

<b>DATE:</b>	August 15, 2024
<b>SUBJECT:</b>	Guidance Regarding Disciplinary Actions for Students Experiencing Homelessness
<b>CATEGORY:</b>	Student Discipline and Compliance Reviews
<b>NEXT STEPS:</b>	Ensure school administrators are aware of state requirements; compliance reviews

## Overview

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Students experiencing homelessness face many educational barriers due to the challenges of not having a fixed, regular and adequate place to live. In many cases, schools become the place where students are afforded stability, safety and support. However, chronic absenteeism, truancy and behaviors that lead to disciplinary challenges are common occurrences for students experiencing homelessness.

States and local educational agencies (LEAs) must review requirements in law and regulations and undertake steps to revise any practices or policies that act as a barrier to the identification, enrollment, attendance, or success of students experiencing homelessness ([42 USC, Section 11431](#)).

In accordance with [Texas Education Code \(TEC\), Section 37.001](#), **student disciplinary decisions must consider the “status as a student who is homeless” as a factor**, regardless of the action being mandatory or discretionary and whether it is concerning suspension, removal to DAEP (Disciplinary Alternative Education Program), expulsion or placement in JJAEP (Juvenile Justice Alternative Education Program).

Furthermore, in accordance with [TEC, Section 37.005\(d\)](#), **a school district or open-enrollment charter school may not place a student who is experiencing homelessness in out-of-school suspension (OSS) unless the student engages in conduct described by [TEC Section 37.005\(c\)\(1\)-\(3\)](#) while on school property or while attending a school-sponsored or school-related activity on or off of school property**. The campus behavior coordinator may coordinate with the school system’s homeless education liaison to identify appropriate alternatives to out-of-school suspension for these students. Additionally, school systems must ensure that these students have an alternative means of receiving coursework if they are suspended, including at least one option that does not require the use of the internet ([TEC Section 37.005\(e\)](#)).

Additional guidance related to disciplinary actions for students experiencing homelessness is available in a recently released [TEHCY Discipline One-Pager](#).

## PEIMS Data Reporting

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School systems are expected to report accurate, useful and timely Public Education Information Management System (PEIMS) data to the Texas Education Agency (TEA) ([TEC Section 48.008](#); [19 Texas Administrative Code Section 61.1025](#)). This includes data related to students' homeless statuses and any disciplinary incidents and actions.

As noted above, students experiencing homelessness may only be assigned to OSS if they engage in the following, per TEC Section 37.005(c)(1)-(3):

- conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;
- conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or
- selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:
  - marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;
  - a dangerous drug, as defined by Chapter 483, Health and Safety Code; or
  - an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

The conduct described above each corresponds with a Behavior Code (formerly known as DISCIPLINARY-ACTION-REASON-CODE) of "05", "11", "12", "14", "27", "28", "29", "30", "31", "32", "36", "37", "62", or "64" in PEIMS.

## Compliance Reviews

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TEA's Self-Reported Data Review Unit (SRDU) conducts compliance reviews related to potential discrepancies in data reported to TEA by school systems including reviews of school system compliance with requirements relating to the identification of and disciplinary decisions for students experiencing homelessness. [TEC, Section 39.003\(a\)\(3\)-\(4\)](#), gives the commissioner of education discretion to authorize a special investigation to be conducted when there are potential violations of state and federal law and/or program requirements (e.g., McKinney-Vento Act). When warranted, SRDU provides school systems an opportunity to address the agency's concerns through the initial compliance review to determine whether additional investigation is necessary.

SRDU recently began compliance reviews due to concerns of school systems placing one or more students who were experiencing homelessness in out-of-school suspension (OSS) for engaging in conduct other than that described by TEC, Section 37.005(c)(1)-(3) and for the potential failure to submit accurate, useful, and timely PEIMS data to the agency. SRDU will begin additional compliance reviews for select school systems based on 2023-24 school year data this upcoming fall. Superintendents will be notified by email if their school system is subject to a compliance review.

All school systems are expected to review agency guidance and evaluate their policies and procedures related to disciplinary decisions for students experiencing homelessness to ensure that they are following all statutory requirements. Additionally, school systems should consider implementing TEA's

best practices. For school systems not in compliance with these requirements, it is recommended that they implement any corrective actions or improvements to their current policies and procedures immediately.

## For More Information

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The SRDU reviews, analyzes and monitors self-reported data and other data submitted to TEA to ensure that school systems are in compliance with state and federal laws, rules and regulations. The SRDU also collaborates with other TEA program areas to ensure school systems have access to the information and tools necessary to establish better local practices and accurately report data to the agency. Questions related to these data-related compliance reviews can be sent to [DataComplaints@tea.texas.gov](mailto:DataComplaints@tea.texas.gov).

The Texas Education for Homeless Children and Youth (TEHCY) Program provides direction and leadership on the implementation of state and federal guidance regarding program services for McKinney-Vento-eligible students. Questions related to compliance with state and federal laws, rules, and regulations for students experiencing homelessness can be sent to [HomelessEducation@tea.texas.gov](mailto:HomelessEducation@tea.texas.gov).

The Student Discipline Program provides guidance on disciplinary policies, procedures and discipline data reporting requirements. Questions related to student discipline can be sent to [StudentDisciplineSupport@tea.texas.gov](mailto:StudentDisciplineSupport@tea.texas.gov).