

New Braunfels Independent School District

Student Code of Conduct

2006–2007

Dear Parent / Guardian:

This Student Code of Conduct provides information regarding expectations for student behavior and consequences for misconduct. Please read and review the information in the Student Code of Conduct with your student so that you have a clear understanding of its content. Once you and your student have reviewed the Student Code of Conduct, please sign the acknowledgment form on the back of the AGR card and return it to your student's campus administrator. Please contact your student's teacher or campus administrator if you have any questions about the Code.

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GENERAL OVERVIEW

PURPOSE

The Board of Trustees adopted this Student Code of Conduct (SCC) to promote a safe, secure, and optimal learning environment for all of our students. Inside you will find information regarding:

- The District-wide discipline management plan,
- A description of prohibited conduct,
- The disciplinary options, methods, and consequences for preventing and addressing student misconduct, and
- The process the District will follow when administering disciplinary consequences.

If there is a conflict between the SCC and the Student Handbook, the terms of the SCC will control. If there is a conflict between the SCC and District policy, the more recently adopted provision will control.

ADDITIONAL RULES

Students may be subject to campus, classroom, extracurricular, bus/student transportation and/or organization rules in addition to those found in the SCC. Students may face consequences under these additional rules as well as possible disciplinary action under the SCC. Further, to the extent a student engages in misconduct that is not specifically addressed in the SCC, the student may still be disciplined if the misconduct disrupts or interferes with the educational process, learning environment, or school safety.

NOTICE OF DISCIPLINARY ACTION

Teachers and administrators strive to notify parents/guardians of student conduct concerns as they occur. The campus administrator will contact the parent/guardian by phone or in writing within three school days of becoming aware of misconduct that may result in out-of-school suspension, DAEP placement, or expulsion from school. Failure to send any notice within this time period or as noted elsewhere in the SCC does not preclude imposing a discipline consequence.

DISCIPLINE OF STUDENTS WITH SPECIAL NEEDS

Students eligible for services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 are subject to discipline in accordance with those laws. For more information about those specific procedures, please contact Martie Rodriguez. A student enrolled in a special education program may not be disciplined for bullying, harassment, or making hit lists until an ARD meeting is conducted.

ANTI-DISCRIMINATION

The District does not discriminate against students on the basis of race, sex, national origin, disability, religion, color, or ethnicity when enforcing the provisions of the SCC.

**DISCIPLINE
APPEALS**

Appeals of disciplinary measures should be directed to the student's teacher or campus administrators, as described in local District policy FNG. Depending on the disciplinary consequence assigned, different complaint procedures may apply. A copy of the appropriate policy is available at the campus or central administration office or online at www.newbraunfels.txed.net. Timelines for filing appeals stated in policy will be enforced. Disciplinary consequences will not be delayed or deferred pending the outcome of an appeal.

**EFFECT OF
STUDENT
WITHDRAWAL**

Withdrawal from school after a student has been accused of a violation of the SCC will not prevent the District from investigating the alleged violation and, if it is determined that a violation did occur, assessing the appropriate disciplinary consequence and enforcing that consequence should the student re-enroll in the District.

SCOPE OF THE DISTRICT'S DISCIPLINARY AUTHORITY

**GENERAL
AUTHORITY**

In addition to the disciplinary authority established for certain types of offenses as described within the SCC, the District has general disciplinary authority over a student at the following times:

- At any time during the school day
- While traveling to and from school or school activities on District transportation
- While attending any school-sponsored or school-related activity, regardless of time or location
- As provided in extracurricular or organization handbooks, by-laws, or constitutions
- During lunch periods, including those in which a student leaves the campus
- While on school property
- For any school-related misconduct, regardless of time or location
- Other off campus conduct as permitted by Chapter 37 of the Texas Education Code
- For certain offenses committed within 300 feet of school property as measured from any point on the school's real property boundary line

SEARCHES

A student's clothing, personal property, method of transportation, or school property used by the student (such as lockers or desks) may be searched when there is reasonable cause to believe the search will reveal articles or materials prohibited by the District. Students are responsible for ensuring that any personal property, method of transportation, or school property used by the student does not contain prohibited items. Students may be disciplined for possession of prohibited items discovered during a search. For more information about searches, please review the District's Student Handbook and local policy FNF.

**STUDENT
TRANSFERS**

The District may terminate the transfer of a student for violating the SCC.

**CRIMINAL
CONDUCT**

School administrators will report crimes as required by law and may contact local law enforcement regarding suspected criminal activity.

Certain acts of misconduct may constitute criminal offenses in addition to violations of the SCC. Because school discipline is independent of criminal proceedings, disciplinary consequences may not be postponed pending the outcome of any criminal proceeding or affected by the outcome of any criminal proceeding.

