



Southwest Independent School District
Pupil Services - District Hearing Office
11914 Dragon Lane, San Antonio, Texas 78252
Phone: 210-622-4352 Fax: 210-622-4353

Hearing Office and Administrative Procedures
2016 – 2017

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Function

The Hearing Office is located in Building 502, room 12. This office serves as a support to campuses and the community in the areas of Discipline, Compulsory Attendance, Student Enrollment, Family Code and Safe Schools.

Mission

The mission of the Southwest Independent School District Hearing Office is to support the efforts of the District and the Community in providing a safe school environment for all our students and staff members.

References

The following references are used when conducting Placement Hearings:

1. Southwest Independent School District (SWISD) Student Code of Conduct (SCC)
2. Chapter 37 Discipline Law and Order
3. Title 5 Felony Offences of the Texas Penal Code

Procedures for District Alternative Education Program (DAEP)/Boot Camp Placements

The following steps will be part of the procedure for conducting DAEP/Boot Camp Placement Hearings. Please refer to the Student Code of Conduct for more information on school discipline.

- The administrator must schedule a conference with the student and the parents/guardians no later than three school days after the student is removed from class.
- At the conference the administrator will explain the allegations against the student and inform the student of the basis for the proposed DAEP placement being made by the campus.
- The student will be given an opportunity to tell his/her side of the incident.
- The administrator will complete the Hearing Request form and submit it to the Hearing Office (make sure the parent/guardian signs the form acknowledging their agreement of the hearing to be held).
- At the hearing, the campus school administrator will explain the allegations and present documentation of the incident to the Hearing Officer. The parents/guardians and student will also be given an opportunity to explain their side of the incident.
- The campus administrator will bring to the hearing: a) student's referrals, b) student's attendance record, c) student's grades, etc.
- The Hearing Officer will hear both sides and make a recommendation to place the student in DAEP or not to place the student in DAEP.
- If the decision is to place the student in DAEP, the number of days the student is to serve and the review date, if any, will be explained by the Hearing Officer to the parents/guardians and student.
- After the decision has been made, both the parents and the school administrator will receive a copy of the Hearing results.

- A copy of the results will be sent electronically to SWISD DAEP/Boot Camp.
- From that point on the Attendance Clerk at the DAEP/Boot Camp will be in daily contact with the Campus Attendance Clerk to make sure that attendance on the student is kept accurately. A daily email is sent to the home campus of each student assigned to DEAP.

Additional Discipline

- If during the term of DAEP placement the student engages in additional misconduct, an additional conference will be conducted and an additional discipline placement may be imposed.
- i.e. additional days, from DAEP to Boot Camp, Expulsion from DAEP/Boot Camp.

Interim Placement

- The student may be placed in an appropriate classroom, in-school suspension (ISS), or out-of-school suspension (OSS) until the hearing is held.
- The student may not be returned to the regular classroom pending the placement hearing.

DAEP Placement Order

- If the outcome of the hearing is to place the student in DAEP, the Hearing Officer will issue a DAEP placement order.
- If the length of placement differs from the guidelines included in the SCC, the DAEP placement order will give notice of the inconsistency.
- The “Placement Guide” will be used as a guide to secure consistency with placements. The “Placement Guide” is simply a guide and not policy or rule. It will be reviewed and adjustments will be made as needed.
- A copy of the DAEP Hearing Results will be delivered or mailed to the student and the student’s parent/guardian if the parents/students are not present.
- A copy of the Hearing Results will also be given to the campus administrator.

- A copy will be faxed to Crossroads immediately after the hearing.
- A copy of the DAEP Hearing Results will be included with any records sent to a school where the student seeks to enroll if he/she withdraws from SWISD to enroll in another district.
- The enrolling school district has discretion to enforce the DAEP placement order.

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 hearing as required for regular placement in DAEP.

