mischief	✓	✓	✓		As listed in the SCOC

Other Misconduct

Misconduct	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Any felony on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(A) ★		Check for potential expulsion, depending on type of felony
Off-campus non-violent felony, with special findings by superintendent or designee [TEC 37.006(d)]			TEC 37.006(d)-(e) ✓		
Breach of computer security if a student accesses a district's computers, computer system, or computer network and knowingly alters, damages, or deletes district property or information				TEC 37.007(b) ✓	
Stealing	✓	✓	✓		As listed in the SCOC
Other violations of SCOC	✓	✓	✓		

This document is continually updated, and references to online resources are hyperlinked, at tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/chapter_37_chart.pdf. For more information on this and other school law topics, visit TASB School Law eSource at schoollawesource.tasb.org.

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Published March 2018