DISCIPLINE CONSIDERATIONS & TECHNIQUES

**DISCIPLINE
CONSIDERATIONS**

Using their professional judgment, District employees will consider a variety of factors when administering disciplinary consequences and determining the duration of the consequence, including but not limited to:

- the degree of severity and the effect of the misconduct
- the age and grade level of the student
- the student's demeanor
- the frequency of the misconduct
- legal requirements

When deciding to order the out-of-school suspension, DAEP placement, or expulsion of a student the District will not consider either: (1) self-defense, or (2) the student's intent at the time of the misconduct.

**DISCIPLINE
MANAGEMENT
TECHNIQUES**

Discipline is designed to correct student behavior and encourage students to comply with school rules. The District may use any one or a combination of the following strategies or techniques to manage student behavior, prevent or intervene in discipline problems, or address violations of the SCC or campus or classroom rules:

- Verbal correction
- Seating changes
- Parent conferences
- Assignment of school-related tasks or duties
- Contracts to modify student behavior
- Removal from the classroom
- Consequences identified in co-curricular or extracurricular codes of conduct, constitutions, or by-laws
- School probation
- Detention
- Out-of-school suspension
- Expulsion
- Other methods and consequences as stated in the SCC
- Additional methods used by the district
- Calming-down time
- Counseling
- Confiscation of items
- Demerits or rewards
- Sending the student to the office or other area
- Transfer to a different classroom or campus
- Loss or restriction of privileges, including transportation privileges, participation or membership in co-curricular or extracurricular activities, and seeking or holding honorary positions
- Corporal punishment
- In-school suspension
- Disciplinary Alternative Education Program (DAEP)

GENERAL TYPES OF PROHIBITED CONDUCT

Misconduct identified in the list of prohibited behaviors below will result in the assignment of one or more “*Discipline Management Techniques*” if the behavior is committed at school, a school-sponsored or school-related activity, or when the District has “*Disciplinary Authority*” as described in the SCC.

MISCONDUCT INVOLVING OTHERS

- Fighting or scuffling that does not result in physical pain, illness, or any impairment of a physical condition
- Conduct that can cause bodily injury (see *definitions*) or property damage
- Stealing from others, including the District
- Damaging, destroying, or vandalizing property owned by others or the District
- Marking District property such as textbooks, lockers, furniture, or equipment with graffiti, tagging, or by other means
- Forcing an unwilling person to act or not act or obtaining money or another object of value from an unwilling person through duress, threats, force, extortion, coercion, or blackmail
- Subjecting a student or District employee, official, or volunteer to physical confinement or restraint

**POSSESSING,
USING, OR
SELLING
PROHIBITED
ITEMS**

- Bullying (*see definitions*)
- Name-calling, ethnic or racial slurs, or derogatory statements that school employees reasonably believe could substantially disrupt the school environment or incite violence
- Making false accusations or providing false statements concerning wrongful, unlawful, inappropriate, or illegal conduct alleged to have been committed by another student or District employees, officials, or volunteers
- Adding any substance, whether harmful or not, without permission to any food or beverages belonging to, in the possession of, or meant to be consumed by another student or District employees, officials, or volunteers
- Engaging in harassment (*see definitions*) toward another student or a District employee, official, or volunteer, including harassment motivated by race, color, religion, national origin, disability, sex, or age
- Engaging in sexual harassment (*see definitions*) or sexual abuse
- Inappropriate verbal (oral or written), physical, or sexual contact toward another student or a District employee, official, or volunteer regardless of whether it is consensual
- Oral or written threats to cause harm or bodily injury (*see definitions*) to a student, a District employee, official, or volunteer, or school property, including threats made using the Internet or other computer resources at school. Students may be disciplined for threats made outside of school if the threat causes a material or substantial disruption at school.
- Sending or posting electronic messages that are abusive, obscene, sexually oriented, harassing, or illegal
- Hazing (*see definitions*)
- Matches or a lighter
- Tobacco products
- Fireworks or any other pyrotechnic device
- Smoke or stink bombs
- Laser pointers (unauthorized use)
- Pepper spray or other small chemical dispenser sold commercially for personal protection

**FAILURE TO
FOLLOW RULES**

- “Look-alike” drugs or items attempted to be passed off as drugs, including non-prescription drugs, medications, or herbal or dietary supplements except as permitted by District policy
- Razor blades, box cutters, or chains
- Knives with a blade 3" or less
- Fake or “look-alike” weapons
- BB gun, air gun, or stun gun
- Ammunition, shells, or bullets
- Material that is sexually-oriented, pornographic, or reveals a person’s private body parts
- Material, including published or electronic items, that promotes or encourages illegal behavior or could threaten school safety
- Articles not generally considered to be weapons when the administrator determines that a danger exists or when used in a way that threatens or inflicts bodily injury to another
- CD or DVD players, cassette players, electronic games, MP3 players, stereo head sets, or other electronic equipment for other than approved use
- Using, displaying, or having in operational mode a paging device, cellular telephone, or telecommunications device (see *definitions*) at school during the school day, including fifteen minutes immediately preceding and following instructional time
- Violating dress and grooming criteria
- Being insubordinate or otherwise failing to comply with lawful directives given by school personnel
- Leaving the campus or school events without permission
- Violating rules for conduct on school transportation
- Violating policies or rules for computer use or Internet access
- Violating the District’s medications policy regarding prescription and over-the-counter drugs
- Violating other campus or classroom rules for behavior or district policies

