

## 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.
- (b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
- (1) Drill--A set of procedures that test a single, specific operation or function. Drill examples include evacuating for a fire or locking down from an internal threat.
  - (2) Secure (Lockout)--A response action schools take to secure the perimeter of school buildings and grounds during incidents that pose a threat or hazard outside of the school building. Secure (Lockout) uses the security of the physical facility to act as protection to deny entry.
  - (3) Lockdown--A response action schools take to secure 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.
  - (4) Evacuate--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.
  - (5) Shelter-in-place for hazmat--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. Shelter-in-place for hazmat examples include train derailment with chemical release or smoke from a nearby fire.
  - (6) Shelter for severe weather--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.
  - (7) 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) 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 (Lockout)--One per school year.
  - (2) Lockdown--Two per school year (once per semester).
  - (3) Evacuate--One per school year.
  - (4) Shelter-in-place for hazmat--One per school year.
  - (5) Shelter for severe weather--One per school year.
  - (6) Fire evacuation drill--Four per school year (two per semester). In addition, school districts and open-enrollment charter schools should consult with their local fire marshal and comply with their local fire marshal's requirements and recommendations.

*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.*

