

PEIMS Discipline Data - Questions and Answers

1. **What is required if a student brings a firearm to school?**

In accordance with federal law (20 U.S.C. Section 7151), a local educational agency (LEA), including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

- (a) the superintendent or other chief administrative officer of the school district or of the other LEA, as defined by 20 U.S.C. Section 2891, may modify the length of the expulsion in the case of an individual student;
- (b) the district or other LEA shall provide educational services to [the] an expelled student in an alternative education program as provided by TEC, §37.008 if the student is younger than 10 years of age on the date of expulsion; and
- (c) the district or other LEA may provide educational services to an expelled student who is older than 10 years of age in an alternative education program as provided in TEC, §37.008.

TEC, §37.007(a)(1) requires that a school expel a student whose conduct contains the elements of the offense of "Unlawfully Carrying Weapons" on school property or while attending a school-sponsored or school related activity on or off school property.

2. **What is a Campus Behavior Coordinator?**

Under the requirements of TEC, §37.0012, each campus must have a staff person designated as the Campus Behavior Coordinator.

The person designated may be the principal of the campus or any other campus administrator selected by the principal.

The campus behavior coordinator is primarily responsible for maintaining student discipline and the implementation of this subchapter.

The campus behavior coordinator is required to promptly notify a student's parent or guardian if the student is placed into in-school or out-of-school suspension, placed in a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer. A campus behavior coordinator must comply with this subsection by:

- 1. promptly contacting the parent or guardian by telephone or in person; and
- 2. making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.

If a parent or guardian entitled to notice of a student's disciplinary removal has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, the campus behavior coordinator must mail written notice of the disciplinary action to the parent or guardian at the parent's or guardian's last known address. If a Campus Behavior Coordinator is unable

or not available to promptly provide the required notice to a parent or guardian of a student, the principal or other designee shall provide the notice.

3. What is required in order to send a student to a Disciplinary Alternative Education Program (DAEP)?

According to [TEC, §37.009\(a\)](#), before placing a student in DAEP, not later than the third class day after the day on which a student is removed from class by the teacher under [TEC, §37.002\(b\) or \(d\)](#) or by the school principal or other appropriate administrator under [TEC, §37.001\(a\)\(2\)](#) or [TEC, §37.006](#), the campus behavior coordinator or other appropriate administrator must schedule a conference among the campus behavior coordinator or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. The student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. If the student has been alleged to have committed an offense as described in TEC, §37.006, then the district official holding the conference meeting must present substantiated documentation of the alleged behavior as provided by a law enforcement agency or as created/obtained by the school district administrator.

4. What is required in order to expel a student?

Before a student may be expelled for authorized behaviors under [TEC, §37.007](#), according to [TEC, §37.009\(f\)](#), and subject to the requirements of [TEC, §37.009\(a\)](#), the board or the board's designee must provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. At the hearing, the student is entitled to be represented by the student's parent or guardian or another adult who can provide guidance to the student and who is not an employee of the school district. If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the school district's central administrative office is located. If the student has been alleged to have committed an offense as described in TEC, §37.007, then a district official holding the expulsion hearing must present substantiated documentation of the alleged behavior as provided by a law enforcement agency or as created/obtained by the school district administrator.

5. What is the maximum length of days that may be assigned for an in-school suspension (ISS) or an out-of-school suspension (OSS)?

In accordance with [TEC, §37.005\(b\)](#), each suspension discipline assignment (ISS or OSS) for a behavior incident must not exceed (3) three school days. If a student receives ISS or OSS for a partial school day (even if for one class period), that partial day is considered one of the three total allowable suspension days. It is determined by district policy whether or not an ISS and an OSS may be assigned for the same behavior incident. ISS and OSS are both separate discipline actions.

6. What is the minimum grade for suspending a student with a suspension (ISS or OSS) under TEC, §37.005?

[TEC, §37.005](#), does not address the minimum grade level limitations regarding placing a student in ISS, therefore local policy will determine a grade level limitation for ISS placements.