CHECKLIST FOR STUDENT DAEP PLACEMENT

General Education

(For Special Education please check the Special Education Handbook)

STEPS TO FOLLOW WHEN A STUDENT HAS ENGAGED IN MISCONDUCT:

1. Gather information concerning the infraction and investigate the allegation.
2. Follow the Discipline Techniques described on pages #17 of this manual.

Please note: Prior to ordering out-of-school suspension, the administrator must meet with the student and conduct an informal conference. During the conference the administrator must inform the student of the charge and give the student an opportunity to tell his or her side of the story. If the student denies the charge, he or she must be advised of the supporting evidence.

3. If out-of-school suspension is ordered, the investigating campus administrator must notify the parent of the suspension in accordance with local school district procedures as stated in the Student Code of Conduct (SCC) / issue a discipline referral form.
4. Review the Student Code of Conduct (SCC), identify the offense committed, and determine the appropriate consequence to be applied. (review the definitions in the SCC to make sure you have the correct charge)
5. Check the age of the student. Remember:
 - If the student is under age 6, he or she may not be placed in DAEP unless the student committed a federal firearm offense.
 - Elementary student may not be placed in a DAEP program with any other student who is not an elementary student. This means that special arrangements need to be made for DAEP placement. If at all possible the placement should take place at the campus level.
 - Students younger than 10 and over age 5 must be placed in DAEP if they commit an expellable offense. Otherwise, if possible the placement should take place at the campus level.
6. Contact the parent/guardian to schedule a DAEP Hearing conference. The Hearing conference must be conducted within three days of the student's removal from class. Make sure to provide the parent/guardian with a written confirmation of the agreed date, time, and location of the conference. The student may not be returned to the regular classroom before the conference is held. However, other interim options are available, such as placing the student in In-School Suspension / Out-Of-School Suspension for up to three days. Tex. Educ. Code 37.009(a).
7. For certain offenses, the principal or designee must report the following offenses to the school district police and the city or county police if he or she has reasonable grounds to believe the offense occurred at school or a school-related activity.

Offenses:

- Murder
- Capital murder
- Criminal attempt to commit murder or capital murder
- Criminally negligent homicide manslaughter
- Manslaughter
- Indecency with a child
- Sexual assault
- Aggravated sexual assault

- Using a child to assist or commit a drug offense
- Injury to a child, elderly individual, or disabled individual
- Arson
- Robbery
- Aggravated robbery
- Burglary
- Deadly conduct
- Aggravated assault
- Terrorist threat
- Drug-related offenses
- Weapon offenses
- Engaging in organized criminal activity
- Committing assault against any employee or volunteer in retaliation
- Committing a mandatory expellable offense against any employee or volunteer in retaliation
- Aggravated kidnapping

Notice must also be provided to each instructional or support employee who has regular contact with the student. Tex. Ethic. Code 37/015 if / when student is found guilty of the offense civil, state / federal law.

Section 504 and Special Education

8. Consider special circumstances before proceeding with the DAEP placement Hearing.
 - 1) Has the student been identified as eligible for services under Section 504. If so, schedule a meeting of the student's 504 committee to conduct a manifestation determination. (Please contact the district's 504 coordinator/your campus 504 coordinator). A manifestation determination may not be necessary if the student has violated school rules with regard to the use or possession of drugs or alcohol.
 - 2) Is the student one who may be entitled to the protections of special education law? Keep in mind that these protections are available to general education students if it is later determined that the school district "had knowledge" that the student was a child with a disability prior to the behavior that precipitated disciplinary actions. The students fall into three categories:
 - A. If the parent has "expressed concern" that the student is in need of special education services. This expression of concern must be in writing to supervisory or administrative personnel of the school, or to one of the student's teachers. The expression of concern must have been made prior to the student's infraction.
 - B. If the parent has requested an evaluation of the student prior to the student's infraction.

