

One Juvenile Two Systems
Ethical Considerations in the Parallel
Universes of Delinquent Conduct and
School Discipline

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**“Give me six hours to
chop down the tree and
I will spend the first
four sharpening the
axe.”
-Abraham Lincoln**

1) School Conduct that Results in School Consequences

2) School Conduct that Results in Delinquent Conduct Consequences

3) Delinquent Conduct that Results in School Consequences

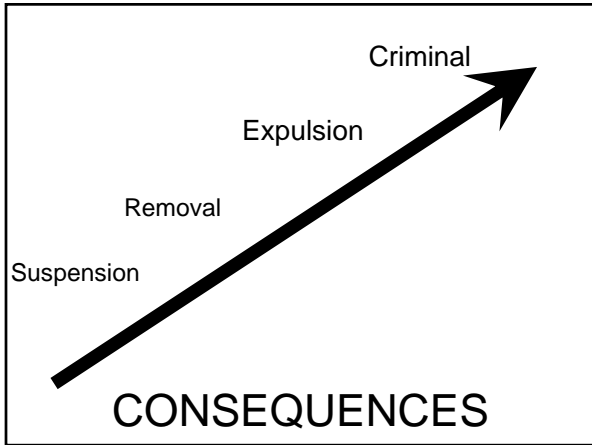
School Conduct that Results in School Consequences



STUDENT CODE OF CONDUCT

Establishes

- Rules
- Consequences
- Notice Requirements
- Extenuating Circumstances



Suspension

- Guided by Code of Conduct
- Brief Separation from normal activities
- Out-of-School or In-School
- No longer than 3 days

Removal

- More serious than suspension
- Guided by Code of Conduct and Texas Education Code
- Think Alternative School
- 60 days kinda

3 Types of Removal

- Bus Driver
- Teacher
- Due to Student Conduct

Expulsion

- Guided by Code of Conduct and Texas Education Code
- Longer than 3 days
- Total Separation including Alternative School

Zero Tolerance

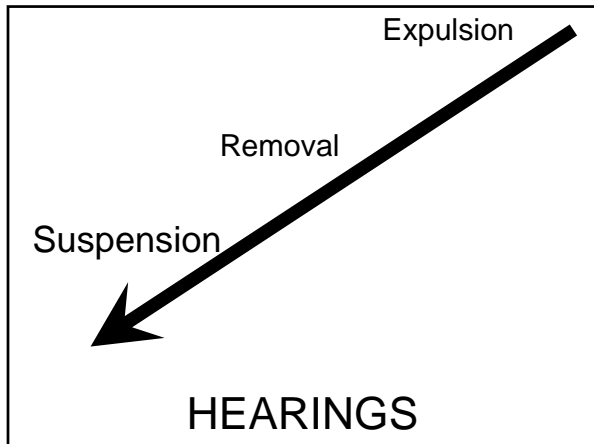
Predetermined
consequences/punishment
regardless of extenuating
circumstances or individual

Mandatory vs Discretionary

- Removal by Bus Driver
- Removal by teacher
 - to maintain discipline
 - for interfering with classroom
 - for listed conduct
- Removal due to student conduct

Mandatory vs Discretionary

- Removal by Bus Driver (**MAY**)
- Removal by teacher
 - to maintain discipline (**MAY**)
 - for interfering with classroom (**MAY**)
 - for listed conduct (**MUST**)
- Removal due to student conduct (**MUST**)



The Hearing

Goss v Lopez still the guide

Longer durations require a hearing while shorter durations do not.

Texas Magic Number is 3

Removal Hearing

w/i 3 days

Administrator, parent/guardian, student

Explanation

May have appeal

Expulsion Hearing

Written notice to parent but
good faith excuses

Explanation

May have appeal

Hearing Rights

Suspension 3 days, Limited NO

Removal 4-60 days, Limited YES

Expulsion >3 days, Total YES

Hearing Considerations

Who Talks?

Is Intent Relevant?

Can I Appeal?

Can I talk to school official prior?