OTHER MISCONDUCT

- Academic dishonesty, including cheating, copying the work of another, plagiarism, or unauthorized collaboration with another person in preparing an assignment
- Skipping school or class without the District's or parent/guardian's permission
- Using profanity, vulgar language, or obscene gestures
- Falsifying, altering, forging, or destroying school records, passes, other school-related documents, or documents presented to District employees
- Attempting to violate or assisting, encouraging, promoting, or attempting to assist another student in violating the Code of Conduct
- Gambling
- Inappropriate or indecent exposure (see *definitions*) of a student's private body parts, including mooning, streaking, or flashing
- Committing or assisting in a robbery, theft, or burglary that is not punishable as a felony
- Attempting to start or starting a fire on or in any property owned, used, or controlled by a student, the District, or District employees, officials, or volunteers that does not rise to the level of arson or criminal mischief
- Discharging a fire extinguisher, pulling a fire alarm, or causing the sprinkler system to activate when there is no smoke, fire, danger, or emergency
- Making or participating in false statements or hoaxes regarding school safety
- Engaging in misbehavior, actions, or demonstrations that substantially disrupt or materially interfere with school activities or that give school officials reasonable cause to believe that such conduct will substantially disrupt the school program or incite violence
- Attempting to or successfully accessing or circumventing passwords or other security-related information of the District, employees, or other students
- Attempting to alter, destroy, or disable District computer equipment, District data, the data of other users of the District's computer system, or other networks connected to the District's system, including uploading or creating computer viruses

REMOVAL FROM CLASSROOM BY TEACHER

ORDINARY TEACHER REMOVAL

A teacher may send a student to the administrator's office to maintain discipline in the classroom or when the student engages in behavior that violates the SCC. The administrator may use one or more discipline management techniques to address the behavior.

FORMAL TEACHER REMOVAL

A teacher may remove a student from class when:

- The student's behavior has been documented by the teacher as repeatedly interfering with the teacher's ability to teach or with learning of other students; or
- The behavior is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to teach or with the learning of other students.

A teacher must remove a student from class if the student engages in conduct that requires or permits DAEP placement or expulsion under the Texas Education Code.

PLACEMENT DURING REMOVAL

When a teacher utilizes a formal removal of the student from the classroom, the administrator may place the student in: (1) another appropriate classroom, (2) in-school suspension, (3) out-of-school suspension, or (4) DAEP.

PROCEDURES FOR TEACHER REMOVAL

No later than three school days after a teacher has formally removed a student from class, an administrator will schedule a conference with the administrator, the student's parent/guardian, the student, and the teacher. At the conference, the student will be provided an explanation of the basis for removal and be given an opportunity to respond. After the conference, the administrator will render a discipline decision and inform the student and parent/guardian of the consequences.

RETURN TO THE CLASSROOM

If the teacher removed the student from class because the student engaged in assault resulting in bodily injury, aggravated assault, sexual assault, or aggravated sexual assault against the teacher, the student may not be returned to the teacher's class without the teacher's consent. In other cases where the teacher initiates a formal removal, the student may only be returned to the teacher's class without the teacher's consent if the Placement Review Committee determines that the teacher's class is the best or only alternative.

IN-SCHOOL SUSPENSION (ISS)

REASONS FOR ISS

Students may be placed in ISS for any misconduct listed in any category of the SCC.

PROCEDURE FOR ISS

The student will be informed of the reason for placement in ISS and be given an opportunity to respond before the administrator's decision is final. While in ISS the student will complete assignments from his or her teacher.

OUT-OF-SCHOOL SUSPENSION (OSS)

REASONS FOR OSS

Students may be suspended from school for any misconduct listed in any category of the SCC.

PROCEDURE FOR OSS

The student will be informed of the reason for out-of-school suspension and be given an opportunity to respond before the administrator's decision is final. While the student is suspended, the administrator may place restrictions on the student's participation in school-sponsored or school-related activities. Students may be suspended for a maximum of three school days per behavior violation.

DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM (DAEP)

REASONS FOR MANDATORY DAEP PLACEMENT

School-Related. A student must be placed in DAEP for any of the following misconduct if committed while on school property, within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Engages in conduct punishable as a felony.
- Commits an assault (see *definitions*) resulting in bodily injury (see *definitions*) to another.
- Sells, gives, delivers, possesses, uses, or is under the influence of marijuana, a controlled substance, a dangerous drug, or an alcoholic beverage in any amount not punishable as a felony. Students will be expelled for the 2nd infraction occurring in the same school year.