- C. If the student’s teacher or other school personnel have expressed specific concerns about a pattern of behavior of the student. This expression of concern must be made directly to the director of special education or other supervisory personnel prior to the student’s infraction.

If any of these three categories are applicable, the school is deemed to ‘have knowledge’ of the student eligibility for special education, and the protections of the special education laws apply, seek parental consent for an expedited evaluation and contact Pupil Services or the Special Education Department.

The school does not “have knowledge” if, prior to the disciplinary infraction, the student:

- A. has actually been evaluated for special education eligibility;
- B. has been determined by ARD committee action to be ineligible; and
- C. the parents have been informed in writing of this decision.

Furthermore, the school does not “have knowledge” if, prior to the disciplinary action, the parent:

- A. has not allowed an evaluation to take place, or
- B. has refused special education services.

Placement of students who are not in 504/Special Education

9. If the student has a non-parent in attendance at the conference, the non-parent needs written consent from the parent/guardian or eligible student to discuss the student’s personally identifiable information and education records in the presence of the non-parent in accordance with the Family Educational Rights and Privacy Act (FERPA).
10. Conduct the DAEP placement conference within three days of the student’s removal from class. Tex. Ed. Code 37.009
- The principal or designee, the teacher removing the student from class (if applicable and feasible), the parent/guardian, and the student should all attend the DAEP placement hearing.
 - Give the student and parent/guardian written or oral notice of the reason for the proposed removal.
 - Allow the student an opportunity to explain his or her version of the incident before issuing your decision. After making valid attempts to require the student’s and parent’s attendance at the DAEP placement hearing, a school district may hold the conference and make a DAEP placement decision regardless of whether the student or the student’s parent attends the conference. Tex. Educ. Code 37.0090).

AFTER THE DAEP PLACEMENT CONFERENCE, IF THE STUDENT IS ORDERED TO DAEP: (#11 and #12 will be done by the District Hearing Officer)

11. Draft a DAEP Placement Order.

- Indicate the date, time, and location of the DAEP placement conference/hearing.
- Identify, who was present at the DAEP placement conference.
- Identify the specific offense committed and refer to the appropriate provisions of the Student Code of Conduct, local policy, and Texas Education Code 37.006 or 37.0081.
- Specify the period of DAEP placement and review date if applicable, Tex. Ed. Code 37.009(a).

In order for the placement to extend beyond the end of the school year, the district must determine that:

1. The student's presence in the regular classroom or campus presents danger of physical harm to the student, other students or staff members. or
 2. Extended placement is in the best interest of the student.
Tex. Ed. Code 37.009(a)&(d).
- Specify that the student is prohibited from attending or participating in school-sponsored or school-related activities during the term of placement in DAEP, Tex. Ed. Code 37.006(g).

12. Provide a copy of the DAEP Placement Order to the student and parent/guardian.

MORE DETAILED INFORMATION CAN BE FOUND IN THE STUDENT CODE OF CONDUCT LOCATED IN THE STUDENT PARENT HANDBOOK. YOU MAY ALSO CALL THE DISTRICT HEARING OFFICE FOR ADDITIONAL SUPPORT/INFORMATION.

Public Education Information Management System (PEIMS) REPORTING

All discipline results (504 records) will be immediately inputted into Txeis before leaving the Hearing Office.

For questions on coding and entering data please contact the District Hearing Office @ ext. 4352 or District PEIMS Coordinator @ ext. 4405.

EXPULSIONS

The Hearing Office is also responsible for all student expulsion hearings. The expulsion procedures are explained in more detail below.

