

CAUSE NO. 20-DCV-278446

BRONSON MCCLELLAND	§	IN THE DISTRICT COURT OF
	§	
VS.	§	
	§	
KATY INDEPENDENT SCHOOL	§	
DISTRICT, KENNETH GREGORSKI, IN	§	FORT BEND COUNTY, TEXAS
HIS INDIVIDUAL AND OFFICIAL	§	
CAPACITY AS SUPERINTENDENT FOR	§	
KATY INDEPENDENT SCHOOL	§	
DISTRICT AND RICK HULL, IN HIS	§	Fort Bend County - 400th Judicial District Court
INDIVIDUAL AND OFFICIAL CAPACITY	§	
AS PRINCIPAL OF KATY HIGH SCHOOL	§	_____ JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL PETITION FOR DECLARATORY
JUDGMENT, APPLICATION FOR TEMPORARY RESTRAINING
ORDER AND TEMPORARY INJUNCTION**

TO THE HONORABLE COURT:

COMES NOW, BRONSON MCCLELLAND, Plaintiff, and complains of KATY INDEPENDENT SCHOOL DISTRICT, KENNETH GREGORSKI, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY AS SUPERINTENDENT FOR KATY INDEPENDENT SCHOOL DISTRICT, and RICK HULL, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY AS PRINCIPAL OF KATY HIGH SCHOOL, Defendants, and for cause of action shows:

Discovery Plan

1. Discovery in this case shall be conducted under Discovery Control Plan Level Two
- (2).

Parties & Service of Process

2. Plaintiff, BRONSON MCCLELLAND, is hereinafter referred to as “Plaintiff”, and is a resident of Katy, Fort Bend County, Texas.

3. Defendant, KATY INDEPENDENT SCHOOL DISTRICT (hereinafter referred to as “KISD”), is a duly incorporated Texas governmental entity and operates public schools in the

cities of Katy, Brookshire, Fulshear and Houston, Texas. Plaintiff requests that service of process be issued upon Defendant, KISD, by serving its Superintendent, Kenneth Gregorski, at the central office of Katy Independent School District, 6301 South Stadium Lane, Katy, Texas 77494, or wherever he may be found.

4. Defendant, KENNETH GREGORSKI, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY AS SUPERINTENDENT FOR KATY INDEPENDENT SCHOOL DISTRICT (hereinafter referred to as “GREGORSKI”), is an individual resident of the State of Texas. Plaintiff requests that service of process be issued upon Defendant, GREGORSKI, at the central office of Katy Independent School District, 6301 South Stadium Lane, Katy, Texas 77494, or wherever he may be found.

5. Defendant, RICK HULL, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY AS PRINCIPAL FOR KATY HIGH SCHOOL (hereinafter referred to as “HULL”), is an individual resident of the State of Texas. Plaintiff requests that service of process be issued upon Defendant, HULL, at Katy High School, 6331 Highway Blvd., Katy, Texas 77494, or wherever he may be found.

Venue and Jurisdiction

6. Venue is proper in Fort Bend County, Texas because the actions of Defendants that are made the subject of this suit all occurred within Fort Bend County, Texas, and Katy High School, the school Plaintiff attended, is located within Fort Bend County, Texas..

7. This Court has subject matter jurisdiction of this action because Plaintiff seeks relief in excess of the jurisdictional limits of this Court, exclusive of interest and costs.

Request for Disclosure

8. Plaintiff respectfully requests that each Defendant provide the information outlined

in Texas Rule of Civil Procedure 194.2 within fifty (50) days from the service of this Petition.

Summary of the Argument

- Texas state law changed on June 10, 2019 regarding testing procedures to determine whether a substance is legal hemp or marijuana. KISD has failed to follow this change in the law and/or incorporate it into its Discipline Management Plan & Student handbook. KISD is not adhering to Texas law or what should be its own internal rules and regulations. As a result, Plaintiff was wrongfully suspended and transferred to KISD's alternative school.
- On September 17, 2020, a canine search unit determined there was an alleged illegal substance in Plaintiff's motor vehicle. Plaintiff's motor vehicle was searched and an alleged substance was removed from the carpet in the backseat floorboard. Plaintiff was accused of being in possession of marijuana. A police report was generated by the KISD police department. That same day, Plaintiff was suspended from regular school and transferred to the alternative school for a period of no less than 45 days.
- On September 18, 2020, an on-campus hearing was conducted by Defendant HULL where testimony was taken and Defendant HULL collected information from Katy High School and Plaintiff and his family. Plaintiff's father requested confirmation as to whether the alleged substance removed from the motor vehicle tested positive for hemp (legal) or marijuana (illegal).
- On September 21, 2020, Defendant HULL wrote a report determining that Plaintiff was in possession of a product that tested positive for THC.
- On September 21, 2020, Plaintiff's suspension and transfer was upheld.
- No one from KISD, KISD police department, or Katy High School had the alleged substance removed from the motor vehicle tested in accordance with Texas state law to determine whether the substance contained sufficient THC to be considered marijuana. In fact, such a test has never been run on the alleged substance.
- Plaintiff's parents continued with the appeals process and also negotiated the opportunity to either move out of state or relocate within the state to allow Plaintiff to continue school away from KISD.
- Plaintiff's family's efforts to relocate to California were thwarted and the efforts to relocate within the State of Texas also failed. During the time of these efforts, Plaintiff received a letter from KISD Superintendent admitting that the alleged substance removed from the motor vehicle had never been tested to determine whether the requisite amount of THC was present that would have indicated the substance was in fact marijuana as prescribed by Texas law. Plaintiff also received a Disciplinary Clearance form from Defendant HULL, the principal at Katy High School indicating that Plaintiff had never been placed on disciplinary probation. Additionally, Plaintiff

received a PAPF UIL form signed on October 9, 2020 indicating there had been no disciplinary action and that Plaintiff was cleared.

- On October 22, 2020, Plaintiff re-enrolled at Katy High School and was sent back to the alternative school even though Defendant GREGORSKI admitted that he had been cleared from any wrongdoing based on the fact that KISD did not run the proper test on the alleged substance removed from the motor vehicle. Plaintiff exercised his final appeal rights in an effort to convince KISD to rescind the suspension and transfer. At the conclusion of the final appeal hearing, KISD refused to rescind the suspension and transfer and this suit was filed.
- Affidavits from Plaintiff, his father, Colburn McClelland and Chuck Brawner, a retired peace officer and former police chief for the Spring Branch Independent School District, that establish the allegations in the Application are attached hereto and incorporated by reference.

Drug Rules

9. Texas Health & Safety Code § 481.002 was amended by House Bill 1325 and became law on 10 June 2019 by adding subparagraph (26)(f) stating marijuana does not include hemp as that term is defined by Texas Agriculture Code § 121.001. See Exhibit 9 attached hereto and incorporated by reference as if fully set forth herein. Texas Agriculture Code § 121.001 defines hemp as the plant *Cannabis sativa* L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. See Exhibit 10 attached hereto and incorporated by reference as if fully set forth herein.

10. Katy ISD Discipline Management Plan and Student Code of Conduct Published (June '19/June '20) - Quick Reference Guide Level IV requires removal to DAEP with Marijuana (non-felony). Katy ISD policy (Legal), FNCRF (Local), FOC (Legal), and FOD (Legal) states no student shall, during any school term and while on school premises or off school premises at a school-sponsored activity, function, or event, sell, give, deliver, use, possess, or be under the

influence of any amount of: 1. Marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code or by 21 USC 801, et. seq. A student SHALL BE REMOVED from class and placed in a DAEP if the student: 2(c) Sells, given or delivers to another person or possesses, uses, or is under the influence of: (1) Marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 USC Section 801 et. seq. See Exhibit 11 attached hereto and incorporated by reference as if fully set forth herein.

