

# **MOUNT VERNON INDEPENDENT SCHOOL DISTRICT**



## **DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM (DAEP) STUDENT HANDBOOK**

*Mount Vernon ISD's Disciplinary Alternative Education Program serves students grades 5 through 12 due to severe or repeated violations of the Mount Vernon ISD Code of Conduct or because of reasons defined in Chapter 37 of the Texas Education Code who have been removed from their home campus. While at DAEP, the MVISD Code of Conduct will be strictly enforced. Policies and procedures established by MVISD will strictly enforced.*

## OVERVIEW

### MISSION

The Mount Vernon ISD Discipline Alternative Education program is an alternative setting for students who have violated the district's student code of conduct and campus disciplinary procedures to such an extent that by law or to maintain a safe and orderly environment it is necessary to place a student temporarily in an alternative educational setting. There the student will be given the opportunity to continue their academic progress and receive the social skills training necessary for success in the regular school environment as well as to prepare them to become responsible and productive community members

### PROGRAM DESCRIPTION

Students in grades 5 through 12 because of severe or repeated violations of Mount Vernon ISD Code of Conduct or because of reasons defined in Chapter 37 of the Texas Education Code, have been removed from their home campus are subject to placement in DAEP. A student who is expelled for an offense that otherwise would have resulted in placement in DAEP does not have to serve a placement period in DAEP in addition to the expulsion.

In deciding to place a student, regardless of the action, resulting in a mandatory or discretionary placement, the district/campus will take into consideration the following:

1. Use of self-defense.
2. Intent or lack of intent at the time the student engaged in the conduct.
3. Disciplinary history.
4. Disability that impairs the capacity to appreciate the wrongfulness of the conduct.

## STUDENT PLACEMENT PROCESS

### ENROLLMENT/PLACEMENT

Once an offense has been committed and a student has been removed from the general classroom setting, the home campus administrator shall schedule a DAEP conference within three (3) school days to include the campus administrator, parent, and student. During the conference, the campus administrator will notify and explain to all parties the reasons for the removal. The student will have an opportunity to respond to the reasons and explanation given. Following valid attempts to require attendance of all needed parties, the campus may hold the conference and make a placement decision.

Should a Manifestation Determination Review (MDR) be required, campus administration shall notify appropriate parties and comply with established guidelines. Mount Vernon ISD DAEP staff and the Director of Special Services shall be included.

### PLACEMENT ORDER

Should placement in DAEP be determined at the conference, the campus administrator will order the placement and notify all appropriate staff members. A copy of the placement order shall be provided to the student and the parent. A copy of the DAEP handbook should also be made available at this time. Mandatory placements (due to criminal process) will be delivered to the juvenile court no later than the 2<sup>nd</sup> business day following the conference.

## **INTAKE PROCESS**

Students assigned to DAEP are required to attend an intake meeting with the MVISD DAEP teacher. A parent/guardian is required to be in attendance. The intake meeting will be scheduled by the home campus principal. During the intake meeting the policies, procedures, and expectations will be explained. The handbook will be reviewed with both the student and parent. The student will be made aware of all expectations and the necessary requirements for the student to return to their home campus.

## **REVIEW & TRANSITION**

Student placement is subject to review prior to returning back to their home campus. A review meeting will be called and the parent required to attend. A transition plan will be established and sent to the home campus. All necessary materials will be returned to the home campus upon the student's release from DAEP.

## **GENERAL INFORMATION**

### **INSTRUCTIONAL DAY**

The instructional day begins at 7:20 a.m. and ends at 2:20 p.m. Students are to report directly to the DAEP building upon arrival. The building is open by 7:00 a.m. each day. After 7:30 a.m., students are considered absent to 1<sup>st</sup> period. All students should be completely off campus by 2:30 p.m.

If a high school student is part of an approved work program, he or she will be dismissed in accordance to the work schedule.