School Conduct that Results in
Delinquent Conduct
Consequences

Searches

School officials need only
reasonable suspicion to search
New Jersey v. T.L.O, 469 U.S.
325 (1985)

Statements

Most School Employees
are not Law Enforcement

Therefore

Statements to School Employees
Statements at Hearing
Are Evidence at Trial

What is School Property?

“a public school campus or grounds on which public school is located and any grounds or buildings used by a school for an assembly or other-school sponsored activity.”

CHALLENGES IN OBTAINING EVIDENCE

Sources of Evidence

**Administrator
Investigation**

**School
Discipline
Hearings**

EVIDENCE AND BRADY

**CHALLENGES IN OBTAINING
EVIDENCE**

**Family Education Rights and
Privacy Act (FERPA)**

Bypassed by

**State Law
Exceptions**

Subpoenas

**Delinquent Conduct that Results
in School Consequences**

How does the school find out?

Art. 15.27 of Texas Code of Criminal Procedure requires notice for offense listed in that article

Shall be placed at DAEP

The following conduct within 300 feet of school property boundary line or while at school sponsored or school-related activity
– Anything punishable as a felony

Shall be placed at DAEP

The following within 300 feet of school property boundary line or while at school sponsored or school-related activity
– Anything punishable as a felony
– Assault Bodily Injury

Shall be placed at DAEP

The following within 300 feet of school property boundary line or while at school sponsored or school-related activity

- Anything punishable as a felony
- Assault Bodily Injury
- Sells, gives, possesses, uses, or is under the influence of marihuana, a controlled substance, dangerous drug or alcohol

Shall be placed at DAEP

The following within 300 feet of school property boundary line or while at school sponsored or school-related activity

- Anything punishable as a felony
- Assault Bodily Injury
- Sells, gives, possesses, uses, or is under the influence of marihuana, a controlled substance, dangerous drug or alcohol
- Huffing

Shall be placed at DAEP

The following within 300 feet of school property boundary line or while at school sponsored or school-related activity

- Anything punishable as a felony
- Assault Bodily Injury
- Sells, gives, possesses, uses, or is under the influence of marihuana, a controlled substance, dangerous drug or alcohol
- Huffing
- Public lewdness

Shall be placed at DAEP

The following within 300 feet of school property boundary line or while at school sponsored or school-related activity

- Anything punishable as a felony
- Assault Bodily Injury
- Sells, gives, possesses, uses, or is under the influence of marihuana, a controlled substance, dangerous drug or alcohol
- Huffing
- Public lewdness
- Indecent Exposure

Shall be placed at DAEP

Conduct that contains the elements for Retaliation against a school employee anywhere

Shall be placed at DAEP

Deferred Prosecution or Adjudication for the following anywhere

- Penal Code Title 5 Felony
- Aggravated Robbery

Shall be placed at DAEP

The Superintendent has reasonable belief that the following occurred anywhere

- Penal Code Title 5 Felony
- Aggravated Robbery

Shall be placed at DAEP

The Superintendent believes the student's attendance threatens the safety of the classroom, teachers

Questions

THE END
THANK YOU

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I - Introduction

Due Diligence is the most important factor in an ethical approach to advocacy in school law. The biggest obstacle to effective advocacy for the state or a respondent is the diversity of rules from district to district and the crossover of consequences between the educational and criminal system. Advocacy starts with knowledge of the school's code of conduct and the law regarding suspension, removal, and expulsion. The code of conduct will explain the rules of engagement and most importantly when and what type of hearing is available to a juvenile in the school. It is important to note criminal issues occurring in the community can have punitive consequences at school. The opposite is also true. As an issue of school discipline carries over into delinquent conduct it is crucial to know how statements and searches in various contexts are going to be handled by the school and the effects of the school's actions on a criminal case.

