

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 school system, including a school district, home-rule school district, or open-enrollment charter school, must 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 school system, 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 school system must 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 school system 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 single administrator designated as the Campus Behavior Coordinator (CBC).

Additional school staff members may assist the CBC in the performance of the CBC duties, provided that the CBC personally verify that all aspects of TEC, Chapter 37, are appropriately implemented.

The CBC must:

- (1) monitor disciplinary referrals;
- (2) report to the campus' threat assessment and safe and supportive school team established under TEC, §37.115, any student who engages in conduct that contains the elements of:
 - (A) the offense of terroristic threat under Section 22.07, Penal Code;
 - (B) the offense of unlawfully carrying weapons under Section 46.02, Penal Code;
 - (C) an offense relating to prohibited weapons under Section 46.05, Penal Code; or
 - (D) the offense of exhibiting, using, or threatening to exhibit or use a firearm under TEC, §37.125 of this code; and
- (3) report to the campus's threat assessment and safe and supportive school team established under TEC, §37.115, any concerning student behaviors or behavioral trends that may pose a serious risk of violence to the student or others.

The CBC or appropriate administrator is required to promptly notify a student's parent or guardian if the student is placed into in-school suspension (ISS) or out-of-school suspension (OSS), placed

in a disciplinary alternative education program (DAEP), expelled, or placed in a juvenile justice alternative education program (JJAEP) or is taken into custody by a law enforcement officer. A CBC or appropriate administrator 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 CBC or appropriate administrator must mail written notice of the disciplinary action to the parent or guardian at the parent's or guardian's last known address. If the CBC or appropriate administrator is unable or not available to promptly provide the required notice to a parent or guardian of a student, the principal or other designee must provide the notice.

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

Before removing a student to a DAEP under TEC, §37.008, TEC, §37.009, requires the CBC or appropriate administrator to schedule a conference among, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, 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.

4. What is required to expel a student?

Before a student may be mandatorily or discretionarily expelled under TEC, §37.007, the board or the board's designee must provide the student with 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) and an out-of-school suspension (OSS)?

In accordance with TEC, §37.005, OSS is limited to a three-day maximum length of term and ISS is not limited to any specific length of term. 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 student's assigned suspension days.

Upon assigning a student an ISS assignment that extends beyond a 10 day length of term, the CBC or appropriate administrator is required at least once every ten days the student is in ISS per incident to hold an academic progress review to determine if the ISS placement is appropriate.

6. What is the minimum grade level for suspending a student with a suspension under TEC, §37.005?

In accordance with TEC, §37.005(c), a student who is enrolled in a grade level below grade three or a student experiencing homelessness may 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 threatens the immediate health and safety of other students in the classroom;
- (3) documented conduct that results in repeated or significant disruption to the classroom;
or
- (4) selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:
 - (A) marijuana 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.

There are no grade level limitations regarding placing a student in ISS.

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

In accordance with TEC, §37.0013, in consultation with CBC or appropriate administrator and representatives of a regional education service center, each school system may develop and implement a program 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 extends 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, 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?

Before assigning a student to a DAEP setting 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, §37.006, or §37.007, must be provided with 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, must review the student's progress towards meeting high school graduation requirements and must 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 special education students who commit behaviors that require a disciplinary removal action?

The disciplinary placement of all students who are served in special education with an Individualized Education Program (IEP) must be determined by an Admission, Review, and Dismissal (ARD) committee. TEC, §37.004(a). 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.

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 ten consecutive days (CFR §300.530 - §300.536). The ARD committee that deals with the change of placement must review the students' IEP to detail the special education and related services to be administered to the student while he is 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 constitutes a change in placement.

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

Under TEC, §37.006(l), a student who is younger than six years of age may not be removed from class and placed in a DAEP, unless the student brings a firearm to school.

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

Under TEC, §37.006(f), a student who is younger than 10 years of age must be removed from class and placed in a DAEP if the student engages in conduct described by TEC, §37.007.

Also, under TEC, §37.007(h), a student who is younger than 10 years of age may not be expelled for engaging in conduct described under TEC, §37.007 but must be placed in a DAEP.

13. What are the required procedures for using Disciplinary Action Reason Code 23 – Emergency Placement/Emergency Expulsion?

DISCIPLINARY-ACTION-REASON-CODE 23, as authorized by TEC, §37.019, the CBC or appropriate administrator may verbally assign the emergency placement or expulsion of a student based on a single incident of behavior by the student.

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 a verbal emergency placement or expulsion, the student must be given oral notice of the reason for the action.

Not later than the tenth day after the date of the verbal emergency placement or expulsion, the student must be accorded with the appropriate due process as required until TEC, §37.009. Thus, an emergency verbal assigned 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?

With regards to the documentation related to “TEC, §37.017 Destruction of Certain Records” states Information received by a school district under Article 15.27, Code of Criminal Procedure, these records may 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 44425 Student Discipline Interchange data for a period of 5 years.