However, in accordance with [TEC, §37.005\(c\)](#), a student who is enrolled in a grade level below grade three must not be placed in OSS unless, while on school property or while attending a school-sponsored or school-related activity on or off school property, the student engages in:

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

7. What is the statutory alternative to suspending a student less than grade three with an out-of-school-suspension (OSS)?

In accordance with [TEC, §37.0013](#), each school district and open-enrollment charter school may develop and implement a program, in consultation with campus behavior coordinators employed by the district or school and representatives of a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by [TEC, §37.005\(a\)](#) and is not subject to TEC, §37.005(c). The program must:

1. be age-appropriate and research-based;
2. provide models for positive behavior;
3. promote a positive school environment;
4. provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school suspension, or placement in a disciplinary alternative education program to manage student behavior; and
5. provide behavior management strategies, including:
 - (a) positive behavioral intervention and support;
 - (b) trauma-informed practices;
 - (c) social and emotional learning;
 - (d) a referral for services, as necessary; and
 - (e) restorative practices.

8. What is required if a student's DAEP placement will extend beyond the end of the next grading period?

If the student's placement in a DAEP is to extend beyond the end of the next grading period, according to [TEC, §37.009\(b\)](#), a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district. Any decision of the board or the board's designee under this subsection is final and may not be appealed.

9. What is required if the student's DAEP placement will extend beyond the end of the current school year and into the next school year?

In accordance with [TEC, §37.008\(c\)](#), before assigning a student to a DAEP that extends beyond the end of the school year in which the initial assignment was made, the board or the board's designee must determine that:

1. the student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or to another individual, **or**
2. the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct.

A student placed in a DAEP under [TEC, §37.002](#), or [TEC, §37.006](#), must be provided a review of the student's status, including a review of the student's academic status, by the board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parents or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student.

At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus.

10. What is required regarding student receiving special education services who commit behaviors that require a disciplinary removal action?

In accordance with [TEC, §37.004\(a\)](#), the disciplinary placement of all students who receive special education services must be determined by an Admission, Review, and Dismissal (ARD) committee. Further, any disciplinary action regarding a student with a disability who receives special education services that would constitute a change in placement under federal law may be taken only after the student's ARD committee conducts a manifestation determination review (MDR) under 20 U.S.C. Section 1415(k)(4) and its subsequent amendments. Any disciplinary action regarding the student must be determined in accordance with federal law and regulation, including laws or regulations requiring the provision of:

1. Functional behavioral assessments;
2. Positive behavioral interventions, strategies, and supports; and
3. Behavioral intervention plans; and
4. The MDR.

For disciplinary removals of a student, who is receiving special education and related services, from the student's current educational placement, a change of placement occurs if the removal is for more than 10 consecutive days (CFR §300.530 - §300.536). The ARD committee that deals with the change of placement must review the student's Individual Education Plan (IEP) to detail the special education and related services to be administered to the student while removed for discipline reasons. Be careful not to confuse the 10-day change of placement requirement for special education purposes with the 1-day removal requirement for reporting student disciplinary removals. The 44425 Student Discipline Interchange data is required for all students who are receiving special education and related services and are removed from their regularly scheduled classes for one day or more. A change of placement occurs when the removal is for more than 10 consecutive days, and a change of placement may occur when the removal is for more than 10 cumulative days in a school year based on factors such as the length of each removal, the total amount of the time the child is removed, and the proximity of the removals to one another. An ARD committee must be involved when the removal or series of removals constitute a change in placement.

11. What is the minimum age that a student can be placed in a Disciplinary Alternative Education Program?

Under [TEC, §37.006\(a\), \(b\), \(c\), and \(l\)](#), all students, who are at least 6 years of age on the date that an offense is committed, may be removed to a DAEP, for a time period that is determined by the local student code of conduct, if one of the following acts are committed on or within 300 feet of school property, or while the student is attending a school-sponsored, or school related activity, on or off of school property. The school administrator designated must first establish a reasonable belief that the act has been committed and then corroborate and document that belief with appropriate law enforcement officials.

