EMERGENCY PLACEMENTS

DAEP

The principal or the principal's designee is not prohibited from ordering the immediate placement of a student in a disciplinary alternative education program (DAEP) if the principal or designee reasonably believes that the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with students in class, with the ability of students to learn, or with the operation of school or a school-sponsored activity.

EXPULSION

A principal or designee may order the immediate expulsion of a student if the principal or designee reasonably believes that such action is necessary to protect persons or property from imminent harm.

PROCEDURE

At the time of an emergency placement or an emergency expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a DAEP or expulsion may be made on a nonemergency basis. Within a reasonable time, but not later than the tenth day after the placement or expulsion, the student shall be accorded the appropriate due process required for a removal or an expulsion. [See FOA, FOC, and FOD]

STUDENTS WITH DISABILITIES

If the student is a student with disabilities who receives special education services, the emergency placement is subject to federal law and regulations and must be consistent with the consequences that would apply under Education Code Chapter 37, Subchapter A, to a student without a disability. [See FOF]

IMMUNITY

A principal or designee is not liable in civil damages for an emergency placement.

Education Code 37.019

TITLE 5 FELONY OR AGGRAVATED ROBBERY

The Board or designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided below if:

1. The student has been arrested for, charged with, referred to a juvenile court for, received deferred prosecution for, received probation for, received deferred adjudication for, found by a court or jury to have engaged in, or been convicted of, conduct defined as a felony offense in Penal Code, Title 5 [see FOC(EXHIBIT)] or the felony offense of aggravated robbery under Penal Code 29.03; and

2. The Board or the Board's designee determines that the student's presence in the regular classroom:

   a. Threatens the safety of other students or teachers;

b. Will be detrimental to the educational process; or

c. Is not in the best interests of the District's students.

The Board or designee may expel the student and order the placement regardless of:

1. The date the conduct occurred;

2. The location of the conduct;

3. Whether the conduct occurred while the student was enrolled in the District; or

4. Whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

ALTERNATIVE SETTING

The student must be placed in:

1. A juvenile justice alternative education program (JJAEP), if the District is located in a county that operates a JJAEP or the District contracts with the juvenile board of another county for the provision of a JJAEP; or

2. A DAEP.

DURATION OF PLACEMENT

Notwithstanding Education Code Section 37.009(c) or (d) (placements beyond one year) or any other provision of Education Code Chapter 37, Subchapter C, the student is subject to the placement until:

1. The student graduates from high school;

2. The charges are dismissed or reduced to a misdemeanor offense; or

3. The student completes the term of the placement or is assigned to another program

These provisions continue to apply if the student transfers to another district in the state.

The student is entitled to periodic review [see FOC at 120-DAY REVIEW OF STATUS].

Any decision of the Board or designee under the above provisions is final and may not be appealed.

The above provisions apply notwithstanding any other provision of Education Code Chapter 37, Subchapter A, except that Section 37.007 (expulsion) prevails to the extent of a conflict.

Education Code 37.0081

REGISTERED SEX OFFENDERS

APPLICABILITY

The following provisions apply to a student who is required to register as a sex offender under Code of Criminal Procedure, Chapter 62 (Chapter 62), but not to a student who is no longer required to register as a sex offender, including a student who receives an exemption from registration or a student who receives an early termination of the obligation to register.

REMOVAL FROM REGULAR CLASSROOM

Notwithstanding any provision of Education Code Chapter 37, Subchapter A, on receiving notice under Code of Criminal Procedure article 15.27 or Chapter 62 that a student is required to register as a sex offender, the District shall remove the student from the regular classroom and determine the appropriate placement.

Education Code 37.302–.303

STUDENT UNDER COURT SUPERVISION

The District shall place a student who is a registered sex offender and who is under any form of court supervision, including probation, community supervision, or parole, in the appropriate alternative education program for at least one semester.

