Fact Sheet on Location-Restricted Knives at School
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The basics: In Texas, state law restricts possession of a knife with a blade of over five and one-half inches in certain locations, including on school property and at school events. In general, it is a felony to possess a location-restricted knife on the premises of a school or postsecondary educational institution, on any grounds or building owned by and under the control of a school or postsecondary educational institution and on which an activity sponsored by the school or institution is being conducted, or in a passenger transportation vehicle of a school or postsecondary educational institution, whether the school or postsecondary educational institution is public or private, unless pursuant to written regulations or written authorization of the school or institution. Tex. Penal Code § 46.03(a)(1), (g-1).

In addition, the following are Class C misdemeanor offenses related to location-restricted knives:

- A minor intentionally, knowingly, or recklessly carrying a location-restricted knife on or about the minor’s person, while not on the minor’s own premises or inside or directly en route to a motor vehicle or watercraft under the minor’s control, and not under direct supervision of a parent or legal guardian; and

- A person intentionally, knowingly, or recklessly possessing or going with a location-restricted knife in certain places, including on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the person is a participant in the event and a location-restricted knife is used in the event.

    Tex. Penal Code §§ 46.02(a-4), (d), .03(a)(8), (g-1).

Impact on school discipline: The consequences of a student possessing a knife at school depend on the circumstances. Chapter 37 of the Texas Education Code provides for expulsion or placement in a disciplinary alternative education program (DAEP) for possession of a location-restricted-knife in some instances.
Mandatory Expulsion

For example, under Texas Education Code section 37.007(a)(1), a district must expel a student who unlawfully carries a weapon on school property or at a school-related activity. It is generally unlawful under Texas Penal Code section 46.02 for a minor to intentionally, knowingly, or recklessly carry on or about the minor’s person a location-restricted knife.

This means that, unless an exception applies, expulsion is mandatory for a minor student carrying a location-restricted knife on school property or at a school-related activity.

Permissive Expulsion

The same conduct is subject to permissive expulsion if it occurs within 300 feet of school property or on the property or at an event of another district in Texas. This applies equally to a minor or an adult student. Tex. Educ. Code § 37.007(b)(3), (i).

Mandatory DAEP

Any student, including adult students, may be subject to mandatory DAEP under Texas Education Code section 37.006(a)(2)(A), which provides that a district must place in DAEP a student who engages in conduct punishable as a felony on or within 300 feet of school property or while attending a school-related activity. It is a felony offense to intentionally, knowingly, or recklessly possess or go with a location-restricted knife on the premises of a school or postsecondary educational institution, on any grounds or building owned by and under the control of a school or postsecondary educational institution and on which an activity sponsored by the school or institution is being conducted, or in a passenger transportation vehicle of a school or postsecondary educational institution, whether the school or postsecondary educational institution is public or private, unless pursuant to written regulations or written authorization of the school or institution. Tex. Penal Code § 46.03(a)(1), (g-1).
This means a district must place in DAEP any student who goes with or possesses a location-restricted knife in a school building, any district-owned grounds or building where a school activity is taking place, or on a passenger vehicle of the school. Note that even decisions described as ‘mandatory’ in Chapter 37 of the Texas Education Code are subject to application of the six required mitigating factors:

1. self-defense;
2. intent or lack of intent at the time the student engaged in the conduct;
3. the student’s disciplinary history;
4. a disability that substantially impairs the student’s capacity to appreciate the wrongfulness of the student’s conduct;
5. the student’s status in the conservatorship of the Department of Family and Protective Services (i.e., foster care); or
6. the student’s status as homeless.


**Student Code of Conduct**

In accordance with a district’s local student code of conduct, students may be placed in DAEP for possession of knives even when state law does not make the decision mandatory. If a district has opted in the code of conduct to make general conduct violations subject to placement in DAEP, then a student may be placed in DAEP for having a location-restricted knife in the student’s vehicle. The TASB Model Student Code of Conduct also contains optional prohibitions on possessing pocketknives or other smaller knives.

**Definitions:** A *location-restricted knife* is a knife with a blade of over five and one-half inches. Tex. Penal Code § 46.01(6).

**Premises** means a building or a portion of a building. The term does not generally include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. Tex. Penal Code § 46.03(c)(4). However, location-restricted knives may be prohibited from other parts of school district property when a school-related activity is taking place. See Tex. Att’y Gen. Op. No. KP-0050 (2015) (interpreting Texas Penal Code section 46.03 as prohibiting weapons from places on which a school-sponsored activity is occurring, which places can include grounds excluded from the Penal Code definition of premises, such as public or private driveways, streets, sidewalks, or walkways, parking lots, parking garages, or other parking areas.)
The traditional legal definition of possession is broader than “carrying on or about one’s person”; a person has possession of an item as long as the item is under the person’s ownership or control. For example, the TASB Model Student Code of Conduct defines possession as “to have an item on one’s person or in one’s personal property, including, but not limited to, clothing, purse, or backpack; a private vehicle used for transportation to or from school or school-related activities, including, but not limited, to an automobile, truck, motorcycle, or bicycle . . .” Therefore, a student with a location-restricted knife in the student’s vehicle at school is subject to mandatory DAEP to the extent that the parking lot is being used for school-sponsored activities.