### **SCHEDULE & CURRICULUM**

Students will receive instruction in their core classes through delivered coursework, Google Classroom, and other digital platforms (such as IXL Learning) as assigned by the classroom teacher. Electives will be determined on a case by case basis. It is the responsibility of the student and parent to monitor grades through Parent Portal. Mount Vernon ISD DAEP and the home campus will work together to ensure that the student receives necessary and required instructional accommodations and materials.

### **TRANSPORTATION**

DAEP students will not be allowed to use Mount Vernon ISD transportation. Transportation is provided by the parent or guardian of the student while the student is assigned to DAEP. If the student lives within walking proximity of the DAEP building, the parent may give permission for the student to use this mode.

### **VISITORS**

Visitors shall report to the main office of the student's home campus.

### **CONTACT INFORMATION**

Parent/guardian may call the student's home campus front office to connect to the DAEP site teacher. It is the responsibility of the parent/guardian to keep student information up to date at both the home campus and DAEP.

## **MEDICATION**

The school nurse will administer medication to a student. It is the responsibility of the parent/guardian to provide the appropriate written request for medication to be given. Medication **must** be in its original container and properly labeled for the student.

## **ATTENDANCE/TARDIES**

Attendance will be reported daily. Students are required to bring a written note from a parent/guardian for any absence. The note shall include the date, reason, and be signed by the parent/guardian. Should a student need to see a doctor, then a note from the doctor/office is the most appropriate documentation. For court appearances, the judge or his designee shall issue appropriate documentation.

A student is considered tardy after 7:30 a.m. Excessive tardies may result in disciplinary action.

**\*A student may be denied credit and placement extended should they be in violation of the state compulsory attendance requirements.**

## **SCHOOL PROPERTY/EXTRACURRICULAR EVENTS**

Students assigned to DAEP are **not allowed** on any Mount Vernon ISD property other than DAEP building during their placement in the DAEP. This includes all school campuses, parking lots, playgrounds, and playing fields. Students **may not attend** any MVISD extracurricular activities (intown or out of town) while placed in DAEP.

## **LEAVING CAMPUS**

DAEP students are not allowed to leave campus for any reason without a parent/guardian. The parent/guardian is required to sign the student out before he/she will be allowed to leave. Once they are dismissed from DAEP, the student must leave MVISD property immediately.

## **COMPUTER USAGE**

Students are expected to follow all MVISD rules and guidelines regarding computer and technology use. Students will be assigned to computers and held liable if found to be responsible for damage. Students found to be using computers in an inappropriate manner may lose computer privileges and are subject to disciplinary action.

## **MEALS**

Students may purchase breakfast and lunch through MVISD. Meals will be eaten during the designated 30-minute lunch time. If a student wishes to bring breakfast/lunch from home, it will be held until the designated meal time. Students are required to order their breakfast/lunch in accordance with established procedures. Meals are predetermined. If a student has a food allergy, proper documentation is to be provided from a doctor.

After consuming meal, students are allowed to use any remaining time for non-instructional tasks such as reading, drawing, etc.

## **BREAKS**

Students will be given breaks (restroom, water) throughout the day on an as-needed basis

by the student. A student with a medical condition that may require more frequent breaks will need to provide appropriate documentation from a doctor.

## **SUPPLIES**

Students are not allowed to bring backpacks or purses on campus. Following the intake conference, students will be responsible for providing the necessary supplies. The student is responsible for taking all books that were issued for use at home with them to DAEP. Any additional books that are needed will be supplied by the campus.

## **TESTING**

Students will take all required local and state assessments while attending DAEP. Based on the most appropriate testing area for the student, a DAEP student may be brought back to the home campus and tested in a separate testing room away from other students.

## **SAFETY/SECURITY**

All students should be aware that while attending DAEP, they may be subject to searches. Upon entry, all students will go through a daily check-in process.

