

PEIMS Discipline Data - Behaviors and Definitions

Behavior C165	Translation/Definition
01	<u>Permanent Removal by a Teacher from Class - TEC, §37.002(c)</u> TEC, §37.002(c) - A teacher may permanently remove a student, based on a single incident, from the classroom who: (1) repeatedly 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; (2) demonstrates behavior that is unruly, disruptive, or abusive toward the teacher, another adult, or another student; or (3) engages in conduct that constitutes bullying, as defined by TEC, §37.0832.
02	<u>Engages in Conduct Punishable as a Felony - TEC, §37.006(a)(2)(a), TEC, §37.006(d)</u> Includes all felony activities that are not otherwise more specifically defined or included as a behavior that requires a mandatory expulsion action. TEC, §37.006(d), specifies for felony conduct that occurs off campus and not at a school activity, a student can be given a disciplinary assignment, if the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense, other than aggravated robbery or Title 5 offenses, and the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.
05	<u>Alcoholic Beverage Conduct - TEC, §37.006(a)(2)(d)</u> TEC, §37.006(a)(2)(d) defines alcoholic beverage conduct as: (1) sells, gives, or delivers to another person an alcoholic beverage, as defined by Alcoholic Beverage Code, §1.04; (2) commits a serious act or offense while under the influence of alcohol; or (3) possesses, uses, or is under the influence of an alcoholic beverage. Alcoholic Beverage Code Section 1.04 defines an alcoholic beverage as alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted. Behavior Code '05' is a DAEP Capacity Rule code under TEC, §37.009(a-1)-(a-2).

06	<u>Abusable Volatile Chemical Conduct - TEC, §37.006(a)(2)(E)</u> Health and Safety Code, §§485.031 through 485.034, defines abusable volatile chemicals (glue, aerosol paint, etc.) Health and Safety Code, §485.017, defines the offense abuse of an abusable volatile chemical as when a person inhales, ingests, applies, uses, or possesses a volatile chemical with the intent to inhale, ingest, apply, or use a volatile chemical (glue, aerosol paint, etc.) in a manner contrary to the directions for use, cautions or warnings appearing on a label of a container of chemical and is designed to affect the persons central nervous system, create or induce a condition of intoxication, hallucination, or elation or change or distort or disturb the person's eyesight, thinking process, balance or coordination. Behavior Code '06' is a DAEP Capacity Rule code under TEC, §37.009(a-1)-(a-2).
07	<u>Public Lewdness or Indecent Exposure - TEC, §37.006(a)(2)(F)</u> Penal Code, §21.07, defines public lewdness as when a person knowingly engages in any of the following acts in a public place or, if not in a public place, is reckless about whether another is present or will be offended or alarmed by: (a) an act of sexual intercourse; (b) act of deviate sexual intercourse; (c) act of sexual contact; or (d) act involving contact between the person's mouth or genitals and the anus or genitals of an animal or fowl. Penal Code, §21.08, defines indecent exposure as an offense when a person exposes his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended or alarmed by his act.
09	<u>Title 5 Felony Committed Off Campus - TEC, §37.006(c)</u> A student who commits an off-campus Title 5 felony must be removed from their regular education program and placed in a DAEP if: (1) the student receives deferred prosecution for conduct and the conduct is defined as a Title 5 felony of the Penal Code; (2) a court or jury finds that the off-campus conduct engaged in by the student constitutes delinquent conduct and is defined as a Title 5 felony of the Penal Code; or, (3) the superintendent or the superintendent's designee has a reasonable belief that the student engaged in conduct is defined as a Title 5 felony of the Penal Code.