- Commits a serious act or offense while under the influence of an alcoholic beverage if the conduct is not punishable as a felony. Students will be expelled for the 2nd infraction occurring in the same school year.
- Engages in an offense relating to abusable volatile chemicals.
- Engages in public lewdness.
- Engages in indecent exposure.
- Possesses or uses a knife with a blade over 3" up to 5 ½".
- Engages in expellable conduct if the student is between six and nine years of age.
- Engages in a federal firearm offense if the student is six years of age or younger.

Off-Campus. A student must be placed in DAEP for the following misconduct while off-campus and not in attendance at a school-sponsored or school-related activity:

- The student receives deferred prosecution for a Title 5 (see *definitions*) felony offense.
- A court or jury finds the student engaged in delinquent conduct for a Title 5 felony offense.
- The administrator reasonably believes that the student engaged in a Title 5 felony offense.

Regardless of Location. A student must be placed in DAEP if the student engages in the following misconduct, regardless of whether the conduct occurred on or off campus:

- Issues a false alarm or report (see *definitions*) or a terroristic threat (see *definitions*) involving a public school. Students will be expelled for the 2nd infraction occurring in the same school year.
- Retaliates (see *definitions*) against any school employee.
- Is involved with a public school fraternity, sorority, secret society, or gang, including participating as a member or pledge, or soliciting another person to become a member or pledge.
- Engages in criminal mischief if the damage is less than \$1,500.

Students who are convicted, receive deferred adjudication, been found to have engaged in delinquent conduct or conduct in need of supervision, or been placed on probation for either sexual assault or aggravated sexual assault against another student assigned to the same campus at the time the offense occurred will be placed in DAEP (or JJAEP as appropriate) on the request of the victim's parents if the victim student does not wish to transfer, and there is only one campus serving that grade level.

**REASONS FOR
DISCRETIONARY
DAEP
PLACEMENT**

School-Related. A student may be placed in DAEP for any of the following misconduct if committed while on school property, within 300 feet of school property as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Possessing or selling less than a useable amount of stems, seeds, or other pieces of marijuana
- Possessing, using, selling, or giving paraphernalia (see *definitions*) related to any prohibited substance, including but not limited to marijuana, a controlled substance, dangerous drug, or an alcoholic beverage.
- Abusing the student's own prescription drug or using it in a way other than prescribed; giving, buying, or selling a prescription drug; possessing, using, or being under the influence of another person's prescription drug.
- Preparing a hit list (see *definitions*).
- Committing any offense identified as a "General Type of Prohibited Misconduct" in this SCC.
- Engaging in serious (see *definitions*) or persistent (see *definitions*) misbehavior that violates this SCC.

Off-Campus. A student may be placed in DAEP for engaging in the following misconduct while off-campus and not in attendance at a school-sponsored or school-related activity:

- The administrator reasonably believes the student engaged in conduct punishable as a felony (other than a Title 5 felony), and the student's continued presence in the regular classroom is a threat to the safety of others or is detrimental to the educational process.
- Off-campus conduct for which DAEP placement is required by state law when the administrator does not learn of the conduct until more than a year passes after the conduct occurred.

Regardless of Location. After providing the opportunity for a conference as described below, a student may be placed in DAEP as provided by Texas Education Code § 37.0081, if: (1) the student received deferred prosecution for a Title 5 offense (see *definitions*), or was found by a court or jury to have engaged in delinquent conduct for a Title 5 felony offense, and (2) the administrator believes the student's presence in the regular classroom threatens the safety of other students or teachers, is detrimental to the educational process, or is not in the best interest of the District's students. In this circumstance, DAEP placement may be ordered regardless of: (1) the date on which the conduct occurred, (2) the location at which the conduct occurred, (3) whether the student was enrolled in the District at the time the conduct occurred, or (4) whether the student successfully completed any court disposition requirements regarding the conduct.

**EMERGENCY
DAEP
PLACEMENT**

An administrator may order an emergency DAEP placement if the student has been so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to teach the class, the learning of other students, or the operation of a school-related or a school-sponsored activity. The reason for emergency placement must also be a reason for which DAEP placement could be ordered on a non-emergency basis. At the time of the emergency placement, the student will be told the reason for the action. No later than the tenth day after the date of emergency DAEP placement, the student will be given a conference as required for regular placement in DAEP; see below.

**PROCEDURE
FOR DAEP
PLACEMENT**

Conference. No later than three school days after the student is removed from class, the administrator will schedule a conference with the administrator, the student's parent/guardian, and the student. The District may conduct the conference and make a discipline decision regardless of whether the student or the student's parent/guardian attends if the District made reasonable attempts to have them attend.