If a student transfers to another district during the placement, the district to which the student transfers may:

1. Require the student to complete an additional semester in the appropriate alternative education program without conducting a review of the student's placement for that semester; or
2. Count any time spent by the student in an alternative education program in the district from which the student transfers toward the mandatory placement requirement.

Education Code 37.304

STUDENT NOT UNDER COURT SUPERVISION

The District may place a student who is a registered sex offender and who is not under any form of court supervision in the appropriate alternative education program for one semester or in the regular classroom. The District may not place the student in the regular classroom if the Board or designee determines that the student's presence in the regular classroom:

1. Threatens the safety of other students or teachers;
2. Will be detrimental to the educational process; or
3. Is not in the best interests of the District's students.

Education Code 37.305

APPROPRIATE PROGRAM

Except as provided below, the District shall place a student who is required by the Board or designee to attend an alternative education program in a DAEP. *Education Code 37.309*

EXCEPTION

The District shall place the student in a JJAEP if:

1. The memorandum of understanding between the District and juvenile board provides for the placement of students who are registered sex offenders in JJAEP; or

2. A court orders the placement of the student in a JJAEP.

A JJAEP is entitled to funding for the student in the same manner as for students who are subject to discretionary expulsion.

Education Code 37.309–.310

REVIEW

At the end of the first semester of a student's placement, the Board or designee shall convene a committee to review the placement.

REVIEW COMMITTEE

The committee must be composed of:

1. A classroom teacher from the campus to which the student would be assigned were the student not placed in an alternative education program;

2. The student's parole or probation officer or, in the case of a student who does not have a parole or probation officer, a representative of the local juvenile probation department;

3. An instructor from the alternative education program to which the student is assigned;

4. A District designee selected by the Board or designee; and

5. A counselor employed by the District.

RECOMMENDATION

The committee by majority vote shall determine and recommend to the Board or designee whether the student should be returned to the regular classroom or remain in the alternative education program.

If the committee recommends that the student be returned to the regular classroom, the Board or designee shall return the student to the regular classroom unless the Board or designee determines that the student's presence in the regular classroom:

1. Threatens the safety of other students or teachers;

2. Will be detrimental to the educational process; or

3. Is not in the best interests of the District's students.

If the committee recommends that the student remain in the alternative education program, the Board or designee shall continue the student's placement in the alternative education program unless

the Board or designee determines that the student's presence in the regular classroom:

1. Does not threaten the safety of other students or teachers;
2. Will not be detrimental to the educational process; and
3. Is not contrary to the best interests of the District's students.

If the Board or designee determines that the student should remain in an alternative education program, the Board or designee shall reconvene the committee before the beginning of each school year to review the student's placement in an alternative education program.

Education Code 37.306

APPEAL

A student or the student's parent or guardian may appeal a decision by the Board or designee to place the student in an alternative education program by requesting a conference among the Board or designee, the student's parent or guardian, and the student. The conference is limited to the factual question of whether the student is required to register as a sex offender under Chapter 62.

If the Board or designee determines at the conclusion of the conference that the student is required to register as a sex offender, the student is subject to placement in an alternative education program.

The decision of the Board or designee is final and may not be appealed.

Education Code 37.311

LIABILITY

The above provisions regarding placement of a student who is a registered sex offender do not:

1. Waive any liability or immunity of a governmental entity or its officers or employees; or
2. Create any liability for or a cause of action against a governmental entity or its officers or employees.

Education Code 37.312

SPECIAL EDUCATION STUDENT

The placement of a student with a disability who receives special education services must be made in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

The review of the student's placement may be made only by a duly constituted ARD committee [see EHBAB]. The ARD committee

may request that the Board or designee convene a review committee to assist in conducting the review.

Education Code 37.307

TRANSFER STUDENTS

Except where a student under court supervision transfers during a mandatory placement, the District shall determine whether to place a transfer student who is a registered sex offender in the appropriate alternative education program or in a regular classroom. The District shall follow the procedures at REVIEW, above, in making the determination. *Education Code 37.308*