	Title 5 felonies are defined in Penal Code, and are offenses against a person (Penal Code, Chapter 19 – Penal Code, Chapter 22). Title 5 felonies include but are not limited to: murder; capital murder; manslaughter; criminally negligent homicide, unlawful restraint, kidnapping, aggravated kidnapping, smuggling of persons, continuous smuggling of persons, operation of a stash house, trafficking of persons, continuous trafficking of persons, continuous sexual abuse of a young child or disabled individual, bestiality, indecency with a child; invasive visual recording, unlawful disclosure or promotion of intimate visual material, sexual coercion, felony assault, sexual assault, aggravated assault, aggravated sexual assault, injury to a child, elderly individual, or disabled individual, abandoning or endangering a child, deadly conduct, terroristic threat, and tampering with a consumer product.
10	<u>Felony Offenses Not in Title 5, Penal Code – TEC, §37.006(d)</u> A student who commits an off-campus non-Title 5 felony may be removed from their regular education program and placed in a DAEP if: (1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than those defined in Title 5, Penal Code; and (2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.
12	<u>Location-Restricted Knife - TEC 37.007(a)(1)</u> Penal Code, §46.02, Unlawful Carrying of Weapon, defines this offense as: (1) intentionally, knowingly, or recklessly carries on or about a person a location-restricted knife; (2) is younger than 18 years of age at the time of the offense; and (3) is not: (a) on the person's own premises or premises under the person's control; (b) inside of or directly in route to a motor vehicle or watercraft that is owned by the person or under the person's control; or (c) under the direct supervision of a parent or legal guardian. Penal Code, §46.01, defines a Location-Restricted Knife as a knife with a blade over 5.5 inches. Note: This is the only “knife” mentioned in TEC, Chapter 37. Make sure all other knives are covered under TEC, §37.001, if the district will apply disciplinary actions for carrying any other kind of knife on campus or to school activities.

14	<u>Prohibited Weapon – TEC 37.007(a)(1).</u> Elements of an offense relating to prohibited weapons under Penal Code, §46.05. Penal Code 46.05 defines a prohibited weapon as one of the following: (1) an explosive weapon (Penal Code 46.01(2)), (2) a machine gun (Penal Code 46.01(9)), (3) armor-piercing ammunition (Penal Code 46.01(12)), (4) a chemical dispensing device (Penal Code 46.01(14)), (5) a zip gun (Penal Code 46.01(16)), (6) a tire deflation device (Penal Code 46.01(17)), or (7) g) an improvised explosive device (Penal Code 46.01(19)).
16	<u>Arson - TEC, §37.007(a)(2)(B)</u> Penal Code, §28.02, defines arson as when a person starts a fire or causes an explosion with intent to destroy or damage any vegetation, fence, structure, open-space land, building or vehicle knowing that it is within the limits of an incorporated city or town, it is insured, it is subject to mortgage, or it is located on property belonging to another.
17	<u>Murder, Capital Murder, or Criminal Attempt to Commit Murder/Capital Murder - TEC, §37.007(a)(2)(C)</u> Penal Code, §19.02, defines murder as when a person intentionally or knowingly causes the death of another person, intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual or commits or attempts to commit a felony, other than manslaughter, and in the course thereof he commits an act clearly dangerous to human life that causes the death of an individual. Penal Code, §19.03, defines capital murder as when a person commits an offense defined under Section 19.02 and the person murders a peace officer or fireman who is acting in the lawful discharge of an official duty, the person intentionally commits murder during the course of committing or attempting to commit kidnapping, burglary, robbery, aggravated sexual assault, arson, or obstruction or retaliation. A person also commits capital murder if the person commits murder for remuneration or the promise of remuneration or employs another to commit murder for remuneration. Penal Code §15.01, defines criminal attempt as when a person, with specific intent to commit an offense, does the act amounting to more than mere preparation but fails to affect the commission of the offense intended.