## **PROHIBITED ITEMS**

In addition to items indicated in the Mount Vernon ISD Code of Conduct, students are not allowed to have/wear the following items while at DAEP:

- Electronic devices of any kind (cell phones will be taken up each morning)
- Backpacks, bags, purses, etc.
- Potential weapons (pocket knives, clippers, scissors, etc.)
- Anything irrelevant or determined to be a distraction of the learning process
- Hoodies or jackets with hoods

## **CELL PHONES**

Upon entering the building, all cell phones must be given to the staff member in charge of check-in. Phones will be logged-in. When preparing to leave for the day, phones will be returned. A system is in place to ensure that the student receives their phone back. Devices found on a student during the instructional day (after check-in) will follow the Mount Vernon ISD cell phone policy.

## **DRESS CODE**

While students are in DAEP, they are expected to follow the dress code established in the Student Handbook.

# APPENDIX

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

**Removal Under  
Student Code of  
Conduct**

The Student Code of Conduct must specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program (DAEP). *Education Code 37.001(a)(2)*

**Mandatory  
Placement in DAEP**

A student shall be removed from class and placed in a DAEP if the student engages in conduct described in Education Code 37.006 that requires placement. *Education Code 37.006*

School-Related  
Misconduct

A student shall be removed from class and placed in a DAEP if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

A student shall also be removed from class and placed in a DAEP if the student commits the following on or 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:

1. Engages in conduct punishable as a felony.
2. Engages in conduct that contains the elements of assault, under Penal Code 22.01(a)(1).
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of:
  - a. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code Chapter 481, or by 21 U.S.C. 801, et seq.;
  - b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. Sells, gives, or delivers to another person an alcoholic beverage, as defined by Alcoholic Beverage Code 1.04, or commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage.
5. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031 through 485.034.
6. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.
7. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

8. Engages in conduct that contains the elements of the offense of harassment under Penal Code 42.07(a)(1), (2), (3), or (7) against an employee of the district.

*Education Code 37.006(a)*

*Exception*

Removal to a DAEP for school-related misconduct is not required if the student is expelled for the same conduct. *Education Code 37.006(m)*

Retaliation

Except where a student engages in retaliatory acts against a district employee for which expulsion is mandatory [see FOD], a student shall be removed from class and placed in a DAEP if the student engages in conduct on or off school property containing the elements of retaliation under Penal Code 36.06, against any school employee. *Education Code 37.006(b)*

Conduct Unrelated to School

In addition to the circumstances listed above, a student shall be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. The student receives deferred prosecution under Family Code 53.03 for conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03;
2. A court or jury finds that the student has engaged in delinquent conduct under Family Code 54.03 for conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03; or
3. The superintendent or designee has a reasonable belief that the student has engaged in conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03.

*Education Code 37.006(c)*

*Reasonable Belief*

In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense, a superintendent or a superintendent's designee may consider all available information and must consider the information furnished under Code of Criminal Procedure Article 15.27 other than information requested under Code of Criminal Procedure Article 15.27(k-1). *Education Code 37.006(e); Code of Criminal Procedure 15.27(a)* [See GRAA]

*Title 5 Felonies*

The following are felony offenses listed in Penal Code, Title 5, Offenses Against the Person.



1. Murder. *Penal Code 19.02*
  2. Capital Murder. *Penal Code 19.03*
  3. Manslaughter. *Penal Code 19.04*
  4. Criminally Negligent Homicide. *Penal Code 19.05*
  5. Unlawful Restraint, if:
    - a. The person restrained was younger than 17 years of age; or
    - b. The actor recklessly exposes the victim to a substantial risk of serious bodily injury; restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty; or while in custody restrains any other person.
- Penal Code 20.02*
6. Kidnapping. *Penal Code 20.03*
  7. Aggravated Kidnapping. *Penal Code 20.04*
  8. Smuggling of Persons. *Penal Code 20.05*
  9. Continuous Smuggling of Persons. *Penal Code 20.06*
  10. Trafficking of Persons. *Penal Code 20A.02*
  11. Continuous Trafficking of Persons. *Penal Code 20A.03*
  12. Continuous Sexual Abuse of Young Child or Children. *Penal Code 21.02*
  13. Bestiality. *Penal Code 21.09*
  14. Indecency with a Child. *Penal Code 21.11*
  15. Improper Relationship between Educator and Student. *Penal Code 21.12*
  16. Invasive Visual Recording. *Penal Code 21.15*
  17. Unlawful Disclosure or Promotion of Intimate Visual Material. *Penal Code 21.16*
  18. Voyeurism, if the victim was younger than 14 years of age at the time of the offense. *Penal Code 21.17*
  19. Sexual Coercion. *Penal Code 21.18*