School Code of Conduct

Every district and charter school shall have a student code of conduct.¹ The code of conduct establishes the standards of conduct for a student in the school and must be posted at each campus or made available for review.² It will specify when a student may be removed³, transferred to a Disciplinary Alternative Education Program (DAEP)⁴, suspended or expelled⁵ and the length of the suspension or expulsion.⁶ It will address what notice will be given a parent or guardian when a suspension, removal to DAEP, or expulsion is a possible consequence.⁷ Additionally, it will specify the consideration given to claims of self-defense, intent or lack of intent, the discipline history of a student, and any disabilities that impairs a student's capacity when considering suspension, removal to DAEP, expulsion, or a placement in juvenile justice alternative education program.⁸

Suspension/Removal

A suspension is a "brief separation[] of the student from normal school activities."⁹ The student code of conduct controls when and how a student may be suspended.¹⁰ A suspension can be in-school or out-of-school for up to 3 days and does not require a hearing.¹¹

¹ Texas Education Code § 37.001 (Vernon 2005) (District), Texas Education Code § 12.13 (Vernon 2003) (Charter School)

² Texas Education Code § 37.001(a) (Vernon 2005).

³ Texas Education Code § 37.001(a)(1) (Vernon 2005).

⁴ Texas Education Code § 37.001(a)(2) (Vernon 2005).

⁵ Texas Education Code § 37.001(a)(3) (Vernon 2005).

⁶ Texas Education Code § 37.001(a)(5) (Vernon 2005).

⁷ Texas Education Code § 37.001(a)(6) (Vernon 2005).

⁸ Texas Education Code § 37.001(a)(4) (Vernon 2005). School districts are not required to consider the factors only to say which factors are considered. ROBERT DAWSON, TEXAS JUVENILE LAW, 8TH EDITION 623 (2012).

⁹ ROBERT DAWSON, TEXAS JUVENILE LAW, 8TH EDITION 621 (2012).

¹⁰ Texas Education Code § 37.005 (Vernon 2003).

¹¹ Goss v. Lopez, 419 U.S. 565, 581-583 (1975). Stating "Due Process requires, in connection with a suspension of 10 days or less, that the student be given written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story[,] but refraining from requiring time to secure counsel and the presentation and confrontation of witnesses in suspensions of a short duration.

A removal is a more serious consequence for more serious infractions. The Texas Education Code refers to multiple types of removal.¹² First, a bus driver may remove a student from the bus “to maintain effective discipline on the school bus” and then additional consequences are controlled by the student code of conduct.¹³ Second a teacher can remove a student from the classroom. Finally a student can be removed for certain act that occurs at school or off campus and threatens the safety or school learning environment.

Removal by a teacher is possible in three circumstances.¹⁴ A teacher may remove a student under Texas Education Code § 37.002(a) when it is necessary to maintain discipline, in which case the student code of conduct controls consequences.¹⁵ A teacher may also remove a student under Texas Education Code § 37.002(b) when there are repeated interferences or a single serious interference with the teacher’s ability to teach or the classmates’ ability to learn.¹⁶ The student is removed to another classroom, in-school suspension, or a disciplinary alternative education program (as established by Texas Education Code § 37.008). In this case the student cannot be returned to the removing teacher’s classroom unless the teacher approves of it or a Placement Review Committee¹⁷ determines a return to the classroom is the best or only alternative.¹⁸ Finally, a teacher must remove a student under Texas Education Code § 37.002(d) if the student engages in conduct described in Texas Education Code § 37.006 or Texas Education Code § 37.007. The procedures for return to the classroom are the same as those in Texas Education Code § 37.002(b),¹⁹ except if the student commits an assaultive offense “against the teacher, the student may not be returned to the teacher’s class without the teacher’s consent.”²⁰

A student must be removed for conduct described in Texas Education Code § 37.006.²¹ The conduct includes (note that in some circumstances the conduct does not occur at or at school event

1. terroristic threat²² and false alarm²³ involving school property,²⁴

¹² Texas Education Code § 37.002 (2005) (Removal by teacher); Texas Education Code § 37.0022 (2013) (Removal by bus driver); Texas Education Code § 37.006 (Vernon 2011) (Removal for certain conduct).

¹³ Texas Education Code § 37.0022 (2013).

¹⁴ Texas Education Code § 37.002 (2005).

¹⁵ Texas Education Code § 37.002(a) (2005).

¹⁶ Texas Education Code § 37.002(b) (2005).