PROCEDURES FOR CONDUCTING EXPULSION HEARINGS

- Students alleged to have committed an expellable offense will receive a hearing before the District Hearing Officer within a reasonable time following the alleged misconduct.
- The student's parent/guardian will be informed of the basis for the proposed expulsion and will 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 the hearing.
- The school administrator must bring the following student's record to the hearing:
 - A. Permanent Record Card (PRC)
 - B. Grades
 - C. Attendance
 - D. Referrals
 - E. Any and all other pertinent information
- At the hearing, the student is entitled to the following:
 - A. Representation by an adult, including the student's parent/guardian, who can provide guidance to the student.
 - B. An opportunity to question the District's witnesses (personnel).
 - C. An opportunity to testify and to review and present evidence and witnesses in the student's defense.
 - D. Additional proceedings may be conducted and additional discipline may be imposed if the student engages in additional misconduct 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 as appropriate.

- **Expulsion Order.** If the outcome of the expulsion hearing is that the student will be expelled, the Hearing Officer will explain the procedures to follow and the appeals process to the parents/guardians and student.
- If the duration of the expulsion differs from the guidelines in the SCC, the expulsion order will give notice of the inconsistency.
- A copy of the Expulsion Order will be hand delivered to the student's address listed in his/her PRC.
- 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.
- A copy of the expulsion order will be included with any records sent to a school where the student seeks to enroll. The enrolling school district has discretion to enforce the expulsion order.
- **NOTE:** Expulsion hearings will be recorded and all witnesses will take an Oath to be administered by a notary.

- **Length of Expulsion.** The duration of the expulsion will be determined on a case-by-case basis using the criteria identified in the "Placement Guide".
- Both mandatory and discretionary expulsions can result in expulsion for up to 174 school days.
- 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.
- **Emergency Expulsions.** (Before taking this action the campus principal must contact the District Hearing Officer) 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.

OTHER EXPULSION CONDITIONS

- **Participation in Activities.** Expelled students are prohibited from being on school grounds and prohibited from attending or participating in school- sponsored or school-related activities while expelled.
- **Age Restrictions.** Students under the age of ten who engage in expellable behavior will not be expelled, but will be placed in DAEP and will also be prohibited from.....
- **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. The results will also be available to the student's parent/guardian.
- If the student tries to re-enroll 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.

EXPULSION TIMELINE

- 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 three (3) days after receipt of the expulsion order or decision.
- The Superintendent will assign a three member Appeals Committee and provide the parent/guardian written notice of date, time and place of the review within five days of the receipt of the appeal request.
- At the appeal hearing before the panel, the record from the expulsion hearing shall be reviewed.
- The parent shall be given 15 minutes to present an argument why the hearing officer's decision should be overturned or modified.

- The hearing officer shall be given 15 minutes to present an argument in support of the original expulsion placement order.
- No new witnesses or evidence are allowed at this view.
- Within three days after the hearing of appeal, the panel shall issue a written recommendation to the superintendent.
- The superintendent will decide to uphold or modify the Appeal Committee's decision and inform the parent/guardian in writing of that decision.
- The parent/guardian will have three (3) days from receipt of the superintendent's decision to appeal the matter by submitting a written appeal to the board, addressed to the superintendent.
- The matter shall be placed on the next regularly scheduled board meeting.
- The board shall review the record of the due process hearing and the record of the Appeal Committee on the expulsion in closed meeting unless the parent requests in writing that the matter be heard in open session.
- The board shall allow the parent to make a five-minute presentation.
- The hearing officer shall also have the opportunity to make a five-minute presentation.

Hearing Checklist for a DEAP Hearing

Hearing Request will be emailed to mreyes@swisd.net or fax to 210-622-4353 within 24hrs. of securing a hearing date.

Please have all necessary documents that will be presented at the hearing:

- *Signature of parent on request form
- *Parent(s): ASAI, POA or Foster documentation
- *Student copy of his/her waterfall in Txeis
- *Rent, buying or owns home verification
- *Pictures used for evidence (confiscated/inappropriate)
- *Burn a CD copy of incident to be place in student file
- *Student incident statement
- *Administrators' statements
- *Witness' statements (available)
- *Police report
- *Attendance, grades, Restorative Discipline Data, etc.
- *Discipline referrals (suspensions)
- *Any other documents to be presented related to infraction

Any question please call: Ms. Maggie / Dr. Hernandez-Segura.

