

## Chapter 37 Offenses and Consequences

This chart is designed to assist school officials in determining the appropriate disciplinary responses to offenses committed both on and off campus. The chart is based on the requirements of Texas Education Code Chapter 37 and common provisions of local districts' Student Codes of Conduct. Before making any final disciplinary decision, school officials should always consult their local Student Code of Conduct.

Key: ★ —Mandatory consequence; state law requires this penalty.

✓ —Permissive consequence; a local district may choose to impose this penalty if the district's SCOC provides for this option.

SCOC = Student Code of Conduct

TEC = Texas Education Code

TPC = Texas Penal Code

H&SC = Texas Health & Safety Code

ISS = In-School Suspension

DAEP = Disciplinary Alternative Education Program

JJAEP = Juvenile Justice Alternative Education Program

### Important Notes

**Procedures:** Before a student is removed from the regular classroom setting, school officials must typically follow an established procedure. The formality of these proceedings varies according to the seriousness of the penalty; for example, the Texas Education Code includes procedures for a conference in the case of a DAEP placement and a formal due process hearing in the case of an expulsion. For more detail on the required procedures, see the FO series of policies and your SCOC.

**Temporary Placement:** Pending expulsion or DAEP placement, a student may be placed in ISS, out-of-school suspension for up to 3 days, or another appropriate placement in accordance with the district's SCOC.

**Length of Removal:** The district's SCOC includes guidelines on the length of a removal to DAEP or an expulsion. [TEC 37.001(a)(5)].

**Mitigating Factors:** The district must consider self defense, intent, and a student's disciplinary history in deciding whether to order out-of-school suspension, removal to DAEP, expulsion, or placement in JJAEP, regardless of whether the decision involves a mandatory or discretionary action. [TEC 37.001(a)(4)].

**New Students:** If a student withdraws from school before an order of expulsion or DAEP is entered, the district may complete the proceedings and enter the order. If the student reenrolls in the district during the same or the subsequent school year, the district may enforce the order, reduced for time served. If the student enrolls in another school district, the new district may honor the order, or, if the preceding district failed to enter an order, the new district may complete the proceedings and enter an order. [TEC 37.009(i)].

**Old Offenses:** School officials are permitted, but not required, to remove students for mandatory DAEP offenses if school officials did not learn of the conduct for more than one year after the conduct occurred. [TEC 37.006(n)].

**Elementary Students:** Students younger than 10 must receive services in a DAEP if they commit an expellable offense. [TEC 37.007(e), (h)]. However, a student younger than 6 may not be sent to a DAEP unless the student commits a firearm offense under TEC 37.007(e)(2). [TEC 37.006(l)].

**Special Education Students:** Special state and federal laws apply to the discipline of special education students. See policy FOF(LEGAL) and your SCOC.





*This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is neither an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. It is important for the recipient to consult with the district's own attorney in order to apply these legal principles to specific fact situations.*

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## Weapons

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Using, exhibiting, or possessing a firearm [TPC 46.01(3)], on campus or at a school-related activity				TEC 37.007(a)(1)(A), 37.007(e) 	Exception: Using, exhibiting, or possessing a firearm at an approved off-campus target range facility while participating in or preparing for a shooting sports competition or activity sponsored by the district or affiliated with the Texas Parks and Wildlife Department [TEC 37.007(k)]
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) 	Exception: Same as above.
Using, exhibiting, or possessing an illegal knife [TPC 46.01(6) or SCOC], on campus or at a school-related activity				TEC 37.007(a)(1)(B) 	The district may define <i>illegal knife</i> to include knives that are not listed in the TPC definition [TEC 37.007(a)]. The list can be found in the SCOC.
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) 	

