

Chapter 103. Health and Safety

Subchapter CC. Commissioner's Rules Concerning Safe Schools

§103.1201. Standards for the Operation of School District Disciplinary Alternative Education Programs.

- (a) A disciplinary alternative education program (DAEP) established in conformance with the Texas Education Code (TEC), §37.008, and this section is defined as an educational and self-discipline alternative instructional program, adopted by local policy, for students in elementary through high school grades who are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP.
- (b) Each school district participating in a shared services arrangement (SSA) for DAEP services shall be responsible for ensuring that the board-approved district improvement plan and the improvement plans for each campus required by the TEC, §11.251 and §11.252, include the performance of the DAEP student group for the respective district. The identified objectives for the improvement plans shall include:
 - (1) student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, with a disability who receive special education services, or receiving limited English proficiency/English learner services;
 - (2) attendance rates;
 - (3) pre- and post-assessment results;
 - (4) dropout rates;
 - (5) graduation rates; and
 - (6) recidivism rates.
- (c) A DAEP may be located on-campus or off-campus in adherence with requirements specified in §129.1025 of this title (relating to Adoption By Reference: Student Attendance Accounting Handbook). For reporting purposes, the DAEP shall use the county-district-campus number of the student's locally assigned campus (the campus the student would be attending if the student was not attending the DAEP).
- (d) An individual school district or an SSA may contract with third parties for DAEP services. The district must require and ensure compliance with district responsibilities that are transferred to the third-party provider.
- (e) The campus of accountability for student performance must be the student's locally assigned campus, including when the individual school district or SSA contracts with a third party for DAEP services.
- (f) Each school district shall provide an academic and self-discipline program that leads to graduation and includes instruction in each student's currently enrolled foundation curriculum necessary to meet the student's individual graduation plan, including special education services.
 - (1) A student's high school personal graduation plan required under TEC, §28.02121, may not be altered when the student is assigned to a DAEP. A student must be offered an opportunity 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, including correspondence or distance learning opportunities or summer school. A district may not charge for a course required under this section.
 - (2) The school day for a DAEP shall be at least 240 minutes in length each day, including intermissions and recesses as required under the TEC, §25.081.
 - (3) Notwithstanding the TEC, §37.008(a)(3), summer programs provided by the district may serve students assigned to a DAEP in conjunction with other students, as determined by local policy.
- (g) A DAEP program serving a student with a disability who receives special education services shall provide educational services that will support the student in meeting the goals identified in the individualized

education program established by a duly-constituted admission, review, and dismissal committee, in accordance with the TEC, §37.004, and federal requirements.

- (h) Each school district is responsible for the safety and supervision of the students assigned to the DAEP; however, the immunity from the liability established in the TEC, §22.0511, shall not be impacted.
 - (1) The certified teacher-to-student ratio in a DAEP shall be one teacher for each 15 students in elementary through high school grades. Elementary grade students assigned to the DAEP shall be separated from secondary grade students assigned to the DAEP. The designation of elementary and secondary will be determined by adopted local policy.
 - (2) The DAEP staff shall be prepared and trained to respond to health issues and emergencies.
 - (3) Students in the DAEP shall be separated from students in a juvenile justice alternative education program and students who are not assigned to the DAEP.
 - (4) Each district shall establish a board-approved policy for discipline and intervention measures to prevent and intervene against unsafe behavior and include disciplinary actions that do not jeopardize students' physical health and safety, harm emotional well-being, or discourage physical activity.
- (i) Staff at each DAEP shall participate in training programs on education, behavior management, and safety procedures that focus on positive and proactive behavior management strategies. The training programs must also target prevention and intervention that include:
 - (1) training on the education and discipline of students with disabilities who receive special education services;
 - (2) instruction in social skills and problem-solving skills that addresses diversity, dating violence, anger management, and conflict resolution to teach students how to interact with teachers, family, peers, authority figures, and the general public; and
 - (3) annual training on established procedures for reporting abuse, neglect, or exploitation of students.
- (j) Procedures for each DAEP shall be developed and implemented for newly-entering students and their parents or guardians on the expectations of the DAEP, including written contracts between students, parents or guardians, and the DAEP that formalize expectations and establish the students' individual plans for success.
- (k) The transition procedures established for a student who is exiting a DAEP and returning to the student's locally assigned campus shall be implemented as required by TEC, §37.023.