Students re-enrolling in the District and Student Transfers

Any student who has been expelled from any Independent School District and seeks enrollment @ SWISD must call and set an appointment with the Hearing Office at 210-622-4352.

Any student coming from a DAEP placement from any ISD who seeks enrollment must call and set an appointment with the Hearing Office at 210-622-4352.

The Hearing Officer / designee will make a determination of enrollment after reviewing all necessary documents.

NOTE: Students that have been expelled from another District and moved to SWISD will remain expelled till the order has been completed.

DISCIPLINE MANGEMENT TECHNIQUES

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 Student Code of Conduct (SCC) or campus rules as appropriate:

- Seating changes
- verbal correction
- Parent conferences
- Removal from the classroom
- Contracts to modify student behavior
- Assignment of school-related tasks or duties
- Other methods and consequences as stated in the SCC
- Calming-down time
- Demerits or rewards
- Confiscation of items
- School probation
- Revocation of student transfer
- 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
- Counseling
- In-school suspension
- Out-of-school suspension
- Disciplinary Alternative Education Program (DAEP)
- Expulsion
- Consequences identified in co-curricular or extracurricular codes of conduct, constitutions, or by-laws
- Detention

Other duties of the Hearing Office include reviewing transfer student records for enrollment into the district when a student is coming from another district (certain circumstances), Bexar County Juvenile Academy Education Program (BCJAEP) (have been expelled), have been out of school or have been withdrawn for non-attendance, or is coming from an alternative program (medical/education). State Education Code and district policies are used to determine the status of students wanting to enroll in SWISD.

Non-Traditional Enrollments

The Hearing Officer will set-up an enrollment conference for following students before being admitted by the campus.

1. Students who are coming from Texas Youth Commission
2. Students who are coming from Bexar County Juvenile Justice Academy Program
3. Students who have been adjudicated or who have received deferred adjudication
4. Students from another district who have been assigned to DAEP and have not completed the placement
5. Students who have been withdrawn for non-attendance either by SWISD or by another district and are enrolling at SWISD
6. Parents/guardians without affidavit of residency
7. Students who have been convicted of a criminal offense and are on probation, monitor, or other conditional release

The following students may be registered at the campus level. **(Not considered non-traditional enrollments)**

1. Students transferring from Charter Schools
2. Students transferring from other districts and do not owe DAEP placement days
3. Students transferring from other districts coming to live with parents, grandparents or guardians
4. Students classified under the McKinney-Vento Act
5. Students coming from another country
6. Students who have been Home Schooled

More information on admissions may be found in Board Policy **FD** (legal) and **FD** (local)

TO AVOID ANY DELAYS, APPOINTMENTS SHOULD BE SCHEDULED WITH THE HEARING OFFICER

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Disciplinary Hearing Script

Hearing Officer: Dr. Yolanda Hernandez- Segura

Date of Hearing: _
 Rescheduled dates: _____

Student: _____ Local SID: _____

Age: _____ Grade: _____ DOB: _____

Special Education: Y N Date: _____

504/Dyslexia: MDR / ARD Date: _ _ ESL: _

Charges: _

Persons Present: _____

The purpose of the Disciplinary Hearing will be to determine whether or not the student should be placed in an Alternative Education Program or otherwise disciplined in accordance with the Student Code of Conduct, District Policy and State Law. If this is an Alternative Hearing it is not a Due Process hearing, nor is it required to provide one for campus transfers. If this is an Expulsion Hearing this is a Due Process Hearing.