## Weapons

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Using, exhibiting, or possessing a club [TPC 46.01(1)] or prohibited weapon [TPC 46.05], on campus or at a school-related activity				TEC 37.007(a)(1)(C) & (D)  ★	E.g., blackjack, nightstick, mace, tomahawk, explosive weapon, machine gun, short-barrel firearm, silencer, switchblade, knuckles, armor-piercing ammunition, chemical dispensing device, or zip gun
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i)  ✓	
Possessing or using look-alike weapons	✓	✓	✓		If listed in the SCOC
Possessing or using air guns or BB guns	✓	✓	✓		If listed in the SCOC
Possessing or using razors, box cutters, pocket knives, or chains	✓	✓	✓		If listed in the SCOC
Possessing or using various other dangerous objects	✓	✓	✓		As listed in the SCOC

### Violent Offenses

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Murder or attempt to commit murder [TPC 19.02(b), 19.03(a) & 15.01(a)], on campus or at a school-related activity				TEC 37.007(a)(2)(C) ★	
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Aggravated assault [TPC 22.02(a)], on campus or at a school-related activity				TEC 37.007(a)(2)(A) ★	
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Aggravated kidnapping [TPC 20.04(a)], on campus or at a school-related activity				TEC 37.007(a)(2)(E) ★	
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	

## Violent Offenses

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Aggravated robbery [TPC 29.03], on campus or at a school-related activity				TEC 37.007(a)(2)(F) ★	
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, criminal attempt to commit murder or capital murder, or aggravated robbery against another student, on or off school property				TEC 37.007(b)(4) ✓	
Manslaughter [TPC 19.04], on campus or at a school-related activity				TEC 37.007(a)(2)(G) ★	
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	

## Violent Offenses

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Criminally negligent homicide [TPC 19.05], on campus or at a school-related activity				TEC 37.007(a)(2)(H) ★	
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Assault with bodily injury [TPC 22.01(a)(1)], on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(B) ★		
Deferred prosecution, court finding of delinquent conduct, or superintendent's reasonable belief that student committed a violent felony [TPC Title 5], regardless of location			TEC 37.006(c) ★		
Same offenses plus charges, referral to juvenile court for delinquent conduct, probation, deferred adjudication, arrest, or conviction for a violent felony [TPC Title 5], with special findings by board or designee, regardless of location or time or whether the student was enrolled at the time or completed court requirements			TEC 37.0081 ✓		Provides for <i>expulsion</i> to an alternative placement, either DAEP or JJAEP

### Violent Offenses

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Fighting or scuffling	✓	✓	✓		If listed in the SCOC
Threats against students, staff, or school property	✓	✓	✓		If listed in the SCOC



## Sexual Misconduct

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Sexual assault [TPC 22.011(a)], aggravated sexual assault [TPC 22.021(a)], or continuous sexual abuse [TPC 21.02], on campus or at a school-related activity				TEC 37.007(a)(2)(A) ★	
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Aggravated sexual assault or sexual assault against another student, on or off school property				TEC 37.007(b)(4) ✓	
Conviction, deferred adjudication, or probation for sexual assault or aggravated sexual assault against another student attending the same campus, upon request of the victim's parent and if there is not another campus in the district to which the offending student may be transferred			TEC 25.0341(b)(2), 37.0051 ★		

### Sexual Misconduct

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Indecency with a child [TPC 21.11(a)], on campus or at a school-related activity				TEC 37.007(a)(2)(D) ★	
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Public lewdness [TPC 21.07(a)] or indecent exposure [TPC 21.08(a)], on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(F) ★		
Registered sex offender – under court supervision			TEC 37.304 ★		
Registered sex offender – not under court supervision			TEC 37.305 ✓		
Inappropriate exposure of body parts	✓	✓	✓		If listed in the SCOC
Sexual harassment or sexual abuse	✓	✓	✓		If listed in the SCOC
Inappropriate sexual conduct toward a student or employee	✓	✓	✓		If listed in the SCOC