¹⁷ The Placement Review Committee is a three member committee formed to determine student placement when a teacher refuses a student’s admittance to the classroom. The campus faculty chooses two members and one alternate member from the faculty. The teacher refusing student admittance is excluded from committee membership. The principal chooses one member from the professional staff. Texas Education Code § 37.003 (2003).

¹⁸ Texas Education Code § 37.002(c) (2005).

¹⁹ The student cannot be returned to the removing teacher’s classroom unless the teacher approves of it or a Placement Review Committee determines a return to the classroom is the best or only alternative

²⁰ Texas Education Code § 37.002(d) (2005) (Stating “if the teacher removed the student from class because the student has engaged in the elements of any offense listed in Section 37.006(a)(2)(B) or Section 37.007(a)(2)(A) or (b)(2)(C) against the teacher, the student may not be returned to the teacher’s class without the teacher’s consent”).

²¹ The conduct includes conduct described in Section 22.07 and 42.06 of the Texas Penal Code (Terroristic Threat and False Alarm or Report respectively) involving school property. Texas Education Code § 37.006(a)(1)(2011). Additionally the following within 300 feet of school property: a felony; an assault under Texas Penal Code 22.01(a)(1); possession, sale, gifting, delivery or use of marihuana, a controlled substance, dangerous drug, or alcohol; a serious act or offense while under the influence of alcohol; an offense relating to an abusive volatile chemical; public lewdness; or indecent exposure. Texas Education Code § 37.006(a)(2) (2011).

²² Texas Penal Code § 22.07.

²³ Texas Penal Code § 42.06.

2. the following if it occurs within 300 feet of school property
 - a. a felony,
 - b. an assault under Texas Penal Code 22.01(a)(1),
 - c. possession, sale, gifting, delivery or use of marihuana, a controlled substance, dangerous drug, or alcohol,
 - d. a serious act or offense while under the influence of alcohol,
 - e. an offense relating to an abusive volatile chemical,
 - f. public lewdness, or
 - g. indecent exposure,²⁵
3. retaliation²⁶ against a school employee on or off campus,²⁷
4. any offense under Title 5 of the Texas Penal Code²⁸ or an aggravated robbery regardless of where it occurs if the student receives a deferred prosecution for, are adjudicated for, or the school district has reasonable belief they committed it,²⁹ or
5. any felony committed off campus if the student's presence at school is a safety threat or a detriment to education.³⁰

Expulsion

An expulsion "is a separation of the student from the school, including the district disciplinary alternative education program, for a period longer than three school days."³¹ It is a total separation and a more serious repercussion than removal.³² There are mandatory and discretionary expulsions in the Education code.

Mandatory Expulsion

A student must be expelled if while on school property or at a school event they have a firearm³³, illegal knife³⁴, club³⁵ or a prohibited weapon^{36,37}. Additionally, a student must be expelled if they engage in conduct described in Texas Education Code section 37.007(a)(2) or (a)(3) on school property or at a school event. This includes aggravated assault,³⁸ sexual assault,³⁹ aggravated sexual assault,⁴⁰ arson,⁴¹ murder and attempted murder,⁴² capital murder and attempted capital murder,⁴³ indecency with a child,⁴⁴ aggravated kidnapping,⁴⁵ aggravated robbery,⁴⁶ manslaughter,⁴⁷ criminally

²⁴ Texas Education Code § 37.006(a)(1)(2011).

²⁵ Texas Education Code § 37.006(a)(2) (2011).

²⁶ Texas Penal Code § 36.06.

²⁷ Texas Education Code § 37.006(b) (2011).

²⁸ Texas Penal Code § 19.01 - § 22.12.

²⁹ Texas Education Code § 37.006(c) (2011).

³⁰ Texas Education Code § 37.006(d) (2011).

³¹ ROBERT DAWSON, TEXAS JUVENILE LAW, 8TH EDITION 631 (2012).

³² ROBERT DAWSON, TEXAS JUVENILE LAW, 8TH EDITION 631 (2012).

³³ Texas Penal Code § 46.01(3).

³⁴ Texas Penal Code § 46.01(6).

³⁵ Texas Penal Code § 46.01(1).

