

See [SY 20-21 COVID-19 Related Waivers](#) under [COVID-19 Support: District Waivers, Finance & Grants](#) for newly available waivers.

1. Are students in DAEPs eligible for remote learning?

TEC, Section 37.008(a), sets forth the requirements for a Disciplinary Alternative Education Program. To the extent the district determines its remote learning program satisfies the educational needs of students and the other requirements of TEC, Section 37.008(a), the district may credit the DAEP student for participation via remote learning.

2. Is it possible to dismantle our DAEP for the first semester?

No, Texas Education Code (TEC) §37.008 requires a school district to provide a Disciplinary Alternative Education Program (DAEP). A DAEP placement for a student is mandatory for certain behaviors outlined in TEC, Chapter 37 as well as for students engaging in certain expellable offenses who are younger than 10 years of age that may not be expelled according to TEC §37.007(h).

3. How should the instructional methods be decided upon for students assigned to a DAEP?

Determination of instructional method used with a student in the DAEP setting shall be determined during the DAEP assignment conference. Students placed in a DAEP must be offered the same instructional methods offered to students not in DAEP. If a student receiving on-campus instruction is assigned to a DAEP, it is presumed the student will continue to receive instruction through an on-campus DAEP setting. If a student receiving remote instruction (synchronous or asynchronous) is assigned to a DAEP, it is presumed the student will continue to receive instruction through the remote DAEP setting. A request by a parent or guardian of the student to be moved to a different instructional method during a DAEP assignment should be considered by the district on a case by case basis with due regard given to current conditions.

The district cannot require the student assigned to a DAEP to receive instruction through a particular method unless directed by the court as a condition of the student's supervision.

4. Is it acceptable to have regular instructional teachers facilitate students in the remote DAEP settings as opposed to having a designated DAEP teacher?

The remote DAEP setting (synchronous or asynchronous) should be facilitated or supervised by the designated DAEP teacher or teachers. Additionally, the district must continue to uphold the separation of elementary and secondary students for DAEP classrooms in the remote settings.

Texas law also requires a DAEP to maintain a fifteen-to-one student to teacher ratio. A district may apply for a waiver of this provision if the district is able to show good cause for why an alternative student to teacher ratio would be beneficial to the operations of the district and its students.

5. May students assigned to the DAEP attend a remote synchronous class with non-DAEP students?

The students assigned to DAEP setting should *not* be taught in the same classroom with non-DAEP students unless the student must attend a class remotely to fulfill graduation requirements or access an appropriately certified teacher.

Prior to COVID, LEAs may have limited capacity or supply of teachers with specialty certifications or expertise on DAEP campuses, that required the use of remote and virtual learning options to facilitate access to instruction. This remains an acceptable instructional practice. Examples of these types of highly specialized courses or difficult to fill teacher certifications positions that maybe limited on a DAEP campus include electives like sports medicine, languages other than English, ceramics, robotics, culinary arts, as well as advanced coursework like AP Psychology or AP Chemistry. The students assigned to the asynchronous DAEP may have their assignments graded by the regular instructional teacher.

6. What is the length-of-day requirements for the synchronous and asynchronous DAEP settings?

Title 19, Texas Administrative Code (TAC), §103.1201(f)(2), requires the school day for a DAEP to be at least seven hours but no more than ten hours in length each day. Districts are not required to apply for a waiver of this provision. The Commissioner has waived 19 Texas Administrative Code (TAC) §103.1201(f)(2) subject to the following guidance. For all forms of instruction, whether in-person or remote (synchronous or asynchronous), length-of-day requirements for a student placed in a DAEP should mirror the hourly instructional requirements applicable to the student prior to the student's removal and placement in the DAEP.

7. Are students placed into in-school suspension (ISS) eligible for remote learning?

Yes, students placed in ISS are eligible for remote learning as these students continue to receive instruction in a temporary placement.

8. What mental health supports must the district provide to students placed in a remote learning DAEP environment?

When serving DAEP students remotely, districts must continue to implement TAC §103.1201(i) which requires staff serving the students in a DAEP to participate in training programs on education, behavior management, and safety procedures that focus on positive and proactive behavior management strategies. In addition, this training must also target prevention and intervention that includes both 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 as well as annual training on established procedures for reporting abuse, neglect, or exploitation of

students. TEC § 37.008(a) also requires school districts to maintain a DAEP program that provides for students' educational and behavioral needs and provides supervision and counseling. TEC § 37.008(e) further states that each school district shall cooperate with government agencies and community organizations that provide services in the district to students placed in a disciplinary alternative education program. Finally, TEC § 37.023 mandates the DAEP program provides for transition planning and coordination requirements with a personalized transition plan back to the classroom that includes mental health and counseling supports.

Note: For questions regarding Juvenile Justice Alternative Education Program placements, contact the Texas Juvenile Justice Department for information specific to the joint memorandum of understanding between the county juvenile board and each local education agency.