18	<u>Indecency with a Child - TEC, §37.007(a)(2)(D)</u> Penal Code, §21.11, defines indecent with a child as when a person, with a person younger than 17 years, engages in sexual contact with a student or exposes his anus or any part of his genitals knowing the student is present with intent to arouse or gratify the sexual desire of any person.
19	<u>Aggravated Kidnapping - TEC, §37.007(a)(2)(E)</u> Penal Code, §20.04, defines aggravated kidnapping as when a person intentionally or knowingly abducts another person with intent to hold him for ransom, use him as a hostage, facilitate the commission of a felony, afflict bodily injury on him or abuse him sexually, terrorize him or a third person, or interfere with the performance of any governmental or political function.
21	<u>Violation of Student Code of Conduct - TEC, §37.001, and not included under TEC, §37.002(c), §37.006, or §37.007</u> This category includes bullying, harassment, and making hit lists (TEC §37.001) and reasons not specifically identified in TEC Chapter 37 that are adopted by the local school board and itemized and identified in the local Student Code of Conduct. Note: Behavior Code '21' should be used for a Court Ordered JJAEP or DAEP.
22	<u>Felony Criminal Mischief - TEC, §37.007(f)</u> A student may be expelled under TEC, §37.007(f), for conduct that contains the offense of criminal mischief if that conduct is punishable as a felony. Otherwise, the most severe action that may be taken would be placement in a DAEP. Penal Code, §28.03, defines criminal mischief as when a person intentionally or knowingly damages or destroys the tangible property of the owner, intentionally or knowingly tampers with the tangible property of the owner and causes a pecuniary loss or substantial inconvenience to the owner or a third person. A felony under this section occurs when damage exceeds \$1,500. For example, this section would apply to cases of graffiti if the total cost of repair and cleaning exceeds \$1,500. Penal Code, §28.03(h) states criminal mischief is a state jail felony if the amount of the pecuniary loss to real property or to tangible personal property is \$750 or more but less than \$30,000 and the damage or destruction is inflicted on a public or private elementary school, secondary school, or institution of higher education.

23	<u>Emergency Placement/Expulsion - TEC, §37.019</u> 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 according to TEC, §37.019(c). Not later than the tenth day after the date of the placement or expulsion, the student shall be awarded the appropriate due process as required under TEC, §37.009. Emergency DAEP Placement Chapter 37 authorizes the immediate placement of a student in a DAEP if the principal or their designee reasonably believes that the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity. Emergency Expulsion Chapter 37 authorizes the immediate expulsion of a student if the principal or their designee reasonably believes that the immediate expulsion of the student is necessary to protect persons or property from imminent harm.
26	<u>Terroristic Threat - TEC, §37.006(a)(1), TEC, §37.007(b)(1)</u> Penal Code, §22.07, defines a terroristic threat if a person threatens to commit any offense involving violence to any person or property with the intent to: (1) cause a reaction of any type to his threat by an official or volunteer agency organized to deal with emergencies; or (2) place any person in fear of imminent serious bodily injury; or (3) prevent or interrupt the occupation or use of a building; room; place of assemble; place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place; or (4) cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service. A person who receives a terroristic threat must not only believe the threat but also believe that the person making the threat will carry it out.
27	<u>Assault Against of School District Employee or Volunteer – TEC, §37.007(a)(4)</u> Penal Code, §22.01(a)(1), defines assault as when a person intentionally, knowingly, or recklessly causes bodily injury to another person. For purposes of this reason, an assault must involve a victim and a perpetrator(s) and the victim must receive bodily injury. If these criteria are not met, then the proper Discipline Action Reason Code would be Behavior '21' Violation of Student Code of Conduct.

28	<u>Assault of Someone other than School District Employee or Volunteer – TEC, §37.006(a)(2)(B)</u> Penal Code, §22.01(a)(1), defines assault as when a person intentionally, knowingly, or recklessly causes bodily injury to another person. For purposes of this reason, an assault must involve a victim and a perpetrator(s) and the victim must receive bodily injury. Two or more students cannot assault each other. If these criteria are not met, then the proper Behavior Code would be Behavior ‘21’ Student Code of Conduct Violation.
29	<u>Aggravated Assault against School District Employee or Volunteer - TEC, §37.007(a)(2)(A)</u> Penal Code, §22.02 defines aggravated assault as an offense as defined in §22.01 if the person causes serious bodily injury to another, including the person’s spouse, or uses or exhibits a deadly weapon during the commission of the assault. For Behavior ‘29’, there must be a victim(s) and a perpetrator(s). Two persons cannot commit aggravated assault against each other.
30	<u>Aggravated Assault Against Someone other than a School District Employee or Volunteer – TEC, §37.007(a)(2)(A).</u> Penal Code, §22.02, defines aggravated assault as an offense as defined in §22.01 if the person causes serious bodily injury to another, including the person’s spouse, or uses or exhibits a deadly weapon during the commission of the assault. For Behavior ‘30’, there must be a victim(s) and a perpetrator(s). Two persons cannot commit aggravated assault against each other.
31	<u>Sexual Assault/Aggravated Sexual Assault against School District Employee or Volunteer - TEC, §37.007(a)(2)(A)</u> Penal Code, §22.011, defines sexual assault as when a person intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means without that person’s consent, causes the penetration of the mouth of another person by the sexual organ of the actor without the person’s consent or causes the sexual organ of another person, without the person’s consent, to contact, or penetrate the mouth, anus, or sexual organ of another person, including the actor. Sexual assault is also defined as when a person intentionally or knowingly causes the penetration of the anus or sexual organ of a child by any means, causes the penetration of the mouth of a child by the sexual organ of the actor, causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor, or causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor.