Statutory Authority: The provisions of this §103.1201 issued under the Texas Education Code, §37.008.

Source: The provisions of this §103.1201 adopted to be effective December 14, 2008, 33 TexReg 10152; amended to be effective August 23, 2021, 46 TexReg 5187.

§103.1203. Assessment of Academic Growth of Students in Disciplinary Alternative Education Programs.

- (a) Each school district shall be responsible for administering a pre- and post-assessment for each student assigned to the district's disciplinary alternative education program (DAEP) for a period of 90 school days or longer as required by the Texas Education Code (TEC), §37.0082. Released state assessments for reading and mathematics for the appropriate grade may be used. A school district may apply for approval of an assessment that includes the Texas Essential Knowledge and Skills for reading and mathematics for the student's assigned grade. The commissioner of education will publish on the Texas Education Agency (TEA) website a list of assessments approved for use in each school year. A school district may contact TEA to obtain accommodated versions of particular assessments.
- (b) The grade level of an assessment shall be based upon the academic grade completed prior to the student being assigned to a DAEP if placement occurs in the fall or first semester of the academic school year. If placement occurs in the spring or second semester of the academic school year, the student shall be administered an assessment based on the current grade level.

- (c) Each school district shall provide an academic report to the student's locally assigned campus, which shall include the pre- and post-assessment results of the student's basic skills in reading and mathematics, within 10 school days of the student completing the post-assessment.
- (d) Procedures for administering the pre- and post-assessment, including appropriate accommodations as needed, shall be developed and implemented in accordance with local school district policy.
- (e) A student in the district's DAEP must also be assessed under the requirements of the TEC, Chapter 39.

Statutory Authority: The provisions of this §103.1203 issued under the Texas Education Code, §37.0082.

Source: The provisions of this §103.1203 adopted to be effective August 18, 2010, 35 TexReg 7061; amended to be effective August 23, 2021, 46 TexReg 5187.

§103.1207. Unauthorized Persons: Refusal of Entry, Ejection, Identification, and Appeal.

- (a) A school administrator, school resource officer, or school district peace officer of a school district may refuse to allow a person to enter on or may eject a person from property under the district's control if the person refuses to leave peaceably on request and:
 - (1) the person poses a substantial risk of harm to any person; or
 - (2) the person behaves in a manner that is inappropriate for a school setting; and
 - (A) the administrator, resource officer, or peace officer issues a verbal warning to the person that the person's behavior is inappropriate and may result in the person's refusal of entry or ejection; and
 - (B) the person persists in that behavior.
- (b) Identification may be required of any person on property under a district's control.
- (c) Each school district shall maintain a record of each verbal warning issued under subsection (a)(2)(A) of this section, including the name of the person to whom the warning was issued and the date of issuance.
- (d) At the time a person is refused entry to or ejected from a school district's property under this section, the district shall provide to the person written information explaining the appeal process set forth in subsection (h) of this section.
- (e) If a parent or guardian of a child enrolled in a school district is refused entry to the district's property under this section, the district shall accommodate the parent or guardian to ensure that the parent or guardian may participate in the child's admission, review, and dismissal committee or in the child's team established under the Rehabilitation Act of 1973, Section 504, (29 United States Code, §794), in accordance with federal law.
- (f) The term of a person's refusal of entry to or ejection from a school district's property under this section may not exceed two years.
- (g) A school district shall post on the district's Internet website and each district campus shall post on any Internet website of the campus a notice regarding the provisions of this section, including the appeal process set forth in subsection (h) of this section.
- (h) A school district's board of trustees shall adopt a policy that uses the school district's existing grievance process to permit a person refused entry to or ejected from property controlled by the school district under this section to appeal such refusal of entry or ejection. The policy must permit a person appealing under this section to address the school district's board of trustees in person within 90 days of the commencement of the appeal, unless the appeal is granted before the school district's board of trustees considers the appeal.
- (i) A decision of the board of trustees to grant or deny an appeal under this section is final and may only be further appealed under the applicable provisions of Texas Education Code, §7.057.