11. Texas Association of School Boards publishes Legal Questions About CBD and Marijuana in School (August 2019) – discusses what is CBD and stated that CBD, or cannabidiol, is one of many naturally occurring chemical compounds of Cannabis sativa L., the plant from which both marijuana and hemp are derived. Tetrahydrocannabinol, or THC, is another compound of the cannabis plant. The primary difference between hemp and marijuana is the amount of THC, which is the main component of marijuana that creates a “high” sensation. Texas law has decriminalized CBD that is extracted from hemp. Hemp is defined by law as the plant Cannabis sativa L. and any part of that plant with a THC concentration of no more than 0.3 percent. TASB continues with stating that in 2019, the 86TH Texas Legislature enacted House Bill 1325, legalizing hemp and mandating a regulatory framework for the manufacture and sale of CONSUMABLE HEMP PRODUCTS. Under Federal Law, CBD that is extracted from hemp and contains less than 0.3 percent THC is exempt from the Controlled Substances Act (21 USC § 801). Under State Law, Texas Legislature followed the example of federal law by removing hemp from the state list of controlled substances. If a product labeled CBD has a THC concentration of no more than 0.3 percent it is legal to use and possess. TASB states that until these products are fully regulated, it is impossible to verify the contents without chemical testing. TASB continues with stating that given the current problems with testing to determine whether a substance is legal, school officials

may want to adopt a general ban on CBD. See Exhibit 12 attached hereto and incorporated by reference as if fully set forth herein. See also Affidavit of Chuck Brawner attached hereto and incorporated by reference as if fully set forth herein (hereafter “Brawner Affidavit”).

Factual Background

12. Defendants allege that on September 17, 2020, Plaintiff was summoned from his classroom by KISD and Katy High School representatives concerning an alleged discovery of illegal substances in his motor vehicle parked in the parking lot at Katy High School. The vehicle was searched by KISD officers who removed a sample of something from the rear seat passenger side floorboard. Despite numerous requests, KISD has failed and continues to fail to provide Plaintiff and his lawyers access to the video depicting the search of Plaintiff’s vehicle. The substance removed was kept by KISD and ultimately deposited into an evidence room. Charges were brought against Plaintiff by the Katy High School assistant principal in charge of twelfth grade students. See Affidavit of Colburn McClelland attached hereto and incorporated by reference as if fully set forth herein (hereafter “Colburn Affidavit”).

13. KISD police officers prepared the initial written report after conducting the initial search and taking possession of the requisite sample. According to the written report, on September 17, 2020, Officer S. Fulgencio who worked for the Canine Deployment Section of KISD Police Department, together with Officer Jeffrey Martinez, also with KISD Police Department, were called to Katy High School to assist in the search of alleged random automobiles. During the search, Officer Fulgencio informed Officer Martinez that the canine police dog was alerted to a Toyota Landcruiser belonging to Plaintiff. Katy High School was informed of this situation and shortly thereafter, Plaintiff and Assistant Principal Ashley Darnell arrived at the parking lot. Plaintiff gave the officer his keys and KISD began searching Plaintiff’s

vehicle. See Colburn Affidavit.

14. During the search, KISD police located numerous items such as electronic cigarette cartridges and “*zigzag brand hemp cigarette papers*” (emphasis added by author). A copy of the Supplemental Case Report filed under case number 201165 is attached hereto as Exhibit 1 and incorporated by reference as if fully set forth herein. On page 3 of Exhibit 1, KISD Officer Fulgencio indicates on her Supplemental Case Report that Plaintiff was in possession of tobacco by a minor. There is no mention of the word marijuana. See Affidavit of Bronson McClelland attached hereto and incorporated by reference as if fully set forth herein (hereafter “Bronson Affidavit”). Contained on page 3 of the report in typed fashion are additional comments by Officer Fulgencio that she was advised to retrieve the sample evidence of the substance removed from Plaintiff’s vehicle on September 17, 2020. He was then advised to use a 909KN reagent test kit and test the substance for THC. The substance was then tested, and the only finding was that THC was present in the green leafy substance recovered from Plaintiff’s motor vehicle. See Colburn Affidavit.

15. Also on September 17, 2020, KISD filled out a form entitled “Notification of Out of School Suspension (OSS)”. A copy of the Notification of Out of School Suspension is attached hereto as Exhibit 2 and incorporated by reference as if fully set forth herein. This document indicates that Ms. Ashley Darnell, acting in her official capacity, determined that Plaintiff had committed a level 4 violation of KISD rules and wrote in the report that Plaintiff was in possession of marijuana-found in vehicle. Also included in this report was an Order of Removal to a Disciplinary Alternative Education Program. This report filled out by Ms. Ashley Darnell states that the substance found in Plaintiff’s vehicle was a misdemeanor and was conduct for which placement in an alternative school was mandatory and required. Additionally, and again dated

September 17, 2020, KISD included a form titled “Notification of Mandatory Placement in a Disciplinary Alternative Education Program (“DAEP”). This document is attached hereto as Exhibit 3 and incorporated by reference as if fully set forth herein. This document has only one box checked. The box checked states that “according to state law, a student shall be removed from class and placed in a DAEP if the student: ... sells, gives or delivers to another person or possesses or uses or is under the influence of: 1) marijuana or a controlled substance as defined by Chapter 481 Health and Safety Code or by 21 U.S.C. Section 801. See Colburn Affidavit.

16. On September 18, 2020, a hearing was held on campus regarding the alleged misconduct of Plaintiff. Specifically, it was alleged that Plaintiff was guilty of being in possession of marijuana. Plaintiff and his parents participated in the hearing. Plaintiff denied the substance was his. On the evening after the conclusion of the hearing, Plaintiff’s father sent an email to Defendant HULL inquiring as to whether the sample allegedly removed from Plaintiff’s motor vehicle was tested and if so, was the sample tested for hemp (legal) or marijuana (illegal). A copy of this email is attached as Exhibit 4 and incorporated by reference as if fully set forth herein. Based on this request, Defendant HULL apparently instructed KISD police to test the sample. See page 3 of Exhibit 1. Officer Fulgencio states in her report that she tested a portion of the sample removed from the evidence room and that the sample changed colors indicating a positive presence of THC. Officer Fulgencio’s report states “this was in fact marijuana.” However, Officer Fulgencio never tested the sample to determine if the THC level was sufficient to identify the sample as marijuana (illegal) as opposed to hemp (legal). A letter/report outlining what occurred during the hearing was prepared by Defendant HULL. A copy of the letter dated September 21, 2020, is attached hereto as Exhibit 5 and incorporated by reference as if fully set forth herein. See Colburn Affidavit.

17. In the report dated September 21, 2020, Defendant HULL states that Katy ISD tested the substance allegedly removed from Plaintiff's motor vehicle on September 21, 2020 and that the substance came back as being positive for containing THC. Again, the report does not say the substance came back as being positive for marijuana because no test was ever performed on the sample to determine whether the THC level was sufficient to identify the substance as marijuana (illegal), as opposed to hemp (legal). Defendant HULL sent a copy of his report to Sherry Ashorn. Ms. Ashorn is the District Discipline Administrator for KISD. See Colburn Affidavit.

18. As a result of Dr. Hull's report (Exhibit 5), Plaintiff was suspended from Katy High School and transferred to KISD's alternative school. Plaintiff was transferred to the alternative school for a minimum of 45 days. At the time of the ruling by Defendant HULL, Plaintiff was a varsity football player enjoying his senior year on campus. The suspension and transfer has robbed Plaintiff of his senior year, including his opportunity to participate in extracurricular activities on behalf of Katy High School. See Bronson Affidavit.

19. None of the Defendants ever insisted that KISD test the sample allegedly removed from Plaintiff's motor vehicle to determine if the THC level was sufficient to identify the sample as marijuana as required by Texas law and KISD policy.

20. Someone associated with KISD should have stopped the District and Katy High School from suspending Plaintiff and transferring him to the alternative school because KISD failed to follow state law and KISD policy concerning the positive identification of the substance found in Plaintiff's motor vehicle owned by Plaintiff's father. Someone associated with KISD should have stepped forward and prevented KISD from transferring Plaintiff to the alternative school when there was no official finding that the substance allegedly removed from his motor

vehicle was in fact marijuana. Anyone associated with KISD could have come forward. The general counsel, Justin Graham, could have come forward and demanded that the requisite test be administered before KISD could take the position that Plaintiff was in possession of marijuana on September 17, 2020. As general counsel, Justin Graham either knew or through the exercise of reasonable diligence, should have known that KISD could not claim that Plaintiff was in possession of marijuana if the substance he was accused of being in possession of had never been tested to determine whether in fact it was marijuana. In fact, as of the date of this Petition, none of the Defendants have taken any steps to have the alleged sample actually tested to determine whether the THC level in the sample was a sufficient amount to call the substance marijuana. Even though the Defendants were actually aware that the correct test had not been administered on the alleged sample, they still upheld their right to suspend Plaintiff. See Colburn Affidavit.