Notes:

HEARING RECOMMENDATIONS:

- [] Placement in an Alternative Education Program for _____ days.
- [] Referred for Extended Hearing or Expulsion (Mandatory Expulsions only)

Hearing Officer Signature _____ Date _____



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Disciplinary Hearing Results

To The Parent(s)/Guardian(s) of:

_____ Student Name _____ Student ID _____ DOB _____ Age _____ Grade _____ Campus

This is to advise you that on _____ a district disciplinary hearing was held for the student listed above. The cause for the hearing was for violation of the Student Code of Conduct as follows:

_____ on _____
 _____ (Date)

As a result of the hearing, the Hearing Officer issued the following decision(s):

_____ Alternative Placement in an **Alternative Education Program** for _____ days, beginning _____
 _____ day Review (Date)

_____ Boot Camp placement for _____ days, beginning _____ no review
 _____ (Date)

Notes: _____

_____ Hearing Officer _____ Date

- All AEP placements must be successfully completed to meet exit conditions back to the home campus.
- A student placed in the Alternative Education Program for any reason determined by the district cannot participate in any school sponsored or school related extracurricular or non-curricular activity, including seeking or holding honorary positions and/or membership in school sponsored clubs and organizations.
- A student placed in an AEP is prohibited from being on any other school district property or school district activity on or off district property. A student may be charged with criminal trespassing unless he/she has been properly authorized by a school district official.
- Students involved in serious or persistent misbehavior while assigned to an Alternative Education Program may be expelled from the district.
- The District (SWISD) **WILL NOT provide transportation** JJAEP for expelled students.
- A student that is withdrawn from school prior to the completion of the placement order will be required to fulfill placement requirements at an Alternative Education Program upon his/her return to the Southwest Independent School District.



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Non-Traditional Enrollment

Student Contract

Date: _____ Campus: _____ Grade: _____

I, _____ Student ID: _____,

enter voluntary into this contract for the purpose of attending _____.

In consideration for being allowed to return to class from enactive school enrollment, suspension, DAEP/Boot Camp Placement or JJAEP Placement, I agree to following:

I will,

- Attend all classes regularly (no skipping or truancy)
- Attend all classes promptly (no tardies)
- Maintain a positive attitude towards school personnel as well as towards other students
- Be prepared for all classes
- Not get involved in any way with drugs, alcohol, handling or carrying of weapons, or be associated with gangs
- Not cause a disturbance or interfere with the learning process

I further agree to comply with all the District and Campus policies concerning the SCC (Student Code of Conduct), discipline, dress code and cell phones as directed by the campus administration.

I agree to abide by every stipulation listed for the entire period of my enrollment at _____ . I understand that any violation of this contract may constitute grounds for my immediate removal from this campus and any additional discipline consequences or legal proceedings deemed necessary.

Student Signature: _____ **School ID:** _____

I, the parent/guardian of the above named student agree to this contract and its stipulations between my son/daughter and _____ / SWISD.

Parent/Guardian: _____

Host Sponsor Signature: _____

SWISD Administrator: _____

Title 5 Felony Offences of the Texas Penal Code:

Criminal Homicide	§19.01
Murder	§19.02
Capital Murder	§19.03
Manslaughter	§19.04
Criminal Negligent Homicide	§19.05
Unlawful Restraint	§20.02 (c)(1)(2)
Kidnapping	§20.03
Aggravated Kidnapping	§20.04
Unlawful Transport	§20.05
Trafficking of Persons	§20A.02
Indecency with a Child	§21.11
Improper Photography or Visual Recording	§21.15
Assault	§22.01(b)(1)(2)(3)
Sexual Assault	§22.011
Coercing, Soliciting, or Inducing Gang Membership	§22.015
Aggravated Assault	§22.02
Aggravated Sexual Assault	§22.021
Injury to a Child, Elderly Individual or Disabled Individual	§22.04
Abandoning or Endangering Child	§22.041
Deadly Conduct	§22.05(b)
Terrorist Threat	§22.07(d)(e)
Aiding Suicide	§22.08(b)
Tampering with Consumer Product	§22.09
Harassment by Persons in Certain Correctional Facilities; Harassment of Public Servant	§22.11