20. Assault, if the offense is punishable as a felony. *Penal Code 22.01*
21. Sexual Assault. *Penal Code 22.011*
22. Aggravated Assault. *Penal Code 22.02*
23. Aggravated Sexual Assault. *Penal Code 22.021*
24. Injury to a Child, Elderly Individual, or Disabled Individual. *Penal Code 22.04*
25. Abandoning or Endangering a Child. *Penal Code 22.041*
26. Deadly Conduct, if the person knowingly discharges a firearm at or in the direction of one or more individuals, or at or in the direction of a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied. *Penal Code 22.05*
27. Terroristic Threat, if the actor threatens to commit any offense involving violence to any person or property with intent to:
  - a. Place any person in fear of imminent serious bodily injury if the actor knows the person is a peace officer or judge;
  - b. 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 if the prevention or interruption causes pecuniary loss of \$1,500 or more to the owner;
  - c. Cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;
  - d. Place the public or a substantial group of the public in fear of serious bodily injury; or
  - e. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision.

*Penal Code 22.07*
28. Aiding Suicide, if the conduct causes suicide or attempted suicide that results in serious bodily injury. *Penal Code 22.08*
29. Tampering with Consumer Product. *Penal Code 22.09*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

30. Harassment by Persons in Certain Facilities or of Public Servant. *Penal Code 22.11*

Sexual Assault of Another Student

A student shall be removed from class and placed in a DAEP or juvenile justice alternative education program (JJAEP) if:

1. The student was convicted of, received adjudication for, or was placed on probation for sexual assault of another student while the students were assigned to the same campus, regardless of whether the assault occurred on or off school property;
2. The parent of the victim of the assault has requested that the student be transferred to a campus other than that to which the victim is assigned; and
3. There is only one campus in a district serving the grade level in which the student is enrolled.

*Education Code 25.0341, 37.0051(a)* [See FDE at Sexual Assault Transfer—Transfer of Assailant]

A limitation imposed by Education Code Chapter 37 on the length of placement in a DAEP or a JJAEP does not apply to a placement under this provision. *Education Code 37.0051(b)*

**Permissive Removal**  
Non-Title 5 Felony

A student may be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. The superintendent or designee has a reasonable belief [see Reasonable Belief, above] that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Penal Code 29.03, or those offenses listed in Penal Code Title 5 [see above at Title 5 Felonies]; and
2. The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

*Education Code 37.006(d)–(e)*

Bullying

A student may be removed from class and placed in a DAEP if the student:

1. Engages in bullying that encourages a student to commit or attempt to commit suicide;
2. Incites violence against a student through group bullying; or

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

3. Releases or threatens to release intimate visual material of a minor or student who is 18 years of age or older without the student's consent.

Nothing in this provision exempts a school from reporting a finding of intimate visual material of a minor.

*Definitions*

Bullying

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

Intimate Visual  
Material

"Intimate visual material" has the meaning assigned by Civil Practice and Remedies Code 98B.001.