21. As a result of the above, Plaintiff and his family contemplated moving to California. Their decision was predicated on threats made to Plaintiff's lawyers that Plaintiff would never again be allowed to play football at Katy High School or for any other KISD school. Plaintiff's family decided that this level of animosity on the part of KISD made it impossible to continue residing in KISD. In order to transfer to the California private school, Plaintiff's family was required to present a Disciplinary Clearance Letter to the private school. The Disciplinary Clearance Letter was filled out and signed by Defendant HULL. The form states that the Plaintiff has never been placed on disciplinary probation. See Exhibit 6 attached hereto and incorporated herein as if fully set forth at length. On September 28, 2020, as part of the process of Plaintiff transferring to a private school in California, Defendant GREGORSKI signed a letter stating that KISD did not test the substance removed from Plaintiff's motor vehicle to determine whether the requisite amount of THC was present that would have indicated the substance was in fact

marijuana as prescribed by Texas law. This admission is paramount to Plaintiff's position in this case. The letter went on to state that Defendant GREGORSKI, acting in his capacity as Superintendent for KISD, determined that the discipline originally meted out to Plaintiff as a result of the incident that occurred on September 17, 2020, was overturned and that no further disciplinary matters concerning Plaintiff were pending. See Exhibit 7 attached hereto and incorporated herein by reference as if fully set forth at length. See also Colburn Affidavit.

22. Plaintiff's family could not move to California due to an issue with Plaintiff's transcript caused by Katy High School. Thereafter, Plaintiff and his family decided to move to Manor, Texas to get away from KISD. As with the contemplated move to California, this decision was predicated on threats made to Plaintiff's lawyers that Plaintiff would never again be allowed to play football at Katy High School or for any other KISD school. Plaintiff's family decided that this level of animosity on the part of KISD made it impossible to continue residing in KISD. As part of the process of transferring to Manor High School, Plaintiff's family requested that Katy High School complete a UIL form titled "Previous Athletic Participation Form" otherwise known as a "PAPF" form. This form is used by schools and students involved in transfer situations to establish that a child changing schools is eligible to participate in extracurricular activities. In Section III of the PAPF form executed by a representative from Katy High School, the form states that Plaintiff was never suspended or removed from a school athletic program and that the Plaintiff would not be prohibited from participating in athletics if he had not changed schools. See Exhibit 8 attached hereto and incorporated herein by reference as if fully set forth at length. See also Colburn Affidavit.

23. Plaintiff's family ultimately decided to return to Katy. Plaintiff was re-enrolled in Katy High School and KISD immediately transferred him to the alternative school and reinstated

his suspension. Plaintiff and his family thereafter requested that KISD conduct the final appeal hearing. The appeal hearing occurred on November 6, 2020, at the hearing, Plaintiff provided essentially the same timeline of events that have been described herein and confronted KISD on their decision to suspend and transfer Plaintiff without testing the alleged product removed from the motor vehicle to determine whether it had a sufficient amount of THC to be considered marijuana. Plaintiff also argued that the letter written by Defendant GREGORSKI should supersede even the failure of the testing because Defendant GREGORSKI admitted that the failure of KISD to administer the proper testing should clear Plaintiff of all charges. See Exhibit 7. Despite this letter of admission by KISD and Defendant GREGORSKI, the appeal panel refused to rescind the suspension and transfer order. Plaintiff's counsel later learned that the KISD employee appointed to oversee the appeal panel was involved in the early stages of investigation of the underlying allegations against Plaintiff and also reported directly to the general counsel for KISD. This inherent conflict of interest on the part of KISD is further evidence of the manner in which they have treated this situation and treated Plaintiff. See Colburn Affidavit.

Declaratory Relief

24. Plaintiff adopts the preceding paragraphs as if fully set forth herein.

25. A justiciable controversy exists between Plaintiff and Defendant regarding the parties' respective rights and obligations in connection with KISD's requirement to follow its own rules and Texas state law in determining whether a confiscated substance is in fact marijuana and whether a student can be suspended or transferred to an alternative campus without such a finding. Pursuant to Sections 37.001, *et seq.* of the Texas Civil Practice & Remedies Code, Plaintiff seeks a declaratory judgment to determine whether KISD followed its own written rules and procedures, which incorporate Texas law, in determining whether a confiscated sample is tested to confirm

whether it meets the statutory requirement to be considered marijuana or whether the failure to do so indicates the confiscated sample is nothing more than legal hemp.

Attorney's Fees

26. Pursuant to Sections 37.001, *et seq.* of the Texas Civil Practice & Remedies Code, Plaintiff also seeks to recover his reasonable and necessary attorney's fees in connection with such declaratory relief.

Actual and Exemplary Damages

27. Plaintiff adopts the preceding paragraphs as if fully set forth herein.

28. Plaintiff does not seek actual damages at this point. However, should Plaintiff ultimately seek actual damages, then Plaintiff believes he would also be entitled to exemplary damages. Defendant's conduct was aggravated by that kind of willfulness and wantonness for which the law allows the imposition of exemplary damages. Defendant acted with an evil intent to harm Plaintiff, or reckless disregard for the rights of Plaintiff. Accordingly, Plaintiff is entitled to an award of punitive or exemplary damages in an appropriate amount to punish Defendant for its wrongful conduct.

29. The limits on exemplary damages enumerated in Texas Civil Practice & Remedies Code Section 41.008(b) shall not be applicable to Defendants in this case because Defendants have engaged in a violation of at least Texas Penal Code Section 32.45 (misapplication of fiduciary property or property of a financial institution).

Application for Temporary Restraining Order

30. Plaintiff adopts the preceding paragraphs as if fully set forth herein.

31. Plaintiff has exhausted all of his administrative remedies.

32. Plaintiff requests the Court to issue an order requiring Defendant, its officers,

directors, agents, representatives, servants, employees, attorneys, successors and/or assigns and all persons in active concert or participation with it or under its authority to rescind the suspension and transfer order requiring Plaintiff to attend KISD's alternative school and return Plaintiff to Katy High School to continue his education with his classmates and participate in extracurricular activities and school events. The failure to issue this restraining order is of so great a consequence that such failure would be unconscionable. Plaintiff has no adequate remedy at law because he is currently being precluded from attending his high school during his senior year and he will never be able to repeat this time period or otherwise substitute a remedy for missing his senior year in high school on campus with his classmates and enjoying extracurricular activities and school events. See Bronson Affidavit.

33. If Plaintiff's Application for a Temporary Restraining Order is not granted, harm is imminent and Plaintiff will suffer irreparable injury and loss because Plaintiff will lose out on his senior year in high school with his classmates and is further barred from participating in extracurricular activities and from being able to attend high school functions on KISD property. This time period in his life and his memories thereof cannot be recovered as a remedy and there is no substitution for missing out on this time of his life. At this time, Plaintiff is not seeking monetary damages from Defendants, but is merely seeking the right to return to his high school to finish out his senior year. See Bronson Affidavit.

34. To preserve the status quo and the rights of Plaintiff until a temporary injunction or during the pendency of this lawsuit, Plaintiff requests that the Court grant a restraining order as requested above because ordering KISD to return Plaintiff to the Katy High School campus to continue his education and allow him to participate in extracurricular activities is the last peaceful timeframe before the acrimony resulting from the allegations made by KISD were made. See

Bronson Affidavit.

35. There is substantial likelihood that Plaintiff will succeed on the merits of this action. The threatened harm to Plaintiff outweighs the harm a Temporary Restraining Order would inflict on Defendant. Plaintiff's senior year in high school is ticking away one day at a time. There are only so many days any person can enjoy their senior year in high school and each day that KISD robs from Plaintiff is a day he can never get back under any circumstances. See Bronson Affidavit.