³⁶ Texas Penal Code § 46.05.

³⁷ Texas Education Code § 37.007(a)(1) (2011).

³⁸ Texas Penal Code § 22.02.

³⁹ Texas Penal Code § 22.011.

⁴⁰ Texas Penal Code § 22.021.

⁴¹ Texas Penal Code § 28.02.

⁴² Texas Penal Code § 19.02 and Texas Penal Code § 15.01.

⁴³ Texas Penal Code § 19.03 and Texas Penal Code § 15.01.

⁴⁴ Texas Penal Code § 21.11.

negligent homicide,⁴⁸ continuous sexual abuse of a child,⁴⁹ or a drug or alcohol related offense if it is a felony^{50, 51}. If any of these acts are committed against a school employee or volunteer in retaliation for them acting in that capacity then it does not need to be on school property to be a mandatory expulsion.⁵² A student must be expelled if they bring a firearm⁵³ to school.⁵⁴ If any of these acts occur on school property or at a school event the student does attend then the administration at the school the student does attend may expel the student.⁵⁵

Discretionary Expulsion

A student may be expelled if they commit a false alarm or report, a terroristic threat that involves a school, or a felony criminal mischief.⁵⁶ Additionally, a student may be expelled if they commit the following acts “on or within 300 feet of school property” or at a school event: a drug or alcohol related offense, an abuse of a volatile chemical,⁵⁷ an assault with bodily injury of a school employee, deadly conduct,⁵⁸ engages in any conduct under the mandatory expulsion section of the 37.007(a), or “possesses a firearm as defined in 18 U.S.C Section 921.”⁵⁹ If a student commits an aggravated robbery against another student regardless of where it occurs or if they engage in a breach of computer security⁶⁰ at the school they may be expelled.⁶¹ A student may be expelled for their conduct while at a discipline alternative education program. That conduct includes violent behavior which threatens other’s safety, extortion,⁶² coercion,⁶³ public lewdness,⁶⁴ indecent exposure,⁶⁵ criminal mischief,⁶⁶ hazing,⁶⁷ or harassment⁶⁸ of a student or school employee.⁶⁹

⁴⁵ Texas Penal Code § 20.04.

⁴⁶ Texas Penal Code § 29.03.

⁴⁷ Texas Penal Code § 19.04.

⁴⁸ Texas Penal Code § 19.05.

⁴⁹ Texas Penal Code § 21.02.

⁵⁰ Texas Education Code § 37.006(a)(2)(C) and (D) (2011).

⁵¹ Texas Education Code § 37.007(a)(2011).

⁵² Texas Education Code § 37.007(d)(2011).

⁵³ 20 USC § 921.

⁵⁴ Texas Education Code § 37.007(e)(2011). This expulsion must be for at least one year unless the superintendent modifies the term of expulsion. Texas Education Code § 37.007(e)(1)(2011). If a child is under 10 on the date of expulsion the district must provide education at the District Alternative Education Program and if the child is over 10 the district may use the District Alternative Education Program. Texas Education Code § 37.007(e)(2) and (3)(2011).

⁵⁵ Texas Education Code § 37.007(i)(2011)

⁵⁶ Texas Education Code § 37.007(b)(1) and (f)(2011). See Texas Penal Code § 42.06 for the elements of a false alarm or report, Texas Penal Code § 22.07 for the elements of a terroristic threat, and Texas Penal Code § 28.03 for the elements of a felony criminal mischief.

⁵⁷ Section 485.031 through 485.034 of the health and Safety Code.

⁵⁸ Texas Penal Code § 22.05.

⁵⁹ Texas Education Code § 37.007(b)(2)(2011) and Texas Education Code § 37.007(b)(3)(2011).

⁶⁰ Texas Penal Code § 33.02.

⁶¹ Texas Education Code § 37.007(b)(4) and (5)(2011).

⁶² Defined as “gaining money or other property through force or threat.” Texas Education Code § 37.007(c)(2)(2011).

⁶³ Texas Penal Code § 1.07.

⁶⁴ Texas Penal Code § 21.07.