## Drug Offenses

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Felony drug or alcohol offense [TEC 37.006(a)(2)(C) & (D)], on campus or at a school-related activity				TEC 37.007(a)(3) ★	
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Selling, giving, delivering, possessing, using, or being under the influence of any amount of marijuana, a controlled substance, or a dangerous drug, on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(C) ★	TEC 37.007(b)(2)(A) ✓	
Selling, giving, delivering, possessing, using, being under the influence of, or committing a serious act while under the influence of alcohol, on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(D) ★	TEC 37.007(b)(2)(A) ✓	
Abusing a volatile chemical [H&SC 485.031-485.034], on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(E) ★	TEC 37.007(b)(2)(B) ✓	
Off-campus non-violent felony, with special findings by superintendent or designee [see TEC 37.006(d)]			TEC 37.006(d) ✓		

### Drug Offenses

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Possessing or using tobacco products	✓	✓	✓		If listed in the SCOC
Possessing, selling, giving, or using drug paraphernalia	✓	✓	✓		If listed in the SCOC
Possessing or selling seeds or pieces of marijuana in less than a usable amount	✓	✓	✓		If listed in the SCOC
Possessing or selling look-alike drugs or items attempted to be passed off as drugs	✓	✓	✓		If listed in the SCOC
Improper use, possession, or being under the influence of prescription drugs	✓	✓	✓		If listed in the SCOC
Improper use or being under the influence of over-the-counter drugs	✓	✓	✓		If listed in the SCOC

## Retaliation

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
On- or off-campus retaliation through a violent offense [TEC 37.007(a)] against a school employee or volunteer				TEC 37.007(d) ★	
Assault with bodily injury against a school employee or volunteer, on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(B) ★	TEC 37.007(b)(2)(C) ✓	
On- or off-campus retaliatory assault with bodily injury on a school employee or volunteer			TEC 37.006(a)(2)(B) [on campus] or TEC 37.006(c) [off campus] ★	TEC 37.007(d) ✓	
On- or off-campus retaliation against any school employee [TPC 36.06(a)]			TEC 37.006(b) ★		

### Other Misconduct

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Arson [TPC 28.02(a)], on campus or at a school-related activity				TEC 37.007(a)(2)(B) ★	
Same offense within 300 feet of campus or while on the property or at a school-related activity of another Texas district				TEC 37.007(b)(3), (i) ✓	
Serious or persistent misbehavior while in DAEP				TEC 37.007(c) ✓	
Terroristic threat [TPC 22.07(a)] or false alarm [TPC 42.06(a)] involving a public school			TEC 37.006(a)(1) ★	TEC 37.007(b)(1) ✓	
Deadly conduct [TPC 22.05], on or within 300 feet of campus or at a school-related activity				TEC 37.007(b)(2)(D) ✓	
On- or off-campus felony criminal mischief [TPC 28.03(a)]				TEC 37.007(f) ✓	
Non-felony criminal mischief	✓	✓	✓		If listed in SCOC

### Other Misconduct

Offense	ISS, detention, or other local disciplinary techniques	Out-of-school suspension up to 3 days	DAEP	Expulsion	Notes
Any felony on or within 300 feet of campus or at a school-related activity			TEC 37.006(a)(2)(A)  ★		Check for potential expulsion, depending on type of felony
Off-campus non-violent felony, with special findings by superintendent or designee [TEC 37.006(d)]			TEC 37.006(d)-(e)  ✓		
Bullying, dating violence, harassment, and making hit lists	✓	✓	✓		As listed in the SCOC
Sending or posting electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, including off school property if the conduct causes a substantial disruption to the educational environment	✓	✓	✓		If listed in SCOC
Stealing	✓	✓	✓		If listed in SCOC
Directing profanity or obscene gestures at students or staff	✓	✓	✓		If listed in SCOC

**Other Misconduct**

<b>Offense</b>	<b>ISS, detention, or other local disciplinary techniques</b>	<b>Out-of-school suspension up to 3 days</b>	<b>DAEP</b>	<b>Expulsion</b>	<b>Notes</b>
Hazing	✓	✓	✓		If listed in SCOC
Other local offenses listed in SCOC	✓	✓	✓		