Application for Temporary Injunction

36. Plaintiff adopts the preceding paragraphs as if fully set forth herein.

37. Plaintiff asks the Court to set its request for temporary injunction for hearing at the earliest possible time and, after the hearing, issue a temporary injunction against Defendant requiring it to rescind the suspension and transfer order requiring Plaintiff to attend KISD's alternative school and return Plaintiff to Katy High School to continue his education with his classmates and participate in extracurricular activities and school events during the pendency of this cause of action in order to maintain the status quo herein.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests the following relief:

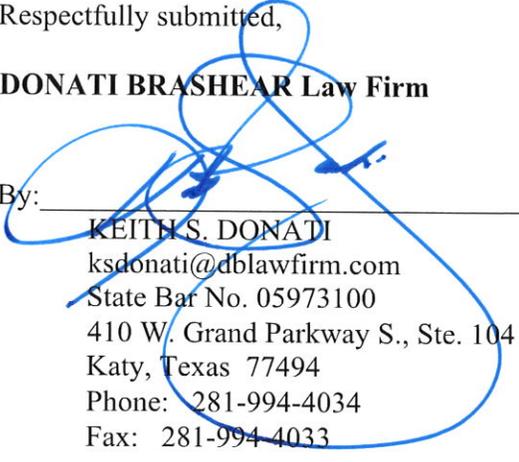
1. a declaratory judgment as requested herein;
2. a Temporary Restraining Order and the injunctive relief requested herein;
3. an award of punitive damages or exemplary damages in an appropriate amount to punish Defendant for its wrongful conduct;
4. an award of reasonable and necessary attorneys' fees incurred by Plaintiff in the trial of this cause, together with all appeals, if any;
5. costs of court and additional fees or costs authorized by statute; and

6. such other and further relief, both general and special, legal or equitable, to which Plaintiffs may be justly entitled.

Respectfully submitted,

DONATI BRASHEAR Law Firm

By: _____



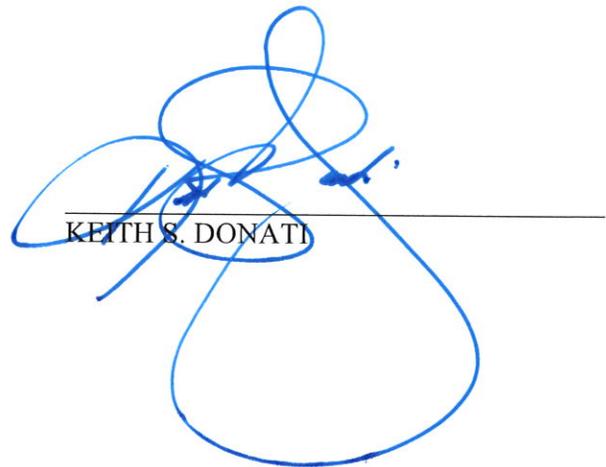
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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE
FOR PURPOSES OF TEMPORARY RESTRAINING ORDER

I hereby certify that a true and correct courtesy copy of the foregoing will be forwarded to the below identified individual once the date and time for the hearing is set by the Court:

Justin R. Graham
General Counsel
Katy Independent School District
justinrgraham@katyisd.org



KEITH S. DONATI

CAUSE NO. _____

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VS.	§	
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KATY INDEPENDENT SCHOOL	§	
DISTRICT, KENNETH GREGORSKI, IN	§	FORT BEND COUNTY, TEXAS
HIS INDIVIDUAL AND OFFICIAL	§	
CAPACITY AS SUPERINTENDENT FOR	§	
KATY INDEPENDENT SCHOOL	§	
DISTRICT AND RICK HULL, IN HIS	§	
INDIVIDUAL AND OFFICIAL CAPACITY	§	
AS PRINCIPAL OF KATY HIGH SCHOOL	§	_____ JUDICIAL DISTRICT

AFFIDAVIT OF BRONSON MCCLELLAND

THE STATE OF TEXAS §
 COUNTY OF HARRIS §

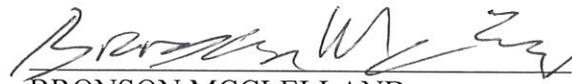
BEFORE ME, the undersigned authority, on this day personally appeared BRONSON MCCLELLAND, personally known to me to be a credible person of lawful age and qualified in all respects to make this affidavit, who, being by me duly sworn, on oath deposed and said:

1. My name is Bronson McClelland. I am 19 years of age. I have not been convicted of a felony. I have personal knowledge of the statements made in this Affidavit and they are all true and correct.
2. On September 17, 2020, I was summoned from my classroom by KISD and Katy High School representatives concerning an alleged discovery of illegal substances in my father’s motor vehicle parked in the parking lot at Katy High School. The police force for KISD called in a drug sniffing dog who allegedly determined there was illegal drugs inside of my father’s automobile. The vehicle was searched by KISD officers who removed a sample of something from the rear seat passenger side floorboard. Charges were brought against me by the Katy High School assistant principal in charge of twelfth grade students. I was charged with possession of marijuana. There are inconsistent statements in the official reports concerning whether I was actually accused of being in charge of tobacco and/or possession of marijuana.
3. On September 17, 2020, I learned that I was suspended from Katy High School and transferred to the KISD alternative school for 45 days. I was no longer permitted to participate in extracurricular activities or school events. I am a senior at Katy High School. I am scheduled to graduate at the end of December this year. As a result of the suspension

and transfer, I will not be allowed to finish my senior year in classes with my friends who I have been attending school with for many, many years. I will also miss out on participating in extracurricular activities, including sports, and will not be allowed to attend school functions or school activities. This will cause me to miss numerous social events and force me to miss the overall experience of being a senior in high school.

4. If the Court does not order KISD to rescind my suspension and transfer, I will suffer irreparable harm because I will never again be able to experience my senior year in high school. Additionally, I have no adequate remedy at law because I am only requesting at this time that I be allowed to finish my senior year at Katy High School and there is no legal remedy to get this time period back for me should I prevail on the merits of my claim. I believe that it is likely I will prevail on the merits of my claims because of KISD's policy. It states that in order for a student to be disciplined they must be in possession of marijuana as defined by state and federal law. This is described in the KISD Discipline Management Plan and Student Code of Conduct. In order for me to be suspended and transferred for allegedly being in possession of marijuana, state law requires that the alleged substance removed from my father's car must be proven to be marijuana and not legal hemp. The only way to properly test the sample is to conduct a test that will determine the amount of THC in the sample. KISD has already admitted it did not run this test and without this test they should not be able to suspend and transfer me. KISD has not proven I violated any policy or law.
5. I have exhausted all of my administrative remedies. This is another reason I have no adequate remedy at law left to me other than to request this Court order. I have never been charged with possession of marijuana by any police department or law enforcement division. I previously denied and continue to deny that the alleged substance found in my father's motor vehicle was my marijuana, or even marijuana at all. The items removed from my father's car actually belonged to my brother, who I was sharing the car with. My brother has already admitted to KISD that the items were his.

SIGNED this 12th day of November, 2020.


BRONSON MCCLELLAND

SWORN AND SUBSCRIBED TO BEFORE ME by BRONSON MCCLELLAND, on this the 12th day of November, 2020.




NOTARY PUBLIC, STATE OF TEXAS

CAUSE NO. _____

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VS.	§	
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KATY INDEPENDENT SCHOOL	§	
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CAPACITY AS SUPERINTENDENT FOR	§	
KATY INDEPENDENT SCHOOL	§	
DISTRICT AND RICK HULL, IN HIS	§	
INDIVIDUAL AND OFFICIAL CAPACITY	§	
AS PRINCIPAL OF KATY HIGH SCHOOL	§	_____ JUDICIAL DISTRICT

AFFIDAVIT OF COLBURN MCCLELLAND

THE STATE OF TEXAS §
 §
 COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared COLBURN MCCLELLAND, personally known to me to be a credible person of lawful age and qualified in all respects to make this affidavit, who, being by me duly sworn, on oath deposed and said:

1. My name is Colburn McClelland. I am over the age of 21. I have not been convicted of a felony. I have personal knowledge of the statements made in this Affidavit and they are all true and correct.
2. I am the father of Plaintiff, Bronson McClelland. I own the motor vehicle that he drove to Katy High School on September 17, 2020. My son Bronson shares that particular vehicle with his older brother, Walker. Both boys were using the vehicle interchangeably during all time periods relevant to the above-styled lawsuit.
3. On September 17, 2020, I received a telephone call that my son, Bronson, was being suspended and sent to the alternative school for 45 days for allegedly having possession of some type of substance in his car parked at the Katy High School. I was later able to obtain a copy of the Katy ISD Police Offense Report. There is an original report and a supplement. Both are dated September 17, 2020. The initial report indicates that a random sniff of vehicles in the fieldhouse parking lot by a drug detecting canine determined the presence of some unknown substance in or near my car. A search was conducted and according to the police report, an alleged substance was removed from the vehicle but the amount was not useable for charges. The report goes on to say that the matter will be referred to Katy Court for minor in possession of tobacco. The report goes on to say that

one of the police officers called to the scene went into the assistant principals office and was present when I was contacted on the telephone by the assistant principal, Ashley Darnell. At that time, the officer stated that in her professional opinion she did not believe the amount of "marijuana" was a useable amount in order to level any charges against Bronson. This is the same officer who later filled out a supplemental report and indicated she had tested the sample on September 21, 2020 and indicated that it turned up positive for THC. There was never any finding that the sample was in fact marijuana. I also received a copy of the Notification of Out of School Suspension report that is also dated September 17, 2020. This report was also prepared by Ashley Darnell. In this report, Ms. Darnell apparently determined that my son was being suspended for possession of marijuana even though the substance had never been tested to determine if it had enough THC to be marijuana. Attached to this report was a secondary document titled Notification of Mandatory Placement in a Disciplinary Alternative Education Program. I understand this to be basically the document that was used to transfer my son to the alternative school. On this form, it states that my son was charged with being in possession of marijuana *as defined by Chapter 481 of the Health and Safety Code*. This is the same Chapter that sets forth the standards for measuring THC to determine whether the substance is legal hemp or marijuana.