12. What is the minimum age that a student can be expelled?

Under [TEC, §37.007\(h\)](#), a student who is younger than 10 years of age must not be expelled for engaging in conduct described in TEC, §37.007, except for bringing a firearm to school. [TEC, §37.006\(f\)](#), requires a student who is younger than 10 years of age to be removed from class and placed in a DAEP if the student engages in conduct described by TEC, §37.007.

Under [TEC, §37.007\(e\)](#), (student brings a firearm to school), students who are younger than 10 years of age on the date that an offense is committed, must be expelled and placed in a DAEP for a minimum term of one year, unless the expulsion term is reduced by the superintendent or their designee.

13. What are the required procedures for using Behavior 23 – Emergency Placement/Emergency Expulsion?

Behavior 23, as authorized by [TEC, §37.019](#), allows for either emergency placement to a DAEP or emergency expulsion. The use of this code is limited to reasons for which placement in a DAEP or expulsion may be made on a non-emergency basis. At the time of an emergency placement or expulsion, the student must be given oral notice of the DAEP placement or expulsion and the reason for the discipline action. Under Behavior 23, the student is immediately removed and sent to DAEP or expelled, the student cannot be placed in in-school suspension (ISS) and then DAEP or expelled the next day.

Not later than the 10th day after the date of the DAEP placement or expulsion, the student must be given the appropriate due process as required under [TEC, §37.009](#). Thus, emergency action under TEC, §37.019, should not be the only/final disciplinary action taken.

14. What are the requirements for keeping documentation under Article 15.27, Code of Criminal Procedure received from law enforcement personnel investigating alleged criminal behaviors at/for a school?

According to [TEC, §37.017. Destruction of Certain Records](#), information received by a school district under [Article 15.27, Code of Criminal Procedure](#), must not be attached to the permanent academic file of the student who is the subject of the report. The school district must destroy the information at the end of the school year in which the report was filed. Despite the requirement to destroy information received under Article 15.27, Code of Criminal Procedure, the district must retain documentation other than the information received under Article 15.27, Code of Criminal Procedure to support the discipline data submitted through the PEIMS data for a period of 5 years.

15. How should a school handle situation where a student(s) has committed multiple violations in the course of one disciplinary event?

Multiple violations are sometimes committed in the course of one disciplinary event. When reporting the PEIMS data, the district should report only the Behaviors and Disciplines that are ordered. If actions are only taken for the most serious violation, then only one incident number should be reported in the PEIMS data.

If the district takes disciplinary action on each Behavior that occurred during one disciplinary event, the district should enter a new incident number for each separate Behavior(offense) and corresponding Discipline that is ordered.

16. What should a school do if a student attempts to withdraw from school before a disciplinary removal action has been determined for a particular incident?

According to [TEC, §37.009\(i\)](#), if a student withdraws from the district before an order for placement in a DAEP or expulsion is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the DAEP placement or expulsion that has been served by the student on enrollment in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

17. When is it appropriate to use Discipline Action Code 13 – Court Ordered Placement to a JJAEP and 14 – Court Ordered Placement to a DAEP?

Discipline 13 or Discipline 14 may only be used when a Court order requires a student to attend the JJAEP or the DAEP independent of any action required to be taken by the school district and described in TEC, Chapter 37. Do not use Discipline 13 or Discipline 14 for students that are incarcerated in a jail or juvenile detention center. A term of incarceration does not constitute a removal by a school district. The Behavior 21 should always be used if Discipline 13 or Discipline 14 has been ordered.