At the conference, the administrator will explain the allegations against the student, inform the student of the basis for the proposed DAEP placement, and give the student an opportunity to explain his or her version of the incident.

If during the term of DAEP placement the student engages in additional misconduct, additional conferences may be conducted and additional discipline may be imposed.

Interim Placement. Until a placement conference can be held, the student may be placed in another appropriate classroom, in-school suspension, or out-of-school suspension.

DAEP Placement Order. After the conference, if the student is placed in DAEP, the administrator will issue a DAEP placement order. A copy of the DAEP placement order will be sent to the student and the student's parent/guardian. For those students placed in DAEP for a reason identified in the Texas Education Code, the District will also send the juvenile court a copy of the DAEP placement order no later than the second business day after the placement conference.

If the length of placement differs from the guidelines included in the SCC, the DAEP placement order will give notice of the inconsistency.

**LENGTH OF
DAEP
PLACEMENT**

The length of a student's placement in DAEP will be determined on a case-by-case basis using the criteria identified in the "Discipline Considerations" section of this SCC. The length of DAEP placement may not exceed one year unless, after review, the District determines that (1) the student is a safety threat, or (2) extended placement is in the best interest of the student.

Students placed in DAEP at the end of one school year may be required to complete the assigned term at the beginning of the next school year. For DAEP placement to extend beyond the end of the school year, the administrator must determine that: (1) the student's presence in the regular classroom or campus presents a danger of physical harm to the student or others; or (2) the student has engaged in serious or persistent misbehavior (see *definitions*) that violates the SCC.

**OTHER DAEP
ISSUES**

If the DAEP placement extends beyond 60 days or the end of the next grading period, whichever is sooner, the student or the student's parent/guardian may participate in a proceeding before the Board or the Board's designee as provided in policy FNG (LOCAL). Any decision of the Board is final and may not be appealed.

DAEP placements made pursuant to Texas Education Code § 37.0051 and § 37.0081 may be for any length of time considered necessary.

No Participation in Activities While in DAEP. Students placed in DAEP for any mandatory or discretionary reason are not allowed to attend or participate in school-sponsored or school-related extracurricular or co-curricular activities during the period of DAEP placement.

Impact on Graduation. For graduating seniors who are in DAEP during the last week of school, the last day of placement in DAEP will be the last instructional day. The student will be allowed to participate in commencement exercises and related graduation activities unless otherwise specified in the DAEP placement order.

Periodic Review. The District will review a student's DAEP placement and academic status every 120 calendar days. In the case of a high school student, the student's progress toward graduation will be reviewed and a graduation plan will be established. At the review, the student or the parent/guardian will have an opportunity to present reasons for the student's return to the regular classroom or campus. The student may not be returned to the classroom of a teacher who removed the student without that teacher's consent.

Effect of Student Withdrawal. When a student withdraws from school before a DAEP placement order is completed, the District may complete the proceedings and issue a DAEP placement order. If the student re-enrolls in the District during the same or subsequent school year, the District may enforce the DAEP placement order at that time, minus any portion of the placement that was served by the student during enrollment in another district.

If the administrator fails to issue a DAEP placement order after the student withdraws, the next district in which the student enrolls may complete the proceedings and issue a DAEP placement order.

Student Transfers. The District will place students assigned to DAEP in another Texas district or open-enrollment charter school at the time of enrollment into the District's DAEP to complete the term of their DAEP placement.

If the student was placed in DAEP by an out-of-state school district for behavior that is also a reason for DAEP placement in the enrolling district, the District will place the student in the District's DAEP to complete the term of DAEP placement. If the out-of-state DAEP placement period exceeds one year, the District will reduce the period of placement so that the total placement does not exceed one year unless the District determines that the student is a threat to the safety of others or extended placement is in the best interests of the student.

Criminal Proceedings. The review and appeal process described below does not apply if the student was placed in DAEP as required by law for conduct occurring on or within 300 feet of school property or a false alarm or report or terroristic threat involving a public school.

If the District receives notice that prosecution of a student's case was refused and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated or a court or jury found the student not guilty or did not engage in delinquent conduct or conduct indicating a need for supervision and dismissed the student's case with prejudice, the District will review the student's DAEP placement and will schedule a review with the student's parent/guardian no later than the third day after receiving notice. The student will not be returned to the regular classroom before the review. After reviewing the notice and receiving information from the student's parent/guardian, the administrator may only continue the student's DAEP placement if there is reason to believe the student's presence in the regular classroom threatens the safety of others.

The administrator's decision may be appealed to the Board. In the event of an appeal, at the next scheduled meeting the Board will: (1) review the notice, (2) hear statements from the student, the student's parent/guardian, and the administrator, and (3) confirm or reverse the decision of the administrator.

If the Board confirms the decision of the administrator, the student and the student's parent/guardian have the right to appeal to the Commissioner of Education. The student may not be returned to the regular classroom while the appeal is pending.