4. On September 18, 2020, a hearing was held on campus. The hearing was conducted by Defendant HULL. Questions were asked, documents were reviewed and testimony was taken. At the conclusion of the hearing, Dr. Hull did not make a ruling prior to everyone leaving. Later that night, I sent him an email asking him whether the substance found in my car was illegal marijuana or legal hemp (according to Texas state law). I did not receive an answer.
5. On September 21, 2020, Defendant HULL wrote me a letter regarding the hearing held on September 18, 2020 concerning whether my son Bronson was in possession of marijuana or any other controlled substance as defined by Chapter 481 of the Health and Safety Code. Defendant HULL went on to state that based on the evidence presented during the hearing that he made various findings, including the decision to suspend my son and transfer him to the alternative school. Of critical importance to me was his finding that KISD Police Department had tested the alleged substance removed from my motor vehicle on that same day (September 21, 2020) and that the substance came back as being positive for containing THC. What Defendant HULL did not acknowledge was that the test run by Katy ISD police was what is considered a field test. This type of test only determines whether THC was present in the sample. This type of test does not indicate the level of THC and cannot determine whether the THC in the sample is legal hemp or marijuana. However, Defendant HULL apparently used this test finding to decide that my son was in possession of marijuana on campus in Texas and therefore the punishment was required to be mandatory placement in the alternative school. Had KISD conducted a proper test on the substance, these legal proceedings would not be necessary. This would have precluded my son being suspended and transferred to the alternative school and would have prevented all of these problems that have brought me and my family to the courthouse. Moreover, someone from KISD, perhaps its general counsel or others working in the legal department, should have stepped forward and refused to allow KISD to suspend and transfer my son when they

knew or through some level of reasonable diligence should have known that KISD had failed to perform a proper test on the alleged substance removed from my motor vehicle that KISD claimed was marijuana. As will be demonstrated below, KISD finally did realize its mistake and admitted it in the letter dated September 28, 2020 written by Defendant GREGORSKI on KISD's letterhead.

6. On September 24, 2020, I hired the law firm of Donati Brashear to assist me and my family in addressing the issues in this matter, including our right to one additional appeal. The additional appeal was originally scheduled for September 29, 2020. My attorneys began investigating the matter and ultimately exchanged information with the general counsel for KISD. On September 28, 2020, my attorneys reported to me that Justin Graham, general counsel for KISD, told them that my son would never again step foot on the football field for Katy High School or any other school in KISD. My son's 45 day suspension would have lasted far enough into the fall to force him to miss most, if not all of what remained in the football season. My wife and I made a decision to relocate our family back to California to get away from KISD and the negativity surrounding my son's situation. I found a private school in California that would allow my son to transfer and remain eligible for extracurricular activities. The one caveat to my son maintaining his eligibility was that he had to not be transferring from a school to escape disciplinary issues. The matter with KISD was still on administrative appeal. We continued arguing that KISD had failed to properly test the alleged substance removed from my car on September 17, 2020 and in fact were also arguing that they had never tested the alleged sample at all. Defendant GREGORSKI, writing on the letterhead of KISD, wrote a letter dated September 28, 2020, where he admitted that ***"...the District did not test the substance to determine whether the required amount of THC was present that would have indicated the substance was in fact marijuana as prescribed by Texas law"***. Defendant GREGORSKI went on to say in the same letter that ***"...the discipline given to Bronson McClelland on September 17, 2020 is overturned and no disciplinary matters are pending."*** [emphasis added]. At the same time, we also received a Disciplinary Clearance form filled out by Defendant HULL indicating my son had never been placed on disciplinary probation.
7. Our efforts to move to California did not work out. We next decided to relocate our family to Manor, Texas. Again, this decision was predicated on Justin Graham's statements as set forth in paragraph 6 above. In order to transfer our children to another school in Texas, certain paperwork is required. In order for my son Bronson to be eligible to participate in extracurricular activities immediately upon transfer, we needed a certain UIL form identified as a Previous Athletic Participation Form (PAPF). This form was prepared by KISD officials and signed electronically by a Katy High School coach. In section III on page 2 of this form, KISD answered "no" to the following questions:

Was [Plaintiff] ever suspended or removed from your school athletic program?

Would [Plaintiff] be prohibited from participation in athletics had they not changed schools?

8. At this point, as of October 9, 2020, I now have a letter from KISD's superintendent, Defendant GREGORSKI, a UIL PAPF with an electronic signature from a Katy High School coach and a Disciplinary Clearance Form signed by Defendant HULL all indicating that there are no disciplinary proceedings pending against my son and that he has been cleared of the allegations resulting from the September 17, 2020 search of my motor vehicle. Of course, this includes the admission from KISD superintendent, Defendant GREGORSKI, that KISD failed to properly test the alleged substance removed from my motor vehicle and therefore had no evidence to support their allegation that my son was in possession of marijuana as indicated in the initial police report and related documents generated by KISD and Katy High School. Our efforts to move to Manor, Texas were stifled by UIL requirements related to establishing residency. At this point, we decided to return to Katy and re-enroll in Katy High School.
9. Despite the above, as soon as I enrolled my children back into Katy High School, my son was returned to the alternative school. We therefore invoked our right to participate in the final appeal hearing and KISD scheduled the hearing for November 6, 2020. We were informed that the hearing would be before three representatives randomly drawn from the other schools in the District.
10. On November 6, 2020, we attended the appeal hearing. We were only given 15 minutes to present our case. We also learned that morning that we would be presenting our case to three individuals who were not principals on their respective campuses. We also learned that Sherri Ashorn, the District Discipline Administrator for KISD would be acting as a guide for the three-person panel of KISD representatives and would be conducting the appeal hearing. We believed that Ms. Ashorn had a conflict of interest because she also answered directly to Justin Graham, the general counsel for KISD, who was representing KISD at the hearing. We presented our case and the District presented its case. On November 10, 2020, we received written notification from KISD that our appeal was unsuccessful. The three-person panel issued a letter stating that they determined that the possession of marijuana charge initiated against my son would stand because of alleged admissions by non-parties that there was marijuana in the car. They made this declaration despite the fact that they were informed that the substance removed from the car was never tested to determine if it was marijuana. Had KISD performed the appropriate tests and followed its own rules in investigating these types of matters, they would have determined that the alleged substance they removed from my motor vehicle on September 17, 2020, was in fact not marijuana but was instead legal hemp. This type of legal hemp can be purchased over the counter in a retail store in any neighborhood. The appeal panel made absolutely no mention of the fact that the alleged sample from my motor vehicle was never tested, nor did they make any reference to the letter dated September 28, 2020 written by Defendant GREGORSKI, KISD Superintendent that the discipline given to my son on September 17, 2020, was overturned and no disciplinary matters were pending.
11. It is inconceivable that the Superintendent for KISD could write a letter on KISD letterhead admitting KISD failed to follow its own rules and procedures and as a result overturning discipline actions concerning my son and then a three-person appeal panel made up of underlings from three KISD campuses could totally ignore his letter. The Superintendent's

letter drafted on KISD letterhead should be sufficient to close this matter. My son and my family have a right to rely on Defendant GREGORSKI's letter. KISD should have no standing to ignore his decision.

SIGNED this 12th day of November, 2020.


COLBURN MCCLELLAND

SWORN AND SUBSCRIBED TO BEFORE ME by COLBURN MCCLELLAND, on this the 12th day of November, 2020.