Statutory Authority: The provisions of this §103.1207 issued under the Texas Education Code, §37.105.

Source: The provisions of this §103.1207 adopted to be effective August 26, 2018, 43 TexReg 5365.

§103.1209. Mandatory School Drills.

- (a) Requirement. Each school district and open-enrollment charter school shall conduct emergency safety drills in accordance with Texas Education Code (TEC), §37.114. Drills do not include persons role playing as active aggressors or other simulated threats.
- (b) Definitions and related terms. The following words and terms related to drills and exercises, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. These definitions do not apply to an active threat exercise, which is defined in TEC, §37.1141, and associated rules, if any.
- (1) General terms.
- (A) Active aggressor--An individual actively engaged in killing or attempting to kill people in a confined and populated area.
- (B) Drill--A set of procedures that test a single, specific operation or function. Drills do not include persons role playing as active aggressors or other simulated threats. Drill examples include evacuating for a fire or locking down from an internal threat.
- (C) Exercise--An instrument to train for, assess, practice, and improve performance in mitigation, prevention, preparedness, response, and recovery in a risk-free environment. While drills and exercises may overlap in some aspects, discussion-based and operation-based exercises are often more in depth and multi-faceted.
- (2) Terms defining the level of exercise.
- (A) Full-scale exercise--Typically the most complex and resource-intensive type of exercise. It involves multiple agencies, organizations, and jurisdictions and validates many facets of preparedness. This exercise often includes many players operating under cooperative systems such as the Incident Command System (ICS) or Unified Command. Resources and staff are mobilized as needed. All actions are taken as if the emergency is real. A full-scale exercise is the most time-consuming activity in the exercise continuum and is a multiagency, multijurisdictional effort in which all resources are deployed. A full-scale exercise tests collaborations among the agencies and participants, public information systems, communication systems, and equipment. An Emergency Operations Center is established by either law enforcement or fire services, and the ICS is activated. Because of all the logistics and resources needed for a full-scale exercise, it often takes a year to plan and is not held often. Usually, a school district or an open-enrollment charter school is not the organizer of such an exercise, but the district or charter school would play a critical role in both function and potential facility use.
- (B) Functional exercise--Designed to validate and evaluate capabilities, multiple functions and/or sub-functions, or interdependent groups of functions. A functional exercise is typically focused on exercising plans, policies, procedures, and staff members involved in management, direction, command, and control functions. It allows participants to practice their specific roles or functions in an emergency. This type of exercise is conducted in a realistic, real-time simulated environment and often includes simulators (individuals who assist with the facilitation of the exercise) and follows a master scenario events list that dictates additional information, occurrences, or activities that affect the exercise scenario.
- (C) Seminar exercise--A discussion-based exercise designed to orient participants to new or updated plans, policies, or procedures through informal discussions. Seminar exercises are often used to impart new information and formulate new ideas.
- (D) Tabletop exercise--A small group discussion that walks through a scenario and the courses of action a school will need to take before, during, and after an emergency to lessen the impact on the school community. Participants problem-solve together through a detailed discussion of roles, responsibilities, and anticipated courses of action. A tabletop exercise leverages a defined scenario to direct discussion and may need an experienced facilitator depending on the complexity and objectives of the exercise.