*Education Code 37.0052*

One Year After  
Conduct

A principal or other appropriate administrator may, but is not required to, remove a student to a DAEP for off-campus conduct, for which removal would otherwise be required, if the principal or other appropriate administrator did not have knowledge of the conduct before the first anniversary of the date the conduct occurred. *Education Code 37.006(n)*

Certain  
Organization and  
Gang Membership  
and Solicitation

A board or an educator shall recommend placing in DAEP any student who commits the misdemeanor offenses described in Education Code 37.121(a) and (c), regarding membership in or solicitation to join a public school fraternity, sorority, secret society, or gang [see FNCC]. *Education Code 37.121(b)*

**Older Students**

A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma is not eligible for placement in a DAEP if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, the district shall revoke the student's admission. *Education Code 25.001(b-1)*

**Placement of  
Younger Students**

A student who is younger than ten shall be removed from class and placed in a DAEP if the student engages in conduct for which expulsion would be required by Section 37.007. *Education Code 37.006(f), .007(e)* [See FOD]

Students Younger  
Than Six

Notwithstanding any other provision of the Education Code, a student who is younger than six years of age may not be removed from class and placed in a DAEP, except that a student younger than six years of age who has been expelled pursuant to the Gun Free Schools Act [see FOD] shall be provided educational services in a DAEP. *Education Code 37.006(l), .007(e)(2)*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

<b>Process for Removal</b>	Not later than the third class day after a student is removed by a teacher or by the school principal or other appropriate administrator, the campus behavior coordinator (CBC) or other appropriate administrator shall schedule a conference among the CBC or other appropriate administrator, the student's parent or guardian, 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. The student may not be returned to the regular class pending the conference.
Conference	
Mitigating Factors	Before ordering removal to a DAEP, the CBC must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action.
Order	Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the CBC, after considering any mitigating factors under Education Code 37.001(a)(4) [see FO], shall order the placement of the student for a period consistent with the Student Code of Conduct.
Appeal	If district policy allows a student to appeal to the board or the board's designee a decision of the CBC or other appropriate administrator, the decision of the board or the board's designee is final and may not be appealed.  <i>Education Code 37.009(a)</i> [See Student Code of Conduct]
<b>Term of Removal</b>	The period of the placement after removal may not exceed one year unless, after a review, a district determines that the student is a threat to the safety of other students or to district employees. <i>Education Code 37.009(a)</i>  A board or designee shall set a term for a student's placement in a DAEP. If the period of placement is inconsistent with the guidelines in the Student Code of Conduct, the order must give notice of the inconsistency. The period of placement in a DAEP may not exceed one year unless, after a review, a district determines that the student is a threat to the safety of other students or to district employees or extended placement is in the best interest of the student. <i>Education Code 37.009(d)</i>

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

Beyond Grading Period or 60 Days	If placement in a DAEP is to extend beyond 60 days or the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before a board or designee.
<i>No Appeal</i>	Any decision of a board or designee concerning placement beyond 60 days or the end of the next grading period is final and cannot be appealed.  <i>Education Code 37.009(b)</i>
Beyond End of School Year	Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, a board or designee must determine that:  <ol style="list-style-type: none"><li>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 another individual; or</li><li>2. The student has engaged in serious or persistent misbehavior that violates the Student Code of Conduct.</li></ol> <i>Education Code 37.009(c)</i>
Order of Removal	A board or designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a DAEP. <i>Education Code 37.009(g)</i>  Not later than the second business day after the date of the removal conference, a board or designee shall deliver a copy of the order placing the student in a DAEP and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the juvenile resides. <i>Education Code 37.010(a)</i>
<i>Activities</i>	The terms of a placement under Education Code 37.006 must prohibit the student from attending or participating in school-sponsored or school-related activities. <i>Education Code 37.006(g)</i>  In addition to any notice required under Code of Criminal Procedure 15.27 [see GRAA], a principal or designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in conduct for which DAEP placement must or may be ordered.  Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as pro-

vided by state or federal law. An educator's certificate may be suspended or revoked for intentional failure to keep such information confidential.