EXPULSION

REASONS FOR MANDATORY EXPULSION

School-Related. A student must be expelled for any of the following offenses that occur on school property or while attending a school-sponsored or school-related activity on or off school property:

- Brings to school a firearm, as defined by federal law (*see definitions*).
- Uses, exhibits, or possesses the following items, as defined by state law: (1) a firearm, (2) an illegal knife, (3) a club, or (4) a prohibited weapon. (*see definitions*).
- Engages in the following misconduct as defined in the Texas Penal Code: (1) aggravated assault, (2) sexual assault, (3) aggravated sexual assault, (4) arson, (5) murder, (6) capital murder, (7) criminal attempt to commit murder or capital murder, (8) indecency with a child, (9) aggravated kidnapping, (10) aggravated robbery, (11) manslaughter, or (12) criminally negligent homicide.
- Sells, gives, delivers, possesses, uses, or is under the influence of marijuana, a controlled substance, a dangerous drug, or an alcoholic beverage if the behavior is punishable as a felony.

- Commits a serious act or offense while under the influence of an alcoholic beverage if the behavior is punishable as a felony.

A student will also be expelled for any of the following offenses that occur on school property, within 300 feet of school property as measured from any point on the District's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Sells, gives, delivers, possesses, uses or is under the influence of any amount of marijuana, a controlled substance, dangerous drug, or an alcoholic beverage, if it is the 2nd infraction in the same school year and the conduct is not punishable as a felony.
- Commits a serious act or offense while under the influence of an alcoholic beverage, if it is the 2nd infraction in the same school year and the conduct is not punishable as a felony.
- Engages in misconduct that contains the elements of an offense relating to abusable volatile chemicals if it is the 2nd infraction in the same school year.

Regardless of Location. A student must be expelled if the student engages in the following misconduct, regardless of whether the conduct occurred on or off campus:

- Retaliates against a school employee or volunteer by committing a state-mandated expellable offense.
- Issues a false alarm or report (see definitions) or a terroristic threat (see definitions) involving a public school for the 2nd time in the same school year.

School-Related. A student may be expelled for any of the following offenses that occur on school property, within 300 feet of school property as measured from any point on the District's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

- Commits an assault (see definitions) resulting in bodily injury to a school employee or volunteer.
- Engages in deadly conduct (see definitions).
- Engages in serious (see definitions) or persistent (see definitions) misbehavior that violates this SCC while the student is placed in DAEP.

**REASONS FOR
DISCRETIONARY
EXPULSION**

Three Hundred Feet. Additionally, a student may be expelled for any of the following offenses that occur within 300 feet of school property as measured from any point on the District's real property boundary line:

- Possesses a firearm, as defined by federal law (see *definitions*).
- Uses, exhibits, or possesses the following items, as defined by state law: (1) a firearm, (2) an illegal knife, (3) a club, or (4) a prohibited weapon. (See *definitions*).
- Engages in the following misconduct as defined in the Texas Penal Code: (1) aggravated assault, (2) sexual assault, (3) aggravated sexual assault, (4) arson, (5) murder, (6) capital murder, (7) criminal attempt to commit murder or capital murder, (8) indecency with a child, (9) aggravated kidnapping, (10) aggravated robbery, (11) manslaughter, or (12) criminally negligent homicide.

Regardless of Location. A student may be expelled if the student engages in the following misconduct, regardless of whether the conduct occurred on or off campus:

- Commits aggravated assault, sexual assault, aggravated sexual assault, murder, capital murder, criminal attempt to commit murder or capital murder, or aggravated robbery against another student.
- Retaliates against a school employee or volunteer by committing an assault (see *definitions*) resulting in bodily injury.
- Engages in criminal mischief if the damage is \$1,500 or more.
- Commits a state-mandated expellable offense on the school property of another Texas school district or while attending a school-sponsored or school-related activity of another Texas school district.

An administrator may order the immediate expulsion of a student if the administrator reasonably believes the emergency expulsion is necessary to protect persons or property from imminent harm. The reason for the emergency expulsion must also be a reason for which expulsion could be ordered on a non-emergency basis. At the time of the emergency expulsion, the student will be told the reason for the action. No later than the tenth day after the date of emergency expulsion, the student will be given a hearing as required for a regular expulsion.

Hearing. Students alleged to have committed an expellable offense will receive a hearing before the Assistant Superintendent for Student Services within a reasonable time following the alleged misconduct. The student's parent/guardian will be informed of the basis for the proposed expulsion and be invited in writing to attend the hearing. After making an effort to inform the student and parent/guardian of the hearing, the District may hold the hearing regardless of whether the student or the student's parent/guardian attends. At the hearing, the student is entitled to:

- Representation by an adult, including the student's parent/guardian, who can provide guidance to the student and who is not an employee of the District;
- An opportunity to question the District's witnesses; and
- An opportunity to testify and to present evidence and witnesses in the student's defense.