- (E) Workshop exercise--A type of discussion-based exercise focused on increased participant interaction and achieving or building a product (e.g., plans or policies). A workshop exercise is typically used to test new ideas, processes, or procedures; train groups in coordinated activities; and obtain consensus. A workshop exercise often uses breakout sessions to explore parts of an issue with smaller groups.
- (3) Terms defining the type of drill.
- (A) Evacuation drill--A response action schools take to quickly move students and staff from one place to another. The primary objective of an evacuation is to ensure that all staff, students, and visitors can quickly move away from the threat. Evacuation examples include a bomb threat or internal gas leak.
 - (B) Fire evacuation drill--A method of practicing how a building would be vacated in the event of a fire. The purpose of fire drills in buildings is to ensure that everyone knows how to exit safely as quickly as possible.
 - (C) Lockdown drill--A response action schools take to secure (close, latch, and lock) interior portions of school buildings and grounds during incidents that pose an immediate threat of violence inside the school. The primary objective is to quickly ensure all school students, staff, and visitors are secured away from immediate danger.
 - (D) Secure drill--A response action schools take to secure (close, latch, and lock) the perimeter of school buildings and grounds during incidents that pose a threat or hazard outside of the school building. This type of drill uses the security of the physical facility to act as protection to deny entry.
 - (E) Shelter-in-place for hazardous materials (hazmat) drill--A response action schools take to quickly move students, staff, and visitors indoors, perhaps for an extended period of time, because it is safer inside the building than outside. Affected individuals may be required to move to rooms without windows or to rooms that can be sealed. Examples of a shelter-in-place for hazmat drill include train derailment with chemical release or smoke from a nearby fire.
 - (F) Shelter for severe weather drill--A response action schools take to quickly move students, staff, and visitors indoors, perhaps for an extended period of time, because it is safer inside the building than outside. For severe weather, depending on the type and/or threat level (watch versus warning), affected individuals may be required to move to rooms without windows on the lowest floor possible or to a weather shelter.
- (c) Frequency. TEC, §37.114(2), requires the commissioner of education to designate the number of mandatory school drills to be conducted each semester of the school year, not to exceed eight drills each semester and sixteen drills for the entire school year. Neither this rule, nor the law, precludes a school district or an open-enrollment charter school from conducting more drills as deemed necessary and appropriate by the district or charter school. Following is the required minimum frequency of drills by type.
- (1) Secure drill--One per school year.
 - (2) Lockdown drill--Two per school year (once per semester).
 - (3) Evacuation drill--One per school year.
 - (4) Shelter-in-place drill (for either severe weather or hazmat) --One per school year.
 - (5) Fire evacuation drill--School districts and open-enrollment charter schools should consult with the local authority having jurisdiction (e.g., fire marshal) and comply with its requirements and recommendations. If a district does not have a local authority, it shall conduct four per school year (two per semester).
- (d) Best practices for conducting drills and exercises. This subsection highlights best practices for conducting drills and exercises. For more information about best practices, refer to Texas School Safety Center guidance.

- (1) Drills and exercises should be designed and conducted in accordance with guidance and best practice resources provided by the Texas School Safety Center.
- (2) Drill and exercise design should include purpose, goals, and objectives that are stated in plans for each type of drill. Purpose, goals, and objectives should be developed with input from all sectors of the school community. Input in planning should be sought from multiple stakeholder perspectives for each type of drill and exercise, including from:
 - (A) the district or charter school School Safety and Security Committee;
 - (B) first responders;
 - (C) mental and behavioral health professionals;
 - (D) students and families; and
 - (E) staff, including non-traditional teachers, coaches, trade instructors, custodians, and food service workers.
- (3) Drill and exercise design elements should include:
 - (A) physical and psychological safety for all participants;
 - (B) planning in a trauma-informed manner to maximize learning and to minimize potential trauma for students and staff;
 - (C) providing advance notification of drills and exercises;
 - (D) planning for post-drill or after-action reviews of each drill and exercise; and
 - (E) ensuring drills and exercises are age and developmentally appropriate with the understanding that more complex drills and exercises will require a hierarchy of learning to achieve or obtain more advanced goals or objectives.
- (4) Exercises are more complex than drills. It is recommended that school systems start with discussion-based exercises and work up to operation-based exercises. Discussion-based exercises include seminar exercises, tabletop exercises, and workshop exercises. Operation-based exercises include functional exercises and full-scale exercises. Exercises can be used for:
 - (A) testing and validating policies, plans, procedures, training, equipment, and interagency agreements;
 - (B) clarifying and training personnel in roles and responsibilities;
 - (C) improving interagency coordination and communications;
 - (D) identifying gaps in resources;
 - (E) improving individual performance; and
 - (F) identifying opportunities for improvement.

Statutory Authority: The provisions of this §103.1209 issued under the Texas Education Code, §37.114.

Source: The provisions of this §103.1209 adopted to be effective September 6, 2020, 45 TexReg 6110; amended to be effective June 26, 2022, 47 TexReg 3536; amended to be effective October 10, 2023, 48 TexReg 5823.

§103.1211. Active Threat Exercises.