	Penal Code, §22.021, defines aggravated sexual assault as any of the offenses listed above in Penal Code, §22.011 if the person causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode, places the victim in fear that death, serious or knowingly causes the penetration of the anus or sexual organ of another person by any means without that person's consent, causes the penetration of the mouth of another person by the sexual organ of the actor without the person's consent or causes the sexual organ of another person, without the person's consent, to contact, or penetrate the mouth, anus, or sexual organ of another person, including the actor. Sexual assault is also defined as when a person intentionally or knowingly causes the penetration of the anus or sexual organ of a child by any means, causes the penetration of the mouth of a child by the sexual organ of the actor, causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor, or causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor. Penal Code, §22.021, defines aggravated sexual assault as any of the offenses listed above in Penal Code, §22.011 if the person causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode, places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person, by acts or words threatens to cause death or serious bodily injury or kidnapping of any person or who uses or exhibits a deadly weapon in the course of the same criminal episode. A person also commits the offense of aggravated sexual assault if they act in concert with another who engages in such conduct or commits the offense of sexual assault on a person who is younger than 14 or 65 years of age or older (Chapter 318, Section 9).
32	<u>Sexual Assault/Aggravated Sexual Assault Against Someone other than a School District Employee or Volunteer - TEC, §37.007(a)(2)(A)</u> Penal Code, §22.011, defines sexual assault as when a person intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means without that person's consent, causes the penetration of the mouth of another person by the sexual organ of the actor without the person's consent or causes the sexual organ of another person, without the person's consent, to contact, or penetrate the mouth, anus, or sexual organ of another person, including the actor. Sexual assault is also defined as when a person intentionally or knowingly causes the penetration of the anus or sexual organ of a child by any means, causes the penetration of the mouth of a child by the sexual organ of the actor, causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor, or causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including

	the actor. Penal Code, §22.021, defines aggravated sexual assault as any of the offenses listed above in Penal Code, §22.011, if the person causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode, places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person, by acts or words threatens to cause death or serious bodily injury or kidnapping of any person or who uses or exhibits a deadly weapon in the course of the same criminal episode. A person also commits the offense of aggravated sexual assault if they act in concert with another who engages in such conduct or commits the offense of sexual assault on a person who is younger than 14 or 65 years of age or older.
35	False Alarm/False Report – TEC, §37.006(a)(1), TEC, §37.007(b)(1) Penal Code, §42.06, defines False Alarm or Report as knowingly initiates, communicates or circulates a report of a present, past, or future bombing, fire, offense, or other emergency that the person knows is false or baseless and that would ordinarily: (1) cause action by an official or volunteer agency organized to deal with emergencies; (2) place a person in fear of imminent serious bodily injury; or (3) (3) prevent or interrupt occupation of a building, room, place of assembly, place with public access, or aircraft, automobile, or other mode of conveyance.
36	Felony Controlled Substance Violation – TEC, §37.007(a)(3), TEC, §37.007(b)(2)(A), Health and Safety Code, §481.002(5), defines a controlled substance as a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 1-B, 2, 2-A, 3, or 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance. The term does not include hemp, as defined by §121.001, Agriculture Code, or the tetrahydrocannabinols in hemp. Always get corroboration from law enforcement before using Behavior ‘36’ to report a disciplinary incident.
41	Fighting/Mutual Combat – TEC, §37.001 Fighting is defined as two or more persons choose to mutually engage in physical combat using blows or force to strive to overcome the other person(s). All involved people consented to the fight through their actions and the fight did not result in serious bodily injury to anyone. It is a consensual fight on equal terms.
47	Manslaughter - TEC, §37.007(a)(2)(G) Penal Code, §19.04 defines manslaughter as a person commits an offense if