When reporting Behavior 13 (Placement in a JJAEP by Court order) or Behavior 14 (Placement in a DAEP by Court Order), there must be a Memorandum of Understanding (MOU) between the court ordering the placement and the school district that will affect and make the placement. The provisions for these court ordered placements must also be outlined in the local student code of conduct.

In the event that a school district finds it necessary to continue a Court ordered placement to a JJAEP or a DAEP from a prior school year or a prior school district, a new discipline incident must be reported with a Behavior 21 and a Discipline 13 or 14 depending on the action taken. Remember that DAEP assignments that continue into a new school year are subject to the requirements of [TEC, §37.009\(c\)](#).

18. Please explain the Discipline Action Reason Code 01 – Permanent Removal from Class by a Teacher.

Behavior 01 Permanent Removal by a Teacher from Class under [TEC, §37.002\(c\)](#), is limited for use in those situations where the teacher has removed a student from class:

(1) who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or

(2) whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

The principal may place the student into another appropriate classroom, into ISS, or into a DAEP. The principal must not return the student to that teacher's class without the teacher's consent unless the Placement Review Committee established under [TEC, §37.003](#), determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

19. What are the consequences of a school not reporting its discipline removal events through the Texas Student Data System PEIMS submission?

Under [TEC, §37.008\(m-1\)](#), failure to report all disciplinary removal actions as required by state and federal law may result in a review by the commissioner of education and notice to the local school board of any problems noted in the district's data, or a violation of a law or other rule. This review may also result in a notification to the county attorney, district attorney, criminal district attorney, as appropriate, and the attorney general. This provision can apply to missing, inaccurate, and/or falsified information/data.

20. Which LEAs are required to participate in the county run Juvenile Justice Alternative Education Program (JJAEP)?

In counties where the population is over 125,000, state law requires that expelled students be placed in an alternative education setting. Districts located in these counties may place discretionary expelled students in a DAEP operated by the district and Mandatory expelled students in a JJAEP operated by the juvenile board for the county.

21. What options exist for an LEA that expels a student in a county that does not have a JJAEP?

If a student has been expelled in a county that does not have a JJAEP, the LEA may either expel the student without academic placement, or the student may be expelled with placement to the LEA's DAEP.

22. What kind of knives require that a student be expelled from school?

[House Bill 1935, 85th legislative session](#), revised the definition of illegal knives to be known as location-restricted knives and defines a location restricted knife as being a knife with a blade length greater than 5.5 inches. A student that is found in possession of a location-restricted knife must be expelled if the possession of the knife occurs on school campus, or off campus at a school sponsored or school related activity. A student that is found in possession of a knife with a blade length of less than 5.5 inches, may be placed in a DAEP under Behavior 21 if supported in the local student code of conduct.

23. What is the definition of an Off-Campus DAEP?

An off-campus DAEP:

1. has its own campus identification number;
2. has its own building (is not a program on a regular campus or an at-risk alternative education campus);
3. has its own budget;
4. has its own administrator;
5. serves only students removed under the TEC, Chapter 37 (no other non-discipline program may be operated on the campus);
6. must use the services of certified teachers and
7. must provide for a 43,200-instructional minute school year.

Note: If your school district or charter school has chosen to operate or participate in, through a shared services arrangement (SSA), an off-campus DAEP, your district or school must register the campus with the TEA as a DAEP instructional campus.

24. What is the definition of an On-Campus DAEP?

An on-campus DAEP is one that may have its own campus identification number. If an on-campus DAEP has its own campus identification number, then the campus must:

1. have an administrator (administrator can serve more than one campus);
2. have its own budget;
3. use the services of certified teachers for delivering educational and behavioral instruction to the students assigned to the on-campus DAEP;
4. provide for students who are assigned to the DAEP to be separated from students who are not assigned to the DAEP ("sight and sound barrier" should exist to provide adequate separation);
5. provide for a 43,200-instructional minute school year, and;
6. share a facility with a non-disciplinary program.