- (a) An active threat exercise is defined as any exercise that includes a simulated active aggressor or an active shooter simulation.
- (b) Local education agencies (LEAs), which include school districts and open-enrollment charter schools, are not required to conduct active threat exercises.
- (c) An LEA that elects to conduct an active threat exercise shall do so in accordance with Texas Education Code (TEC), §37.1141, and this section. The LEA shall:

- (1) consider using a discussion-based tabletop exercise as defined in §103.1209 of this title (relating to Mandatory School Drills) to achieve the purpose, goals, and objectives of the exercise rather than using an operations-based, a functional, or a full-scale active threat exercise;
- (2) if conducting an operations-based, a functional, or a full-scale exercise, provide adequate notice of the exercise directly to individuals participating in the exercise, parents of students participating in the exercise, and all other individuals impacted by the exercise. Adequate notice of the active threat exercise shall also be posted through multiple distribution networks, including, but not limited to, the LEA's website and social media platforms.
 - (A) To be considered adequate notice, notice shall be provided and posted at least two weeks prior to the exercise.
 - (B) The notice shall include the following required elements specified in TEC, §37.1141(a)(1):
 - (i) the date on which the exercise will occur;
 - (ii) the content, form, and tone of the exercise; and
 - (iii) whether the exercise will include a live simulation that mimics or appears to be an actual shooting incident.
 - (C) The notice shall be provided to parents in the parents' native language to the greatest extent practicable;
- (3) make an audible announcement over the campus public address system immediately prior to the commencement of the exercise to signal the start of the exercise to the participants, noting that it is only an exercise and not a real emergency. The announcement must contain the elements specified in TEC, §37.1141(a)(2);
- (4) ensure that the content of the exercise, which includes planning and execution of the exercise, addresses the following elements:
 - (A) input from multiple stakeholder perspectives in the design of the exercise, including law enforcement personnel;
 - (B) the physical and psychological safety of all participants before, during, and after the exercise, including:
 - (i) planning in a trauma-informed manner to minimize potential trauma for students, staff, and other participants;
 - (ii) the development and communication of a predetermined method for participants to withdraw from the exercise before or during the exercise; and
 - (iii) access to mental health supports before, during, and after the exercise; and
 - (C) the developmental appropriateness of the exercise, which includes a comprehensive perspective that supports the cognitive and emotional well-being of each individual and considers the impact that prior trauma, grief, and crisis experiences have had on a participant's development prior to the exercise. Developmental appropriateness considerations include the needs of special populations, including students with disabilities and emergent bilingual students;
- (5) conduct the exercise during non-instructional time when non-participants are not present in the facility. Additionally, the LEA must require that:
 - (A) if a student participates in the exercise, which is discouraged, the student is in Grade 9 or higher and participates only if it provides the student with an educational benefit;
 - (B) all participants (students and staff) opt in rather than opt out of the exercise. A student participant must have written permission to opt in from the parent or guardian of the student;

- (C) exercise participants be permitted to withdraw from the exercise at any time, before or during the exercise, using a predetermined method of withdrawal; and
 - (D) the exercise is organized, conducted, and overseen by law enforcement, first responders, or emergency management personnel. An LEA or one of its schools shall play a critical role in exercise coordination, overall function, and use of the facility; and
- (6) conduct an after-action review of the exercise to determine the extent to which the exercise achieved key planning objectives, to include ensuring:
- (A) incident command and control structures work as intended in accordance with the LEA's multihazard emergency operations plan;
 - (B) two-way communications work as intended with emergency first responders in accordance with the LEA's multihazard emergency operations plan; and
 - (C) emergency notification systems (e.g., voice calls, text messages, and email notifications) work as intended.
- (d) In accordance with TEC, §37.1141(c), data regarding the efficacy and impact of an active threat exercise shall be collected and submitted to the Texas School Safety Center (TxSSC) using the methods developed by the TxSSC.

Statutory Authority: The provisions of this §103.1211 issued under Texas Education Code, §37.1141 and §12.104(b).

Source: The provisions of this §103.1211 adopted to be effective June 26, 2022, 47 TexReg 3540; amended to be effective October 10, 2023, 48 TexReg 5823.