	the person recklessly causes the death of an individual.
48	<u>Criminally Negligent Homicide - TEC, §37.007(a)(2)(H)</u> Penal Code, §19.05 defines criminally negligent homicide as a person commits an offense if he causes the death of an individual by criminal negligence. Penal Code, §6.03(d), defines criminal negligence as, with respect to circumstances surrounding the conduct or the result of the conduct when the person ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint. Penal Code, §6.03(d), defines criminal negligence as, with respect to circumstances surrounding the conduct or the result of the conduct when the person ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such nature and
49	<u>Deadly Conduct – TEC, §37.006(c)(1)(B), TEC, §37.007(b)(2)(C)</u> Penal Code §22.05, defines deadly conduct as when a person recklessly engages in conduct that places another in imminent danger of serious bodily injury, or a person commits an offense if he knowingly discharges a firearm at or in the direction of: (1) one or more individuals; or (2) a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied. Recklessness and danger are presumed if the actor knowingly pointed a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded.
55	<u>Student Is Required to Register as A Sex Offender Under Chapter 62 Of The Code Of Criminal Procedure And Is Under Court Supervision - TEC §37.304</u> Applicable to a student who registered as a sex offender on or after September 1, 2007, and is under any form of court supervision, including probation, community supervision, or parole.
56	<u>Student Is Required to Register as A Sex Offender Under Chapter 62 Of The Code Of Criminal Procedure And Is Not Under Court Supervision - TEC §37.305</u> Applicable to a student who registered as a sex offender on or after September 1, 2007, and is not under any form of court supervision.

57	<u>Continuous Sexual Abuse of Young Child or Disabled Individual Under §21.02 Penal Code - TEC §37.007(a)(2)(I)</u> Penal Code, §21.02, defines Continuous Sexual Abuse of Young Child or Disabled Individual as during a period of 30 or more days, the person commits two or more acts of sexual abuse, regardless of whether the sexual abuse is committed against one or more victims, and at the time the acts of sexual abuse is committed, the actor is 17 years of age or older and the victim is younger than 14 years of age, (regardless of whether the actor knows the age of the victim at the time of the offense) or the victim is a disabled individual.
58	<u>Breach of Computer Security Under Penal Code §33.02 – TEC, §37.007(b)(4)</u> Penal Code, §33.02, defines breach of computer security by a person who knowingly, without consent, accesses a computer, computer network, or computer system owned by or operated by a school system. The person knowingly alters, damages, or deletes school district property or information, or commits a breach of any other computer, computer network, or computer system.
59	<u>Serious Misbehavior, while expelled to or placed in a Disciplinary Alternative Education Program (DAEP) - TEC §37.007(c)</u> TEC §37.007(c) defines serious misbehavior in a DAEP as: (1) deliberate violent behavior that poses a direct threat to the health or safety of others; (2) extortion, meaning the gaining of money or other property by force or threat; (3) conduct that constitutes coercion, as defined by Penal Code, §1.07; (4) conduct that constitutes the offense of: (a) public lewdness under Penal Code, §21.07; (b) indecent exposure under Penal Code, §21.08; (c) criminal mischief under Penal Code, §28.03; (d) personal hazing under TEC, §37.152; or (5) harassment under Penal Code, §42.07(a)(1), of a student or district employee.
61	<u>Bullying- TEC 37.0052(b)</u> TEC, §37.0052(b), defines bullying behavior as: (1) engages in bullying that encourages a student to commit or attempt to commit suicide; (2) incites violence against a student through group bullying; or (3) releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.

