

Chapter 103. Health and Safety

Subchapter CC. Commissioner's Rules Concerning Safe Schools

§103.1201. Standards for the Operation of School District Disciplinary Alternative Education Programs.

- (a) A disciplinary alternative education program (DAEP) established in conformance with the Texas Education Code (TEC), §37.008, and this section is defined as an educational and self-discipline alternative instructional program, adopted by local policy, for students in elementary through high school grades who are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP.
- (b) Each school district participating in a shared services arrangement (SSA) for DAEP services shall be responsible for ensuring that the board-approved district improvement plan and the improvement plans for each campus required by the TEC, §11.251 and §11.252, include the performance of the DAEP student group for the respective district. The identified objectives for the improvement plans shall include:
 - (1) student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services;
 - (2) attendance rates;
 - (3) pre- and post-assessment results;
 - (4) dropout rates;
 - (5) graduation rates; and
 - (6) recidivism rates.
- (c) A DAEP may be located on-campus or off-campus in adherence with requirements specified in §129.1025 of this title (relating to Adoption By Reference: Student Attendance Accounting Handbook). For reporting purposes, the DAEP shall use the county-district-campus number of the student's locally assigned campus (the campus the student would be attending if the student was not attending the DAEP).
- (d) An individual school district or an SSA may contract with third parties for DAEP services. The district must require and ensure compliance with district responsibilities that are transferred to the third-party provider.
- (e) The campus of accountability for student performance must be the student's locally assigned campus, including when the individual school district or SSA contracts with a third party for DAEP services.
- (f) Each school district shall provide an academic and self-discipline program that leads to graduation and includes instruction in each student's currently enrolled foundation curriculum necessary to meet the student's individual graduation plan, including special education services.
 - (1) A student's four-year graduation plan (minimum, recommended, or distinguished achievement--advanced) may not be altered when the student is assigned to a DAEP. A student must be offered an opportunity to complete a foundation curriculum course in which the student was enrolled at the time of removal before the beginning of the next school year, including correspondence or distance learning opportunities or summer school. A district may not charge for a course required under this section.
 - (2) The school day for a DAEP shall be at least seven hours but no more than ten hours in length each day, including intermissions and recesses as required under the TEC, §25.082(a).
 - (3) Notwithstanding the TEC, §37.008(a)(3), summer programs provided by the district may serve students assigned to a DAEP in conjunction with other students, as determined by local policy.

- (g) A DAEP program serving a student with a disability who receives special education services shall provide educational services that will support the student in meeting the goals identified in the individualized education program (IEP) established by a duly-constituted admission, review, and dismissal (ARD) committee, in accordance with the TEC, §37.004, and federal requirements.
- (h) Each school district is responsible for the safety and supervision of the students assigned to the DAEP; however, the immunity from the liability established in the TEC, §22.0511, shall not be impacted.
 - (1) The certified teacher-to-student ratio in a DAEP shall be one teacher for each 15 students in elementary through high school grades. Elementary grade students assigned to the DAEP shall be separated from secondary grade students assigned to the DAEP. The designation of elementary and secondary will be determined by adopted local policy.
 - (2) The DAEP staff shall be prepared and trained to respond to health issues and emergencies.
 - (3) Students in the DAEP shall be separated from students in a juvenile justice alternative education program (JJAEP) and students who are not assigned to the DAEP.
 - (4) Each district shall establish a board-approved policy for discipline and intervention measures to prevent and intervene against unsafe behavior and include disciplinary actions that do not jeopardize students' physical health and safety, harm emotional well-being, or discourage physical activity.
- (i) Staff at each DAEP shall participate in training programs on education, behavior management, and safety procedures that focus on positive and proactive behavior management strategies. The training programs must also target prevention and intervention that include:
 - (1) training on the education and discipline of students with disabilities who receive special education services;
 - (2) instruction in social skills and problem-solving skills that addresses diversity, dating violence, anger management, and conflict resolution to teach students how to interact with teachers, family, peers, authority figures, and the general public; and
 - (3) annual training on established procedures for reporting abuse, neglect, or exploitation of students.
- (j) Procedures for each DAEP shall be developed and implemented for newly-entering students and their parents or guardians on the expectations of the DAEP, including written contracts between students, parents or guardians, and the DAEP that formalize expectations and establish the students' individual plans for success.
- (k) The transition procedures established for a student who is exiting a DAEP and returning to the student's locally assigned campus shall be implemented and updated annually as needed. The transition procedures shall include:
 - (1) an established timeline for the student's transition from the DAEP to the student's locally assigned campus; and
 - (2) written and oral communication from the DAEP staff to the locally assigned campus during the student's assignment to the DAEP, including the student's educational performance and tasks completed.

Statutory Authority: The provisions of this §103.1201 issued under the Texas Education Code, §37.008.

Source: The provisions of this §103.1201 adopted to be effective December 14, 2008, 33 TexReg 10152.

§103.1203. Assessment of Academic Growth of Students in Disciplinary Alternative Education Programs.

- (a) Each school district shall be responsible for administering a pre- and post-assessment for each student assigned to the district's disciplinary alternative education program (DAEP) for a period of 90 school days or longer as required by the Texas Education Code (TEC), §37.0082. Released state assessments for reading and mathematics for the appropriate grade may be used. A school district may apply for approval of

an assessment that includes the Texas Essential Knowledge and Skills (TEKS) for reading and mathematics for the student's assigned grade. The commissioner of education will publish on the Texas Education Agency website a list of assessments approved for use in each school year.

- (b) The grade level of an assessment shall be based upon the academic grade completed prior to the student being assigned to a DAEP if placement occurs in the fall or first semester of the academic school year. If placement occurs in the spring or second semester of the academic school year, the student shall be administered an assessment based on the current grade level.
- (c) Each school district shall provide an academic report to the student's locally assigned campus, which shall include the pre- and post-assessment results of the student's basic skills in reading and mathematics, within ten days of the student completing the post-assessment.
- (d) Procedures for administering the pre- and post-assessment shall be developed and implemented in accordance with local school district policy.
- (e) A student in the district's DAEP must also be assessed under the requirements of the TEC, Chapter 39.

Statutory Authority: The provisions of this §103.1203 issued under the Texas Education Code, §37.0082.

Source: The provisions of this §103.1203 adopted to be effective August 18, 2010, 35 TexReg 7061.