Additional proceedings may be conducted and additional discipline may be imposed if the student engages in additional conduct warranting DAEP placement or expulsion while the student is already expelled.

Interim Placement. Until an expulsion hearing can be held, the student may be placed in another appropriate classroom, in-school suspension, or out-of-school suspension.

Expulsion Order. If the outcome of the expulsion hearing is that the student will be expelled, the appropriate administrator will issue an expulsion order and provide a copy to the student and the student's parent/guardian. If the duration of the expulsion differs from the guidelines in the SCC, the expulsion order will give notice of the inconsistency. The District will send a copy of the expulsion order to the juvenile court no later than the second business day after the expulsion hearing.

The duration of the expulsion will be determined on a case-by-case basis using the criteria identified in the "Discipline Considerations" section of this SCC. Students who bring a firearm (as defined by federal law) to school will be expelled from the regular classroom for at least one calendar year except as modified by the administrator on a case-by-case basis.

An expulsion will not exceed one calendar year unless, after review, the District determines that: (1) the student is a threat to the safety of other students or to District employees; or (2) extended expulsion is in the best interest of the student.

Students expelled at the end of one school year may be required to complete the term of their expulsion at the beginning of the next school year.

Academic Impact. Students will not receive academic credit for work missed during the period of expulsion unless the student is enrolled in a Juvenile Justice Alternative Education Program (JJAEP) or other District-approved program or as required by IDEA or Section 504.

Participation in Activities. Expelled students are prohibited from being on school grounds or attending or participating in school-sponsored or school-related activities while expelled.

Age Restrictions. Students under the age of ten that engage in expellable behavior will not be expelled, but will be placed in DAEP.

**LENGTH OF
EXPULSION**

**OTHER
EXPULSION
ISSUES**

EXPULSION APPEALS

Effect of Student Withdrawal. If a student withdraws from the District before the expulsion hearing is conducted, the District may proceed with conducting the hearing after sending written notice to the parent/guardian and student. If the student re-enrolls during the same or subsequent school year the District may enforce the expulsion order at that time; students will be credited for any expulsion period that was served by the student while enrolled in another district.

If the administrator fails to issue an expulsion order after the student withdraws, the next district in which the student enrolls may complete the proceedings and issue an expulsion order.

Student Transfers. The District will continue the expulsion of students expelled from either another Texas school district or an out-of-state school district for behavior that is also a reason for expulsion in the enrolling district, until the term of expulsion has been served. If the out-of-state expulsion exceeds one year, the District will reduce the period of the expulsion so that the total expulsion does not exceed one year unless the District determines that the student is a threat to the safety of others or extended placement is in the best interest of the student.

An expelled student may appeal the expulsion decision to the Board of Trustees. The student or student's parent/guardian must submit a written appeal to the Superintendent within ten (10) days after receipt of the expulsion order or decision. The Superintendent will give the student or the student's parent/guardian written notice of the date, time, and location of the meeting at which the Board will review the decision. Consequences will not be delayed pending the outcome of the appeal. A more detailed explanation of the expulsion appeal process is contained in District policy FNG (LOCAL); you may obtain a copy of the policy from the campus or Central Administration office or online at www.newbraunfels.txed.net.

DEFINITIONS

ARMOR-PIERCING AMMUNITION: Handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers.

ASSAULT: For student discipline purposes, intentionally, knowingly, or recklessly causing bodily injury to another.

BODILY INJURY: Physical pain, illness, or impairment of a physical condition.

BULLYING: Written or verbal expression or physical conduct that (1) has the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or (2) is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

CHEMICAL DISPENSING DEVICE: A device other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a substance capable of causing an adverse psychological or physiological effect on an individual.

CLUB: An instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk.

DEADLY CONDUCT: Recklessly engaging in conduct that places another in imminent danger of serious bodily injury or by knowingly discharging a firearm in the direction of an individual, habitation, building, or vehicle.

EXPLOSIVE WEAPON: Any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror. It includes a device designed, made or adapted for delivery or shooting an explosive weapon.

FALSE ALARM OR REPORT: Knowingly initiating, communicating, or circulating a report of a present, past, or future bombing, fire, offense, or other emergency that is known to be 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) prevent or interrupt the occupation of a building, room, or place of assembly.

FIREARM (Federal law): (1) any weapon, including a starter gun, that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; (2) the frame or receiver of any such weapon; (3) any firearm muffler or firearm weapon; or (4) any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.

FIREARM (State law): Any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

FIREARM SILENCER: Any device designed, made, or adapted to muffle the report of a firearm.

GANG: An organization, combination, or association of persons composed wholly or in part of students that: (1) seeks to perpetuate itself by taking in additional members on the basis of the decision of the membership rather than on the free choice of the individual, or (2) that engages in illegal and/or violent activities. In identifying gangs and associated gang attire, signs, or symbols, the District will consult with law enforcement authorities.

