

Student Discipline Reporting: Accuracy, Compliance, and Real-World Decisions

TSDS & PEIMS Spring
Conference 2026

Why This Matters

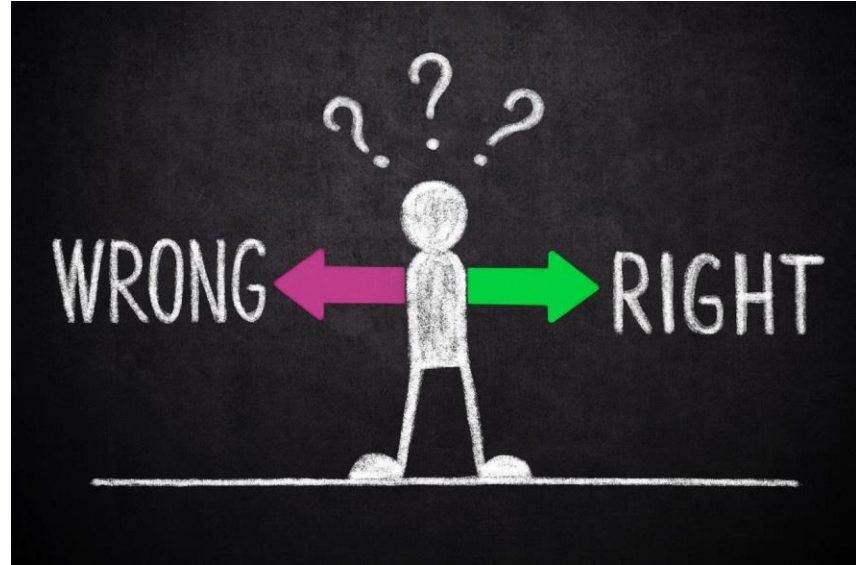
Compliance

Student Impact

Audits

The 3 Biggest Mistakes

- ❶ Misidentifying aggressor vs mutual fighting
- ❷ Overusing/underusing mandatory placements
- ❸ Misreporting “Mandatory Action Not Taken”



Behavior 41 vs 28

41 = Mutual

Behavior 41 – Fighting/Mutual Combat

- At least 2 or more students involved
- All students have the same intentions – overcoming each other
- No bodily injury or serious bodily injury requiring medical treatment beyond basic first aid occurs

28 = One Aggressor

Behavior 28 – Assault under Penal Code, 22.01(a)(1)

- At least 2 or more students involved
- 1 student intentionally causes bodily injury to another student
- 1 student doesn't not have the intention of hurting anyone and is a victim
- Bodily injury occurs and the school nurse can take care of the injury

The ONE Question That Matters

If YES → 41

INTENTION
MATTERS

If NO → 28

Scenario

Discipline Incident Scenario – Behavior Code 41:

Two students engaged in a physical altercation during lunch in the cafeteria involving pushing, hitting, and profanity. Staff intervened promptly, and neither student required medical treatment.

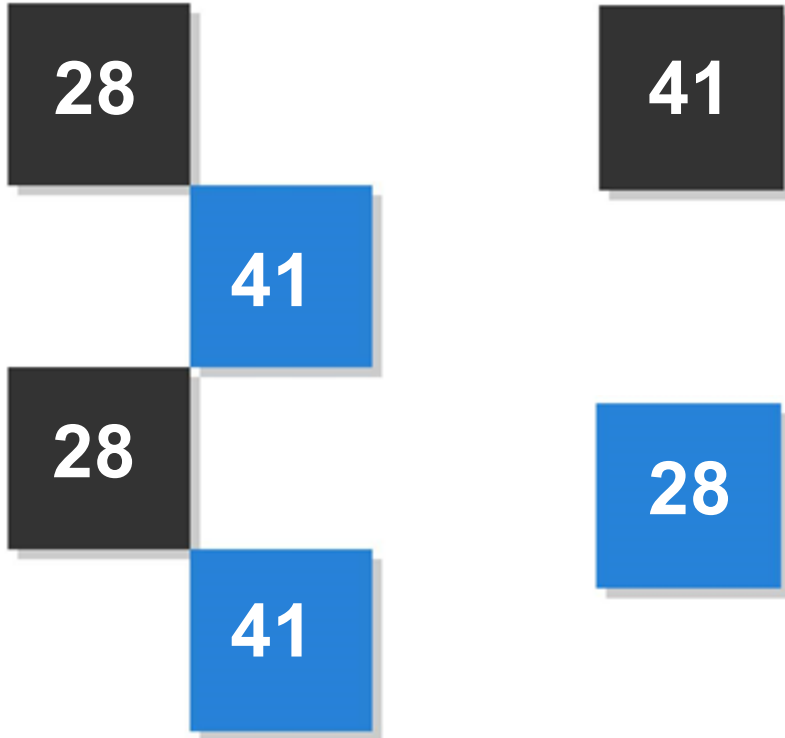
Investigation of the incident is conducted, and a disciplinary conference is held:

Witness statements confirm both students actively participated in the fight.