15. How should a school manage situations where a student has committed multiple violations during one disciplinary event?

Multiple violations are sometimes committed during one disciplinary event. When reporting the 44425 Student Discipline Interchange data, the district should report only the violations BEHAVIOR-CODE(s) for which disciplinary action(s) DISCIPLINE-CODE(s) are taken. If actions are only taken for the most serious violation, then only one DISCIPLINARY-INCIDENT-NUMBER should be reported in the 44425 Student Discipline Interchange data when reporting the BEHAVIOR-CODEs and DISCIPLINE-CODEs.

If the district takes disciplinary action on each violation that occurred during one disciplinary event, the district should enter a new DISCIPLINARY-INCIDENT-NUMBER for each separate BEHAVIOR-CODE (violation) being reported.

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?

If a student is involved in a reportable disciplinary incident, and the student attempts to withdraw from school before the disciplinary assignment is made, the district/school should complete the due-process proceedings that result in the required disciplinary assignment before the student is allowed to withdraw. After completion of the due process proceedings, the district/school is required to report the 44425 Student Discipline Interchange data reflecting that assignment to remain in compliance with TEC, §37.009.

17. What is an In-School Suspension (ISS) setting?

ISS includes any disciplinary setting other than DAEP, JJAEP, or OSS. For Special Education students' behavior management or behavior adjustment classes are not considered ISS programs as established by the ARD committee and are not considered ISS removals.

A school must provide a student subject to an ISS with appropriate behavioral support services and comparable educational services as the student would receive in the classroom. If the student receives special educational services under Subchapter A, Chapter 29, the student must:

- (1) continue to receive special education and related services specified in the student's individualized education program; and
- (2) continue to have an opportunity to progress in the general curriculum.

18. 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-CODE 13 may only be used when a Court order requires a student to attend the JJAEP independent of any action required to be taken by the school district and described in TEC, Chapter 37. Do not use DISCIPLINE-CODE 13 for students that are incarcerated in either a jail or juvenile detention center. The term of incarceration does not constitute a removal by a school district. The BEHAVIOR-CODE 21 should always be used with DISCIPLINE-CODE 13 because the district is reporting a court ordered placement for a behavior which the district either could not or would not have acted.

DISCIPLINE -CODE 14 may only be used when a Court order requires a student to attend a DAEP independent of any action required to be taken by the school district and described in TEC, Chapter 37. Do not use DISCIPLINE CODE 14 for students that are incarcerated in either a jail or juvenile detention center. A term of incarceration does not constitute a removal by a school district. The BEHAVIOR-CODE 21 should always be used with DISCIPLINE-CODE 14 because the district is reporting a court ordered placement for a behavior which the district either could not or would not have acted.

To place a student in a JJAEP or DAEP by Court order, there must be a MOU between the court ordering the placement and the school district that will affect and make the placement. **In all circumstances of court ordered placements to a JJAEP or DAEP, the BEHAVIOR-CODE must be 21 (Violation of student code of conduct not included under TEC, §§37.002(b), 37.006, or 37.007). The use of BEHAVIOR-CODEs 09 (Off-Campus Title 5 Felony) and 10 (Off-Campus Non-Title 5 Felony) for Court ordered placements to a JJAEP or DAEP is not acceptable because the school district has original jurisdiction and a due-process responsibility to hold a conference meeting to enforce a DAEP removal/action as required or permitted in TEC, §37.006 (c) and (d).** The provisions for these court ordered placements must also be outlined in the Local Student Code of Conduct. Any behavior that a student engages in at school or a school related activity for which they will receive disciplinary attention as provided for under either the minimum requirements of TEC, §37.006, or TEC, §37.007, or the minimum standards

of the Local Student Code of Conduct, must be initiated and actuated by the local school district.

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 44425 Student Discipline Interchange data event must be reported with a **BEHAVIOR-CODE of 21** and a **DISCIPLINE-CODE of 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).

19. Please explain the BEHAVIOR-CODE 01 – Permanent Removal by a Teacher from Class.

Permanent removal by a teacher from class (BEHAVIOR-CODE 01) under TEC, §37.002(c), is limited for use in those situations where the teacher has refused re-admittance of the student to that teacher's class.

A teacher may remove from class a student under TEC, §37.002, who:

- (1) repeatedly 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 [whose] 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.

20. What are the consequences of a school not reporting its discipline removal events through the Texas Student Data System PEIMS submission on the 44425 Student Discipline Interchange data?

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.

21. Which school systems 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.

22. What options exist for school systems that expel 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 school system may either expel the student without academic placement, expelled with placement to a DAEP, or expel to a virtual expulsion program if applicable.

23. 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.

24. 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** (it 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 system 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.

25. 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 DAEP to be **separated from students who are not assigned to 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.