⁶⁵ Texas Penal Code § 21.08.

⁶⁶ Texas Penal Code § 28.03.

⁶⁷ Texas Education Code § 37.152.

⁶⁸ Texas Penal Code § 42.07(a)(1).

Hearings

The hearing is an opportunity to affect how severe a consequence a student will face and if that consequence will carry over into the criminal justice system. It should be noted an attorney need not wait for the hearing to advocate and does not have to let the hearing be the final outcome. Each situation should be reviewed to determine when and how to advocate. While zero tolerance policies may restrict how much can be done they do not eliminate discretion. A careful reading of the individual school's school code of conduct and Texas Education Code will point to what discretion is available to the decision makers in the school.

If a student is removed from the classroom for certain conduct under Texas Education Code section 37.006 or by the teacher under Texas Education Code section 37.002(b) or (d) thereby requiring the teachers consent to return to class then a conference is required. The hearing must occur within three days of removal. The hearing is "among the principal or other appropriate administrator, a parent or guardian, the teacher the student removing from class, if any, and the student."⁷⁰ The student should receive oral or written explanations of why they were removed, the basis for removal, and a chance to respond. Districts may allow an appeal to the school board. The removal may not be for more than a year unless the student is a threat to safety, a threat to the learning environment, or the removal is in the best interest of the student.⁷¹ If the removal is to the discipline alternative education program for more than sixty days or beyond the end of the next grading period then the student's parent or guardian is entitled to a chance to take part in the hearing.⁷²

If a student is expelled then the student is provided a hearing in which their parent or guardian is invited to attend.⁷³ If the district makes a good-faith effort to notify the parent or guardian then they are not required to be present.⁷⁴ Expulsions can eventually be appealed to a district court in the county of the school district's central office.⁷⁵ If a district removes or expels a student outside of the guidelines in the student code of conduct then the district must give notice of the inconsistency.⁷⁶

Evidence Sharing and the Confidentiality of School Records

Family Education Rights and Privacy Act

The federal Family Education Rights and Privacy Act (FERPA) tells when a student's individual school records "may be shared with juvenile justice agencies."⁷⁷ The sharing can occur in two

⁶⁹ Texas Education Code § 37.007(c)(2011).

⁷⁰ Texas Education Code § 37.009(a)(2003). See also *Goss v. Lopez*, 419 U.S. 565, 581-583 (1975) (requiring notice explanation of evidence, and the opportunity for student rebuttal). It is important to note the due process requirements are a Constitutional Issue not a state law issue. ROBERT DAWSON, *TEXAS JUVENILE LAW*, 8TH EDITION 629 (2012). See also *Nevares v. San Marcos Consolidated Independent School District*, 111 F.3d 25, 26-27 (5th Cir. 1997). (Pointing out a student removed to an alternative education program is not being denied their right to education and therefore their due process rights are triggered).

⁷¹ Texas Education Code § 37.009(a)(2003).

⁷² Texas Education Code § 37.009(b)(2003).

⁷³ Texas Education Code § 37.009(f)(2003).

⁷⁴ Texas Education Code § 37.009(f)(2003). But see *Texarkana Independent School District v. Lewis*, 470 S.W.2d 727, 734-737 (Tex. Civ. App – Texarkana 1971, no writ) (requiring notice of charges in writing and time for student to respond to meet due process requirements but not requiring cross-examination or confrontation).

⁷⁵ Texas Education Code § 37.009(f)(2003). See also *Sanchez v. Huntsville Independent School District*, 844 S.W.2d 286, 290 (Tex. App. – Houston[1st Dist.] 1992, no writ) (stating "the burden of showing an absence of substantial evidence to support the school district's decision" is on the complaining party).

⁷⁶ Texas Education Code § 37.009(2003).

⁷⁷ ROBERT DAWSON, *TEXAS JUVENILE LAW*, 8TH EDITION 620 (2012).

circumstances first to “state and local officials or authorities . . . pursuant to state statute”⁷⁸ and second under a subpoena.⁷⁹ The subpoena process is conducted as it is in any criminal law situation, but the state statutory exceptions provide opportunities for information exchange prior to adjudication.