NOTARY PUBLIC, STATE OF TEXAS

CAUSE NO. _____

BRONSON MCCLELLAND	§	IN THE DISTRICT COURT OF
	§	
VS.	§	
	§	
KATY INDEPENDENT SCHOOL	§	
DISTRICT, KENNETH GREGORSKI, IN	§	FORT BEND COUNTY, TEXAS
HIS INDIVIDUAL AND OFFICIAL	§	
CAPACITY AS SUPERINTENDENT FOR	§	
KATY INDEPENDENT SCHOOL	§	
DISTRICT AND RICK HULL, IN HIS	§	
INDIVIDUAL AND OFFICIAL CAPACITY	§	
AS PRINCIPAL OF KATY HIGH SCHOOL	§	_____ JUDICIAL DISTRICT

AFFIDAVIT OF CHUCK BRAWNER

THE STATE OF TEXAS §
 §
 COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared CHUCK BRAWNER, personally known to me to be a credible person of lawful age and qualified in all respects to make this affidavit, who, being by me duly sworn, on oath deposed and said:

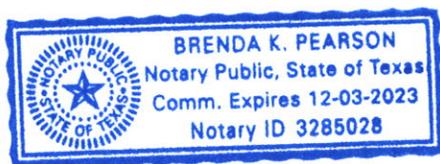
1. My name is Chuck Brawner. I am over the age of 21 years. I have not been convicted of a felony. I have personal knowledge of the statements made in this Affidavit and they are all true and correct.
2. I graduated from the Harris County Sheriff's Academy in 1971. In 1973, I began working for the Memorial Villages Police Department. During the early days of my employment, I initiated the use of canines to assist in drug detection. The purpose of this program was to help eradicate problems with drugs in the community and in the local schools. During the years 1973-1981, I was working the only drug detection dog in southeast Texas. I worked with Texas Department of Public Safety and Houston Police Department Narcotics Divisions. We recovered millions of dollars in drugs with the help of the canine program.
3. During these same years, I worked at Memorial High School as an extra job. I implemented the use of a canine drug dog at Memorial High School by obtaining contributions and funding from private citizens. The use of the canine drug dog was primarily for obtaining probable cause search warrants in order to open closed items such as cars, lockers, or other secured places.

4. In 1995 I took the job of Police Chief for the Spring Branch School District Police Department. I retired from this job in 2016. My retired Peace Officer License number is 20703. I am familiar with the test kits used by area law enforcement to determine the presence of THC in various items. I am aware that the garden variety test kit will not determine the amount or level of THC in any tested sample. The test kit will only determine whether the sampled product contains THC. A separate test must be completed in order to determine whether the THC level is sufficient enough to qualify the tested substance as marijuana as opposed to legally purchasable hemp.
5. I have learned that KISD never tested the substance it removed from Bronson McClelland's car to determine the level, if any, of THC contained in the substance. The failure of KISD to conduct this test to determine the THC level would leave KISD with no evidence that Bronson McClelland was in possession of marijuana on September 17, 2020. KISD accused Bronson McClelland of being in possession of marijuana in various reports dated between September 17, 2020 and September 21, 2020. In addition, I have been provided a copy of a letter dated September 28, 2020, whereby the Superintendent for KISD states that the District did not test the substance to determine whether it was legal hemp or illegal marijuana. Instead, KISD simply decided on its own that the substance must be marijuana and suspended and transferred Bronson McClelland.
6. In addition to the letter signed on September 28, 2020 by the KISD Superintendent, and addressed to Colburn McClelland, I have also reviewed the Supplement Case Report from KISD Police dated September 17, 2020 and the Notification of Out-of-School Suspension (OSS) dated September 17, 2020. Copies of these two documents together with the letter from the KISD Superintendent identified in paragraph 5 above are indicative of KISD's inconsistent identification of the sample allegedly collected from Bronson McClelland's back passenger side floorboard of the car he drove to school on September 17, 2020. These three documents are attached to Plaintiff's Original Petition as Exhibits 1, 2 and 7. I am also aware that the Texas Association of School Boards published an article addressing Legal Questions About CBD and Marijuana in School in August of 2019. This article distinguished the difference between marijuana and hemp by utilizing the amount of THC found in a referenced sample. Hemp is defined by law as the plant Cannabis sativa L and any part of that plant with a THC concentration of no more than 0.3 percent. If the THC content is above 0.3 percent, then the substance is considered to be marijuana and an illegal drug.

SIGNED this 12th day of November, 2020.


CHUCK BRAWNER

SWORN AND SUBSCRIBED TO BEFORE ME by CHUCK BRAWNER, on this the 12th day of November, 2020.




NOTARY PUBLIC, STATE OF TEXAS



Katy ISD
Police
OFFENSE REPORT
20370 Franz Road, Katy, TX, 77449
PHONE: 281-237-4000 FAX: 281-675-7030 police@katyisd.org

LOCATION OF OCCURRENCE / ADDRESS KATY Sr. HIGH, FIELDHOUSE PARKING LOT, 6331 HIGHWAY BLVD. KATY, TX 77494, Fort Bend	DATE / TIME REPORTED 09/17/2020 09:11	CASE NO. 20-1165
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CODE SECTION Drug Interdiction Duty Tobacco Possession	CRIME Drug Interdiction Duty Possession of Tobacco by Minor	CLASSIFICATION CANINE TOBACCO	LOSS 0 0	RECOVERY 0 0
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FROM: DATE/TIME 09/17/2020 09:11	TO: DATE/TIME 09/17/2020 11:00	APPROVED YES	CASE STATUS CLEARED	RELATED AGENCY	RELATED AGENCY NUMBER
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ITEMS IN REPORT

<input checked="" type="checkbox"/> SUPPLEMENT	<input checked="" type="checkbox"/> PICTURE/IMAGES
<input type="checkbox"/> FOLLOW UP	<input checked="" type="checkbox"/> PROPERTY/EVIDENCE

CATEGORIES

<input type="checkbox"/> ALCOHOL RELATED	<input type="checkbox"/> GROUP INVOLVED	<input type="checkbox"/> DOMESTIC VIOLENCE	<input type="checkbox"/> INVESTIGATOR	<input checked="" type="checkbox"/> SUPERVISOR
<input type="checkbox"/> TRAFFIC RELATED	<input type="checkbox"/> WEAPON INVOLVED	<input type="checkbox"/> SENIOR CITIZEN	<input type="checkbox"/> DISTRICT ATTORNEY	<input type="checkbox"/> JUVENILE PROBATION
<input checked="" type="checkbox"/> DRUGS INVOLVED	<input type="checkbox"/> ARREST OCCURED	<input checked="" type="checkbox"/> COURTS		

INV COMP	NAME: TEXAS, STATE	SUFFIX	RACE X	ETHNICITY U	SEX U	AGE	DOB	HT	WT	HAIR	EYE
SSN	DRIVER'S LIC. NO.		STUDENT ID			TYPE UNKNOWN					
ADDRESS TYPE Work	STREET NUMBER 20370	STREET NAME Franz Road	SUITE NUMBER	CITY Katy	STATE TX	ZIP 77449					
PHONES Work: 281-237-4000;											

INV OFF	NAME: MARTINEZ, JEFFERY	SUFFIX	RACE W	ETHNICITY H	SEX M	AGE	DOB	HT	WT	HAIR	EYE
SSN	DRIVER'S LIC. NO.		STUDENT ID			TYPE EMPL					
ADDRESS TYPE Work	STREET NUMBER 20370	STREET NAME FRANZ RD	SUITE NUMBER	CITY KATY	STATE TX	ZIP 77449					
PHONES Work: 281-237-4000;											

INV OFF	NAME: PICKETT, RYAN ELYOT	SUFFIX	RACE B	ETHNICITY BLACK	SEX M	AGE	DOB	HT	WT	HAIR	EYE
SSN	DRIVER'S LIC. NO.		STUDENT ID			TYPE EMPL					
ADDRESS TYPE Work	STREET NUMBER 20370	STREET NAME FRANZ ROAD	SUITE NUMBER	CITY KATY	STATE TX	ZIP 77449					
PHONES Work: 281-237-4000;											

INV OTHER	NAME: DARNELL, ASHLY TARDIF	SUFFIX	RACE W	ETHNICITY WHITE	SEX F	AGE 42	DOB	HT 5.0	WT 130	HAIR BRO	EYE BRO
SSN	DRIVER'S LIC. NO.		STUDENT ID			TYPE EMPL					
ADDRESS TYPE Work	STREET NUMBER 6331	STREET NAME Highway Blvd	SUITE NUMBER	CITY Katy	STATE TX	ZIP 77494					
PHONES Work: 281-237-6714;											