Note: If your school district or charter school has chosen to operate or participate in, through an SSA, an on-campus DAEP your district or school must register the campus with the TEA as a DAEP instructional campus.

If an on-campus DAEP does not have its own campus number, then a student should remain enrolled at the campus at which the student was enrolled when he or she was removed while placed in the on-campus DAEP.

25. How is a behavior incident reported if a student is assigned ISS due to the DAEP capacity rule for the offense of marihuana/THC, alcohol, e-cigarettes, or abuseable volatile chemicals (Under the current laws of [HB 114](#))?

1. The first Discipline code reported is '07' Placement in an On-Campus or Off-Campus DAEP.
2. The Official Length of Disciplinary Assignment would be the number of days the student is to DAEP at disciplinary conference.
3. The Actual Length of Disciplinary Assignment is 0 days. (Student did not serve any days due to DAEP being at capacity)
4. The Discipline Action Length Difference Reason would be '11' Term Modified by District – DAEP Capacity.
5. The second Discipline code reported is '06' In-School Suspension.

6. The Official Length of Disciplinary Assignment would be the number of days the student is assigned to DAEP during the disciplinary conference. (No days were served in DAEP, and the student is in ISS until a space becomes available in DAEP, which may or may not happen during the assigned length of term.)
7. The Actual Length of Disciplinary Assignment for the ISS placement is the number of days the student spent in ISS. If the student spends all official days assigned to DAEP in ISS, then that is the number of days reported for ISS. If the student only spends part of the official days assigned to DAEP in ISS, then that is the number reported for days spent in ISS.
8. Once the student is in DAEP, you will edit the Actual Length of Disciplinary Assignment of "0" on the original DAEP assignment to the number of days the student spends in DAEP.
9. When or if the student is sent to DAEP the Discipline Action Length Difference Reason would be '11' Term Modified by District – DAEP Capacity.

26. Is a student who is placed in ISS due to the DAEP Capacity rule under [TEC, §37.009\(a-1\)-\(a-2\)](#), exempt from the ISS three-day maximum under [TEC, §37.005\(b\)](#)?

Yes, a student who is placed in ISS due to the DAEP Capacity rule under TEC, §37.009(a-1)-(a-2), is exempt from the ISS three-day maximum under TEC, §37.005(b). PEIMS Business Rules [44425-0082](#) and [44425-0083](#) are provided for the exceptions of the 3-day ISS maximum when using the DAEP Capacity length difference reason code.

27. How are TWEDS Discipline Codes '27' Mandatory Disciplinary Action Not Taken By District - ARD committee, and '28' Mandatory Disciplinary Action Not Taken By District - TEC 37.001(a)(4) to be used when reporting a behavior incident?

If a district makes the decision not to assign a mandatory disciplinary action for an offense that statute requires a "shall place" disciplinary action, the district will report the incident with two disciplinary actions.

- The first disciplinary action will be one of the two following actions:

27 Mandatory Disciplinary Action Not Taken By District - ARD committee Mandatory disciplinary action not taken by district - (This code is used when a student's behavior is determined to be linked to the student's disability in a manifestation determination hearing made in accordance with IDEA by an ARD committee.)

28 Mandatory Disciplinary Action Not Taken By District - TEC 37.001(a)(4) Mandatory disciplinary action not taken by district - (The mandatory disciplinary action was not taken because the district considered one or more of the TEC § 37.001(a)(4) provisions.)

- The second will be whatever disciplinary action the district decides to assign instead of the mandatory action. This must be a reportable PEIMS discipline action from TWEDS Descriptor Table C164 (ISS, OSS, DAEP, or Expulsion).

However, if the district decides not to assign a mandatory action but assigns a non-reportable disciplinary action (corporal punishment, detention before or after school, lunch detention, Saturday school, ETC.) the incident will not be reported because there was not an authorized PEIMS reportable disciplinary action assigned. In other words, the student is not being removed from the regular educational setting and an alternative disciplinary action/method/practice has been assigned.