Is this a 41 or a 28?



Decision



Behavior 41 Fighting/Mutual Combat will be reported.

Student A: Assigned 10 days in the DAEP due to prior discipline record with two previous fights; and district policy supports escalated consequences for repeated behaviors.

Student B: Assigned 3 days of ISS due to no prior disciplinary history and district policy supports ISS for first offense of fighting.

Mandatory Action Not Taken

When and How to Report a Mandatory Disciplinary Action Not Taken

27

ARD (Special Education)

Discipline 27 - Mandatory disciplinary action not taken by district – ARD Committee is reported when a student's behavior requires a mandatory removal from the regular educational setting, but the Admissions, Review, and Dismissal (ARD) committee determines in a manifestation determination review (MDR) that the behavior in question was a manifestation of the student's disability.

28

TEC §37.00(a)(4)

Discipline 28 - Mandatory Disciplinary Action Not Taken By District - [TEC §37.001\(a\)\(4\)](#) is reported when a student's behavior requires a mandatory removal from the regular educational setting, but one or more of the factors under TEC §37.001(a)(4), is applicable.

Scenario

Discipline 28 Mandatory Action Not Taken by District - TEC 37.001(a)(4), Incident Scenario:

A teacher walked into the students' restroom and saw Student A give Student B an e-cigarette. The behavior of giving another student an e-cigarette requires a mandatory DAEP placement, and the behavior of possessing an e-cigarette is a discretionary DAEP placement.

Investigation of the incident is conducted, and a disciplinary conference is held:

Do you assign DAEP?

If not – what must be reported?

Descriptor	Short Description
28	Assault Against Someone Other Than A School District Employee/Volunteer
35	False Alarm/False Report Involving a Public School
36	Felony Controlled Sub/Dangerous Drug Violation (Excludes Marihuana/THC)
41	Fighting/Mutual Combat Excludes All Offenses Under Penal Code 22.01
58	Breach of Computer Security
65	Threatens Immediate Health and Safety of Other Students in Classroom
66	Documented Repeated or Significant Disruption to the Classroom
67	Possesses or Uses E-Cigarette
68	Sells, Gives, or Delivers E-Cigarettes



PEIMS Reporting of Incident

Student A:

- **Behavior 68** Sells, Gives, or Delivers E-Cigarette
- **Discipline 28** Mandatory Disciplinary Action Not Taken By District will be reported as the first discipline action assigned due to the required considerations under [TEC §37.001\(a\)\(4\)](#).
- **Discipline 06** ISS is assigned for 3 days will be reported as the second discipline action for this incident.

Student B:

- **Behavior 67** Possesses or Uses E-Cigarette
- **Discipline 06** ISS is assigned for 3 days will be reported for this incident.

The 4 Rules to Remember



Intent
determines
behavior
code



Victim
≠
Offender



Mandatory
doesn't
mean
assigned



If not
assigned
DOCUMENT
why

What we know...

- The **Virtual Expulsion Program (VEP)** under [TEC, §37.0083](#) is currently in the rulemaking process.
- Until the rules have been approved through the rulemaking process, the guidance to ESCs and LEAs is to follow the related statute.
- Follow the rules of a disciplinary alternative education program (DAEP) under [TEC, §37.008](#).
- For more information about virtual and hybrid programs, please see the [August 21 TAA correspondence](#). This TAA provides guidance for virtual and hybrid programs.
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- Please note: Rulemaking related to Senate Bill 569 will occur during the 2025-2026 school year.
- Link to VEP [FAQ](#)

Thank You!

TEA Student Discipline Webpage

- Professional Development and Office Hour Opportunities
- Resources for Students with Disabilities
- Disciplinary Alternative Education Program (DAEP) Resources
- Bullying Prevention Resources
- Internal and External Resource Links
- Student Discipline Support Contact Information

OSPSS Policy and Compliance Discipline Specialist: Mary Scott

Contact: StudentDisciplineSupport@tea.texas.gov

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