62	<u>Possessed, Sold, Gave, Used, Delivered, Or Was Under the Influence of Marihuana or Tetrahydrocannabinol (THC) – TEC 37.006(a)(2)(C-1)</u> Health and Safety Code, §481.002, defines Marihuana as the plant Cannabis sativa L., whether growing or not, the seeds of that plant, and every compound, manufacture, salt, derivative, mixture, or preparation of that plant or its seeds. The term does not include: (1) the resin extracted from a part of the plant or a compound, manufacture, salt, derivative, mixture, or preparation of the resin; (2) the mature stalks of the plant or fiber produced from the stalks; (3) oil or cake made from the seeds of the plant; (4) a compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; (5) the sterilized seeds of the plant that are incapable of beginning germination; or (6) hemp, defined by Agriculture Code, §121.001, or tetrahydrocannabinol (THC), as defined by Health and Safety Code, §481.003
64	<u>Possessed, Sold, Gave, Used, Delivered, or Was Under the Influence of Other Controlled Substance – TEC, §37.007(b)</u> §481.002 Health and Safety Code, defines Controlled Substance as a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 1-B, 2, 2-A, 3, or 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance. Always get corroboration from law enforcement before using Behavior ‘64’.
65	<u>Threatens Immediate Health and Safety of Other Students in Classroom - TEC 37.005(c)(2)</u> To be used when a student who is enrolled in a grade level below grade three or a student experiencing homelessness engages in conduct, while on school property or while attending a school-sponsored or school-related activity on or off of school property, that threatens the immediate health and safety of other students in the classroom. Note: Use with a student who is enrolled in a grade level below grade three or a student experiencing homelessness is assigned OSS.
66	<u>Documented Repeated or Significant Disruption to the Classroom - TEC 37.005(c)(3)</u> To be used when a student who is enrolled in a grade level below grade three or a student experiencing homelessness engages in documented conduct, while on school property or while attending a school-sponsored or school-related activity on or off of school property, that results in repeated or significant disruption to the classroom.

	Note: Use with a student who is enrolled in a grade level below grade three or a student experiencing homelessness is assigned OSS.
67	<u>Possesses or Uses E-Cigarette – TEC §37.006(d)(1)(C)</u> <u>§161.081, Health and Safety Code</u>, defines E-Cigarette as: (1) an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device; or (2) a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described by this subdivision. The term "e-cigarette" includes: (1) a device described by this subdivision regardless of whether the device is manufactured, distributed, or sold as an e- cigarette, e-cigar, or e-pipe or under another product name or description; and (2) a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device. Note: If a student who possesses or uses an e-cigarette is not placed in a DAEP for the first-time offense, the student must be placed in ISS for a period of at least 10 school days. Note: The code of conduct must expressly provide that an appropriate administrator may place a student in a DAEP for the first-time offense of possession or use of a nicotine delivery product or e-cigarette, as defined by Section 161.081, Health and Safety Code; <u>TEC, 37.001(a)(2)</u>
68	<u>Sells, gives, or delivers to another person an E-Cigarette as defined by §161.081, Health and Safety Code (includes all electronic vaping devices) – TEC, §37.006(a)(2)(C-2)</u> <u>§161.081, Health and Safety Code</u>, defines E-Cigarette as (1) an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device; or (2) a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described by this subdivision. The term "e-cigarette" includes: (1) a device described by this subdivision regardless of whether the device is manufactured, distributed, or sold as an e- cigarette, e-cigar, or e-pipe or under another product name or description; and (2) a component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

69	<u>Disorderly Conduct Involving a Firearm – TEC §37.006(c)(1)(D)</u> The student receives deferred prosecution under Family Code, §53.03, for conduct defined as the offense of disorderly conduct involving a firearm under Penal Code, §42.01(a)(7) or (8). Penal Code, §42.01(a)(7) or (8) defines disorderly conduct involving a firearm as intentionally or knowingly discharges a firearm in a public place other than a public road or a sport shooting range, as defined by Section 250.001, Local Government Code; or displays a firearm or other deadly weapon in a public place in a manner calculated to alarm.
70	<u>Disruptive Activities under TEC §37.123 – TEC, §37.006(d)(1)(A)</u> A student alone or in concert with others, intentionally engages in disruptive activity on the campus or property of any private or public school. TEC, §37.123, defines disruptive activities as: (1) obstructing or restraining the passage of persons in an exit, entrance, or hallway of a building without the authorization of the administration of the school. (2) seizing control of a building or portion of a building to interfere with an administrative, educational, research, or other authorized activity; (3) preventing or attempting to prevent by force or violence or the threat of force or violence a lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur; (4) disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or (5) obstructing or restraining the passage of a person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats of force or violence the ingress or egress of a person to or from the property or campus without the authorization of the administration of the school.
71	<u>Disruption of Classes under TEC §37.124 – TEC §37.006(d)(1)(B)</u> While on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities. TEC, §37.124, defines disrupting the conduct of classes or other school activities as: (1) emitting noise of an intensity that prevents or hinders classroom instruction;