GRAFFITI: Making marks of any kind on the tangible property of another without the effective consent of the owner.

HARASSMENT: Threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, maliciously taking any action that substantially harms another student's physical or emotional health or safety, or other conduct prohibited by District policy.

HAZING: Any act, occurring on or off the campus, by one person alone or acting with others, directed against a student, that endangers the mental or physical health or safety of a student for the purposes of pledging, initiation into, affiliation with, holding office in, or maintaining membership in an organization. Consent to or acquiescence in the hazing activity does not excuse the student of responsibility for the misconduct.

HIT LIST: A list of people targeted to be harmed using a firearm, knife, or any other object to be used with intent to cause bodily harm.

ILLEGAL KNIFE: A knife with a blade over 5 ½ inches; hand instrument designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; or spear.

INDECENT EXPOSURE: The inappropriate or indecent display of a student's private body parts which are ordinarily covered by clothing through such acts as mooning, flashing, streaking, or wearing attire in a sexually suggestive manner. Indecent exposure also includes the conduct defined in Texas Penal Code section 21.08.

KNIFE: A bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing.

KNUCKLES: Any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles.

MACHINE GUN: Any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

PARAPHERNALIA: Any article or device used or intended for use to inject, ingest, inhale, or otherwise introduce marijuana, a controlled substance, or a dangerous drug into the human body, including but not limited to roach clips, rolling papers, needles, baggies with residue, razor blades, or pipes.

PERSISTENT: Two or more violations of the SCC or repeated occurrences of the same violation.

POSSESSION: To have in or on: (1) a student's person or in the student's personal property, such as the student's clothing, purse, or backpack; (2) in any vehicle used by the student for transportation to or from school or school-related activities, such as an automobile, truck, motorcycle, or bicycle; or (3) any other school property used by the student, such as a locker or desk; regardless of the student's knowledge or intent to possess the item.

PROHIBITED WEAPONS: A prohibited weapon includes the following items: armor-piercing ammunition, chemical dispensing device, explosive weapon, firearm silencer, knuckles, machine gun, short-barrel firearm, switchblade knife, or zip gun.

REASONABLE BELIEF: A determination that misconduct occurred made by the administrator using all available factual and legal information, including information furnished under Article 15.27 of the Code of Criminal Procedure.

RETALIATION: Harming or threatening to harm another: (1) on account of their service as a District employee or volunteer, (2) to prevent or delay another's service to the District, or (3) because the person intends to report a crime.

SELF-DEFENSE: When the person who is not the aggressor in an encounter uses the minimum force required to remove himself or herself from immediate danger of harm. Actions that escalate or continue the encounter will not be considered self-defense.

SERIOUS: Any misconduct identified as being punishable with placement in DAEP or expulsion.

SEXUAL HARASSMENT: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with a student's performance or creates an intimidating, hostile, or offensive educational environment.

SHORT-BARREL FIREARM: A rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun if, as altered, has an overall length of less than 26 inches.

SWITCHBLADE KNIFE: Any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or other device located on the handle or opens or releases a blade from the handle or sheath by the force of gravity or centrifugal force.

TELECOMMUNICATIONS DEVICE: Any type of device that: (1) emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor, or (2) permits the recording, transmission, and/or receipt of messages, voices, images, or information in any format or media, electronic or otherwise.

TERRORISTIC THREAT: Threats to commit any offense involving violence to any person or property with intent to: (1) cause a reaction by an official or volunteer agency organized to deal with emergencies; (2) place any person in fear of imminent serious bodily injury; (3) prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public place; (4) cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service; (5) place the public or a substantial group of the public in fear of serious bodily injury; or (6) influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state (including the District).

TITLE 5 FELONY OFFENSES: Offenses against the person that depending on the circumstances may include murder; capital murder; manslaughter; criminally negligent homicide; unlawful restraint; kidnapping; aggravated kidnapping; trafficking of persons; unlawful transport; assault; aggravated assault; sexual assault; aggravated sexual assault; improper relationship between educator and student; indecency with a child; injury to a child, an elderly person, or a disabled person; abandoning or endangering a child; improper photography or visual recording; coercing, soliciting, or inducing gang membership; deadly conduct; terroristic threat; aiding a person to commit suicide; harassment by a person in a correctional facility; and tampering with a consumer product.

UNDER THE INFLUENCE: In the employee's professional judgment, the student does not have the normal use of mental or physical faculties likely attributable to the student's use of a prohibited substance. Such impairment may be evidenced by the symptoms typically associated with drug or alcohol use or other abnormal or erratic behavior. The student need not be legally intoxicated.

USE: Voluntarily injecting, ingesting, inhaling, or otherwise introducing a prohibited substance into the body.

ZIP GUN: A device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.

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