Texas Statutory Exceptions

Under state statute, a Texas school district must disclose to a juvenile service provider⁸⁰ the confidential information in a student’s record if the student has been taken into custody or referred to a juvenile court.⁸¹ This request is mandatory regardless of other state laws making the record confidential.⁸² A juvenile service is “a governmental entity that provides juvenile justice or prevention, medical, educational, or other support services to a juvenile.”⁸³ This includes “an agency that has custody and control over juvenile offenders,”⁸⁴ health and human services agencies and the Health and Human Services Commission,⁸⁵ the Department of Public Safety, the Texas Education Agency, an independent school district, a juvenile justice alternative education program, a charter school, a local mental health or mental retardation authority, a court with juvenile jurisdiction, a district attorney’s office, a county attorney’s office and a children’s advocacy center.⁸⁶ Additionally, interagency information sharing agreements may be made with Texas Juvenile Justice Department, Texas Department of Criminal Justice and Criminal Justice Policy Council.⁸⁷

A school must notify law enforcement of certain criminal activities in addition to any offense a student may be expelled for in Texas Education Code 37.007(a), (d), or (e) if there is reasonable grounds⁸⁸ to believe the activity occurred and the activity occurred in school, on school property, or at a school event.⁸⁹ The notification must go to the school district police if it exists and the police department of the municipality the school is located in.⁹⁰ The notification must include the name and address of each person the school believes participated in the activity.⁹¹ It is presumed, although not in the statute, the evidence that lead to the school’s reasonable belief will also be included in the notice.⁹²

Duty to Report

⁷⁸ 20 USCS § 1232g (b)(1)(E) (2010) (the records must be used to serve the student prior to adjudication and the receiving entity must certify they will not disclose except as provided by state law or with the consent of the parent).

⁷⁹ 20 USCS § 1232g (b)(1)(J) (2010).

⁸⁰ Texas Family Code § 58.00051(a)(2)(2011).

⁸¹ Texas Family Code § 58.00051(b)(2011). See also Texas Education Code § 37.084 (2011) (stating “a school district superintendent or the superintendent’s designee shall disclose information contained in a student’s education records to a juvenile service provider as required by Section 58.0051, Family Code”).

⁸² Texas Education Code § 37.0015(d)(2003).

⁸³ Texas Family Code § 58.00051(a)(2)(2011).

⁸⁴ Texas Family Code § 58.101(5)(2001).

⁸⁵ See Texas Government Code 531.001 (defining health and human services agencies).

⁸⁶ Texas Family Code § 58.00051(a)(2)(2011).

⁸⁷ Texas Education Code § 37.084 (b)(2011); ROBERT DAWSON, TEXAS JUVENILE LAW, 8TH EDITION 621 (2012).

⁸⁸ “‘Reasonable grounds’ is equivalent to the constitutional requirement of ‘probable cause’ that authorizes a law enforcement officer to take a child into custody.” ROBERT DAWSON, TEXAS JUVENILE LAW, 8TH EDITION 619 (2012).

⁸⁹ Texas Education Code § 37.0015(a)(2003) (this notification is required even if school offices do not investigate the activity).

⁹⁰ Texas Education Code § 37.0015(a)(2003).

⁹¹ Texas Education Code § 37.0015(b)(2003).

⁹² ROBERT DAWSON, TEXAS JUVENILE LAW, 8TH EDITION 619 (2012).

Any person who suspects a child's welfare has been adversely affected by abuse must report that abuse.⁹³ Abuse is defined in section 261.001 and 261.401 of the Texas Family Code. The report can be made to the Texas Department of Family Protective Services, law enforcement, or, in the case of reporting a facility, to the state agency responsible for the facility.⁹⁴ If the person is considered a professional they must report within 48 hours and may not delegate the responsibility to another.⁹⁵

⁹³ Texas Family Code § 261.101 (2013).

⁹⁴ Texas Family Code § 261.103 (2005).

⁹⁵ Texas Family Code § 261.101 (b)(2013). "[P]rofessional' means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers." Texas Family Code § 261.101 (b)(2013).