INV OTHER	NAME: KNAPP, BRANDON A	SUFFIX	RACE W	ETHNICITY WHITE	SEX M	AGE 47	DOB	HT 6.0	WT 190	HAIR BLN	EYE BRO
SSN	DRIVER'S LIC. NO.		STUDENT ID K0101130			TYPE EMPL					
ADDRESS TYPE Work	STREET NUMBER 6331	STREET NAME Highway Blvd	SUITE NUMBER	CITY Katy	STATE TX	ZIP 77494					
PHONES Work: 281-237-6700;											

INV OTHER	NAME: WELLS, ANGELA RUTH	SUFFIX	RACE W	ETHNICITY WHITE	SEX F	AGE 55	DOB	HT 5.4	WT 170	HAIR BRO	EYE BRO
SSN 415-33-4861	DRIVER'S LIC. NO.		STUDENT ID			TYPE EMPL					
ADDRESS TYPE Work	STREET NUMBER 6331	STREET NAME Highway Blvd	SUITE NUMBER	CITY Katy	STATE TX	ZIP 77494					

EXHIBIT 1

REPORTING OFFICER FULGENCIO, STEPHANIE	REVIEWED BY NORSWORTHY, JOHN	APPROVAL DATE 09/21/2020	
SIGNATURES	PRINT DATE AND TIME 09/28/2020 09:28	PRINTED BY TABOR, KEVIN	PAGE NO. 1 of 4



Katy ISD
Police
OFFENSE REPORT
20370 Franz Road, Katy, TX, 77449
PHONE: 281-237-4000 FAX: 281-675-7030 police@katyisd.org

LOCATION OF OCCURRENCE / ADDRESS KATY Sr. HIGH, FIELDHOUSE PARKING LOT, 6331 HIGHWAY BLVD. KATY, TX 77494, Fort Bend	DATE / TIME REPORTED 09/17/2020 09:11	CASE NO. 20-1165
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PHONES
Home: 281-392-4163;

INV SUSP	NAME: BOWLING, SHEPHERD GRAHAM	SUFFIX	RACE W	ETHNICITY WHITE	SEX M	AGE 18	DOB [REDACTED]	HT 6.0	WT 175	HAIR BRO	EYE BRO
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SSN	DRIVER'S LIC. NO. [REDACTED]	STUDENT ID	TYPE STU
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ADDRESS TYPE Home	STREET NUMBER	STREET NAME	SUITE NUMBER	CITY	STATE	ZIP
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PHONES
Home: 281-693-2322;

VEHICLE INVOLVEMENT							
YR 2009	MAKE Mitsubishi	MODEL GALANT	STYLE 4T	COLOR SIL	LICENSE BL5N336	ST TX	EXPIRES 12/21/2020

ADDITIONAL	VIN 4A3AB36F39E015407
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NCIC INFORMATION				
DATE ENTERED	ENTERED BY	DATE CLEARED	CLEARED BY	DISPOSITION

INV SUSP	NAME: MCCLELLAND, BRONSON KETCHELL	SUFFIX	RACE W	ETHNICITY WHITE	SEX M	AGE 18	DOB [REDACTED]	HT 6.1	WT 210	HAIR BRO	EYE BRO
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SSN 637-78-3574	DRIVER'S LIC. NO. [REDACTED]	STUDENT ID	TYPE STU
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ADDRESS TYPE Home	STREET NUMBER	STREET NAME	SUITE NUMBER	CITY	STATE	ZIP
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PHONES
Home: 409-781-4125;

VEHICLE INVOLVEMENT							
YR 2013	MAKE Toyota	MODEL LAND CRUISER	STYLE 4D	COLOR BLK	LICENSE DVR7518	ST TX	EXPIRES 12/21/2020

ADDITIONAL	VIN JTMHY7AJ9D4013260
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NCIC INFORMATION				
DATE ENTERED	ENTERED BY	DATE CLEARED	CLEARED BY	DISPOSITION

SYNOPSIS
ON THIS DATE AND TIME, CANINE CRUZ WAS DEPLOYED AT KATY HIGH SCHOOL PARKING LOT TO CONDUCT A RANDOM SNIFF OF VEHICLES IN THE FIELD HOUSE PARKING LOT. CANINE CRUZ CAME TO A FINAL RESPONSE. AMOUNT WAS NOT USABLE FOR CHARGES. WILL BE REFERRED TO KATY COURT FOR MINOR IN POSS OF TOBACCO.

NARRATIVE
INTRODUCTION:

On Thursday, September 17, 2020, I Officer S. Fulgencio, arrived at Katy High School to do a canine deployment on random vehicles in the parking lots at 0909 hours.

SCENE SUMMARY:

Katy High School (KHS) is located at 6331 Hwy Blvd, Katy, TX 77494, in Fort Bend County. The scene took place in the field house parking lot. Canine Cruz is certified in detecting narcotic odors such as, Methamphetamine, Cocaine, Heroin and Marijuana.

NARRATIVE:

REPORTING OFFICER FULGENCIO, STEPHANIE	REVIEWED BY NORSWORTHY, JOHN	APPROVAL DATE 09/21/2020
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SIGNATURES	PRINT DATE AND TIME 09/28/2020 09:28	PRINTED BY TABOR, KEVIN	PAGE NO. 2 of 4
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At approximately 0911 hours, I arrived on scene along with campus Officer J. Martinez, Officer R. Pickett and Associate Principal (AP) B Knapp. I checked for wind current and at this time then, I removed Canine Cruz from my patrol unit. I gave Canine Cruz his command to "sniff" and he began to work. Canine Cruz sniffed several cars before focusing on a 4-door silver Mitsubishi Galant bearing TX license plate (BL5N336). Canine Cruz sniffed the driver's side and pressed his nose on the seams of the door. He took a deep breath through his nose keeping his mouth closed and came to a final response at 0916 hours. Officer Martinez contacted Security Guard A Wells over the school radio and advised her of the name of the return. Wells found a student with that last name and brought him to the scene along with his belongings.

At this time, a student by the name of Shepherd Bowling advised he was the driver of this vehicle. I advised Shepherd for my reason of searching his vehicle. Shepherd understood and handed me his car keys. Shepherd stood patiently by Wells and Officer Pickett. We completed our search and no narcotics were found at this time. I asked Shepherd if he had any narcotics at any point in time inside this vehicle. Shepherd advised me that he never had any type of narcotics in his vehicle. Shepherd said maybe it was his sweaty clothes from practice. I advised that Canine Cruz would not alert on anything else besides narcotic odor. Shepherd was released to AP Knapp and Wells to go back to class without any incidents. Shepherd walked away with his phone in hand.

I continued my deployment and Canine Cruz was again deployed to sniff vehicles. Canine Cruz was checking a white car when he pulled me hard and fast and dragged me towards a black vehicle. Canine Cruz began to inhale loudly as he sniffed the underside of a Toyota Land Cruiser bearing TX license plate (DVR7518). Canine Cruz took a deep breath on the rear passenger side of the vehicle, pawed at the door and came to a final response of a "sit" at 0942 hours. Canine Cruz circled the vehicle sniffing it. I walked around a vehicle and again Canine Cruz pulled me to the black land cruiser once again. Officer Martinez stated he believed he knew a student that drove a vehicle like this and contacted Wells over the school radio. We confirmed the parking sticker matched a student at KHS identified as Bronson Ketchell McClelland.