*Education Code 37.006(o)*

**Completion of  
Proceedings Upon  
Withdrawal**

If a student withdraws from a district before an order for placement in a DAEP is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student re-enrolls in the district the same or subsequent school year, the district may enforce the order at that time except for any period of the placement that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order. *Education Code 37.009(i)*

**Enrollment in  
Another District**

If a student placed in a DAEP enrolls in another district before the expiration of the placement, a board shall provide to the district in which the student enrolls a copy of the placement order at the same time it provides other records. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law.

The district in which the student enrolls may continue the placement or allow the student to attend regular classes. [See FO] The district in which the student enrolls may take any of these actions if:

1. The student was placed in a DAEP by an open-enrollment charter school and the charter school provides the district a copy of the placement order; or
2. The student was placed in a DAEP by a district in another state and:
  - a. The out-of-state district provides a copy of the placement order; and
  - b. The grounds for placement are the same as grounds for placement in the enrolling district.

*Education Code 37.008(j)*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

Out-of-State  
Placement

If a student was placed in a DAEP in another state for more than one year and the enrolling district continues the placement under Education Code 37.008(j), the enrolling district shall reduce the period of placement so that the aggregate period does not exceed one year unless the enrolling district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

*Education Code 37.008(j-1)*

**Court-Ordered  
Placement**

Unless a board and the juvenile board for the county in which a district's central administrative office is located have entered into a memorandum of understanding concerning the juvenile probation department's role in supervising and providing other support services for students in DAEP programs:

1. A court may not order a student expelled under Section 37.007 to attend a school district DAEP as a condition of probation;
2. A court may not order a student to attend a DAEP without a district's consent, until the student has successfully completed any sentencing requirements, if the court has ordered the student to attend a DAEP as a condition of probation once during a school year and the student is referred to juvenile court again during that school year.

*Education Code 37.010(c)-(d)*

School Activities

Any court placement in a DAEP must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.010(e)*

Placement After  
Court Disposition

After the student has successfully completed any court disposition requirements, including conditions of deferred prosecution or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission into the public schools. A district may place the student in the DAEP.

Notwithstanding Education Code 37.002(d) [see FOA], the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

*Education Code 37.010(f)*



STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

**Not Guilty/  
Insufficient  
Evidence/Charges  
Dropped**

The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a DAEP under Education Code 37.006 if:

1. Prosecution of a student was refused for lack of prosecutorial merit or insufficient evidence, and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or
2. A court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

On receipt of the notice, the superintendent or designee shall review the student's placement in the DAEP. The student may not be returned to the regular classroom pending the review. The superintendent or designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or designee receives notice from the office or official designated by the court.

After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or designee may continue the student's placement in the DAEP if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

*Education Code 37.006(h); Code of Criminal Procedure 15.27(g)*

Appeal After  
Placement Upheld

The student or the student's parent or guardian may appeal a superintendent's decision to the board. The student may not be returned to the regular classroom pending the appeal. A board shall, at the next scheduled meeting, review the notice provided by the office of the prosecuting attorney or the office or official designated by the juvenile board; receive information from the student, the student's parent or guardian, and the superintendent or designee; and confirm or reverse the superintendent's decision. The board shall make a record of the proceedings.

If a board confirms the decision, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner of education. The student may not be returned to the regular classroom pending the appeal to the commissioner.

*Education Code 37.006(i)–(j)*

**120-Day Review of  
Status**

A student placed in a DAEP shall be provided a review of the student's status, including a review of the student's academic status, by a board's designee at intervals not to exceed 120 days. In the

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required to provide a course in the DAEP, except as required by Education Code 37.008(l). [See FOCA] 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. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent. *Education Code 37.009(e)*

**Additional Proceedings**

If, during the term of placement, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

**Reporting**

A district may include the number of students removed to a DAEP in its annual performance report. *Education Code 39.306(e)(5)* [See AIB]

---

**Note:** See FOF for provisions concerning students with disabilities.

---