	(2) enticing or attempting to entice a student away from a class or other school activity that the student is required to attend; (3) preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend; and (4) entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or the use of loud or profane language, disrupting class activities. TEC §37.124 defines Public Property as a street, highway, alley, public park, or sidewalk. TEC §37.124 defines School Property as a public school campus or school grounds on which a public school is located and any grounds or buildings used by a school for an assembly or other school-sponsored activity.
72	<u>Kidnapping – TEC 37.007(a)(2)(E)</u> Penal Code, §20.03 defines kidnapping as a person intentionally or knowingly abducts another person. Penal Code, §20.01 defines abducts as to restrain a person with intent to prevent his liberation by: (a) secreting or holding him in a place where he is not likely to be found; or (b) using or threatening to use deadly force.
73	<u>Exhibits, Uses, or Threatens to Exhibit or Use a Firearm under TEC §37.125 – TEC §37.007(a)(5)</u> A person, alone or in concert with others, intentionally engages in disruptive activity by exhibiting, using, or threatening to exhibit or use a firearm on the campus or property of any private or public-school exhibiting. Note: TEC, §37.007(a) authorizes a mandatory expulsion for this behavior on or off school property. Note: Behavior ‘73’ is to be used for any incident involving a firearm on campus, within 300 feet of district property line, or attending a school activity on or off campus. This encompasses the retired Behavior ‘11’ – Bringing a Firearm to School.
74	<u>Engages in conduct that contains the elements of the offense of Retaliation under §36.06, Penal Code, against any school employee or volunteer - TEC, §37.006(b)(1)</u> Penal Code, §36.06, defines the offense of retaliation as when a person intentionally or knowingly harms or threatens to harm another by an unlawful act in retaliation for or on account of the service of another as a public servant, witness, prospective witness, informant, or a person who has reported or who the actor knows intends to report the occurrence of a crime or to prevent or

	delay the service of another as a public servant, witness, prospective witness, informant, or a person who has reported or who the actor knows intends to report the occurrence of a crime.
75	<u>Engages in conduct that contains the elements of the offense of Harassment Against An Employee or Volunteer Of The School District - TEC, §37.006(b)</u> Penal Code, §42.07, defines harassment as a person, with intent to harass, annoy, alarm, abuse, torment, or embarrassing another: (1) initiates communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene; (2) threatens, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property; (3) conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury; (4) causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another; (5) makes a telephone call and intentionally fails to hang up or disengage the connection; (6) knowingly permits a telephone under the person's control to be used by another to commit an offense under this section; (7) sends repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another; (8) publishes on an Internet website, including a social media platform, repeated electronic communications in a manner reasonably likely to cause emotional distress, abuse, or torment to another person, unless the communications are made in connection with a matter of public concern; (9) tracks or monitors the personal property or motor vehicle of another person, without the other person's effective consent, including by: (a) using a tracking application on the person's personal electronic device or using a tracking device; or (b) physically following the other person or causing any person to (c) physically follow the other person. (10) makes obscene, intimidating, or threatening telephone calls or other electronic communications from a temporary or disposable telephone number provided by an Internet application or other technological means.
76	<u>Engages in conduct that contains the elements of the offense of Burglary, Robbery, Aggravated Robbery under Penal Code, §29.03 – TEC, §37.007(a)(2)(F)</u>

[Penal Code, §30.02](#), defines **burglary** as a person, without the effective consent of the owner:

- (1) enters a habitation, or a building (or any portion of a building) not then open to the public, with intent to commit a felony, theft, or an assault; or
- (2) remains concealed, with intent to commit a felony, theft, or an assault, in a building or habitation; or
- (3) enters a building or habitation and commits or attempts to commit a felony, theft, or an assault.

[Penal Code, §29.02](#), defines **robbery** as a person in the course of committing theft as defined in [Penal Code, Chapter 31](#), and with intent to obtain or maintain control of the property:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another; or
- (2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

[Penal Code, §29.03](#), defines **aggravated robbery** as a person commits robbery as defined in [Penal Code, §29.02](#), and:

- (1) causes serious bodily injury to another;
- (2) uses or exhibits a deadly weapon; or
- (3) causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the other person is:
 - (a) 65 years of age or older; or
 - (b) a disabled person.