Bronson arrived on scene and I explained my reason for being here today. I asked him if he had any knowledge of narcotics being inside his vehicle. He advised me that his older brother totaled his car and shared this one back and forth. Bronson also stated his brother smoked marijuana. I asked Bronson if he knew if his brother smoked inside this vehicle but he was unable to provide an answer because he wasn't sure. I told Bronson I was going to search his vehicle at this point and asked him for his keys. Bronson complied and stepped away so I could continue my search. Officer Martinez assisted me in doing so and we immediately got an odor of marijuana emitting from this vehicle. I found multiple empty wrappers of cigarillo tobacco products mainly in the driver's side door panel. These cigarillos are usually used as a wrap to fill with marijuana and smoke. This is typically called a "blunt". Officer Martinez found several empty JUUL pods in the center console and two electronic tobacco devices along with his wallet and license. A pack of ZIG ZAG rolling papers were also found. These papers are usually used to fill with marijuana and smoke as a

REPORTING OFFICER FULGENCIO, STEPHANIE	REVIEWED BY NORSWORTHY, JOHN	APPROVAL DATE 09/21/2020	
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LOCATION OF OCCURRENCE / ADDRESS KATY Sr. HIGH, FIELDHOUSE PARKING LOT, 6331 HIGHWAY BLVD. KATY, TX 77494, Fort Bend	DATE / TIME REPORTED 09/17/2020 09:11	CASE NO. 20-1165
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"joint". Officer Pickett checked the back seat when he found two small nuggets of a green leafy substance on the floor board. I took pictures of all this as I had my body camera recording. I retrieved all of my evidence and placed the narcotic in an evidence envelop. I completed my search and told AP Knapp and AP A. Darnell who was now on scene about my findings. I placed all other items in a plastic bag and presented it to AP Darnell. Based on my law enforcement experience, I knew the green leafy substance was marijuana. I weighed it and it came out to be less than 0.1 grams on my digital scale. At this time I had to determine whether it was a usable amount or not. I told AP Darnell I would meet her and Bronson in her office with a property form for the JUUL products and to explain what would happen next. I gave Bronson his keys back and he was released to AP Darnell.

Officer Martinez and I left the scene at this time and went to AP Darnell's office. In my professional opinion, I did not believe this amount of marijuana to be a usable amount in order to charge Bronson. I told Bronson that I was not seeking charges, however he still had possession regardless of his brother taking ownership because of chain of custody. AP Darnell advised me that dad wanted to speak to me. AP Darnell put me on speaker phone with Mr. McClelland and I addressed this incident. I explained everything that occurred and he understood why I did the search and what I found. I explained to him why I was not charging Bronson but the school had a different consequence than mine. I also explained the items that Bronson had were tobacco related which he could not possess since he was 18 and the legal age changed to 21, September of 2019 in Texas. He requested to speak to AP Darnell in private at this time, so I left location along with my signed property sheet.

At this time I left KHS and went to the Law Enforcement Center to weigh and package my evidence. I used a triple beam scale and obtained a total weight of 0.04 grams. I packaged the contraband and submitted it in locker #005. I uploaded my body camera video and submitted pictures. A citation #46238 was issued to Bronson for possession of tobacco by a minor.

ATTACHMENTS:
Body camera videos
Pictures
Returns
Property sheet
Citation #46238

CASE STATUS: Closed

REPORTING OFFICER FULGENCIO, STEPHANIE	REVIEWED BY NORSWORTHY, JOHN	APPROVAL DATE 09/21/2020	
SIGNATURES	PRINT DATE AND TIME 09/28/2020 09:28	PRINTED BY TABOR, KEVIN	PAGE NO. 4 of 4



Katy ISD

Police

Supplement Case Report

20370 Franz Road, Katy, TX, 77449

PHONE: 281-237-4000 FAX: 281-675-7030 police@katyisd.org

Case No.

20-1165

Location of Occurrence / Address

KATY Sr. HIGH/FIELDHOUSE PARKING LOT/6331 HIGHWAY BLVD., Katy, TX 77493

Cad No.

20-09-17-096562

Date and Time Reported

09/17/2020 09:11

CODE SECTION

CRIME DESCRIPTION

Drug Interdiction C Drug Interdiction Duty

Tobacco Possessio Possession of Tobacco by Minor

Supplement Narrative

CLASSIFICATION

CANINE

TOBACCO

On 9/17/202 around 0911 hours, I assisted Officer S. Fulgencio in a K9 Deployment at Katy High School.

Katy High School is a multi-story brick building located at 6331 Highway Blvd Katy, TX 77494 in Fort Bend County.

Officer S. Fulgencio arrived on campus for a K9 Deployment and Assistant Principal Brandon Knapp requested it be done in the Field House parking lot. AP Knapp, Officer S. Fulgencio, Officer Pickett and myself all went to the field house parking lot. Officer S. Fulgencio conducted her K9 deployment and stated K9 Cruz alerted on a Mitsubishi Four door car with Texas LP# BL5N336 in Parking Spot 394 at 0916 hours. I went on campus radio and request Secretary Toni Wysong who keeps track of the student parking to identify which student the vehicle belonged to. Toni emailed me and the vehicle belonged to Shepard Bowling. I then contact Security Guard Angela Wells to get Shepard from class and bring him to his vehicle. A short time later Shepard arrived and his person and vehicle were searched. No contraband was located in his vehicle or on his person. Shepard was then released to go back to class.

Officer S. Fulgencio then continued with her K9 deployment and told me that K9 Cruz alerted on a Toyota Land Cruiser with Texas LP DVR7518 in Parking Spot 575 at 0942 hours. I was familiar with this vehicle and believed it belonged to student Bronson McClelland which was confirmed by dispatch and school parking records. I then contacted Security Guard Angela Wells to get Bronson from class and bring him to the parking lot. While we were waiting for Bronson his Assistant Principal Ashly Darnell arrived in the parking lot. Bronson arrived and was told what had occurred and he handed his car keys to Officer Fulgencio and we began to search the vehicle. Upon opening the vehicle door a strong odor of marijuana was present in the vehicle. I searched the center compartment of the front seating area and, I located a wallet containing a Texas Driver's license for Bronson McClelland as well as another identification for another person not Bronson. This Identification was given to Officer S. Fulgencio during the search. In the center compartment I located multiple used electronic cigarette cartridges as well as a couple of electronic cigarettes and Zig Zag brand "hemp" cigarette papers. All of the items were given to Officer. S Fulgencio so they may be collected for the case. I then continued to search the remainder of the car and found no additional contraband.

Officer S. Fulgencio explained the situation to Bronson and he was walked to the Senior Principals office along with AP Knapp and AP Darnell. At 1051 hours Officer S. Fulgencio and I went to the Senior office to meet with Bronson and the AP's. In the office Bronson and his father via phone was advised of the situation and what action Officer S. Fulgencio will take. Once they were informed of the situation Officer. S Fulgencio and I left the office to work on this case.

SUPPLEMENT CLOSED

Reporting Officer

MARTINEZ, JEFFREY

Supplement Date and Time Reported

09/17/2020 12:17

Reviewed By

NORSWORTHY, JOHN

Approval Date and Time

09/21/2020 09:42

Signatures

Print Date and Time

09/28/2020 09:28

Printed By

TABOR, KEVIN

Page No.

1 of 3



Katy ISD

Police

Supplement Case Report

20370 Franz Road, Katy, TX, 77449

PHONE: 281-237-4000 FAX: 281-675-7030 police@katyisd.org

		Case No.	20-1165
Location of Occurrence / Address		Cad No.	Date and Time Reported
KATY Sr. HIGH/FIELDHOUSE PARKING LOT/6331 HIGHWAY BLVD., Katy, TX 77493		20-09-17-096562	09/17/2020 09:11
CODE SECTION	CRIME DESCRIPTION	CLASSIFICATION	
Drug Interdiction C	Drug Interdiction Duty	CANINE	
Tobacco Possessio	Possession of Tobacco by Minor	TOBACCO	
Body Cam footage uploaded to case.			
Reporting Officer	Supplement Date and Time Reported	Reviewed By	Approval Date and Time
MARTINEZ, JEFFREY	09/17/2020 12:17	NORSWORTHY, JOHN	09/21/2020 09:42
Signatures	Print Date and Time	Printed By	Page No.
	09/28/2020 09:28	TABOR, KEVIN	2 of 3



Katy ISD
Police
Supplement Case Report
20370 Franz Road, Katy, TX, 77449
PHONE: 281-237-4000 FAX: 281-675-7030 police@katyisd.org

Case No.
20-1165

Date and Time Reported
09/17/2020 09:11

Location of Occurrence / Address
KATY Sr. HIGH/FIELDHOUSE PARKING LOT/6331 HIGHWAY BLVD., Katy, TX 77493

Cad No.
20-09-17-096562

CODE SECTION CRIME DESCRIPTION
Drug Interdiction C Drug Interdiction Duty
Tobacco Possessi Possession of Tobacco by Minor
Supplement Narrative

CLASSIFICATION
CANINE
TOBACCO

On Monday, 09/21/2020, I, Officer S. Fulgencio, was advised to retrieve the evidence from Detective Torres stored in evidence. I was advised to take a sample of the green leafy substance and test it with the (909 KN Reagent) test kit in order to prove that THC was present in the green leafy substance recovered from defendant's vehicle.

At approximately 1030 hours, I turned on my body camera and demonstrated the evidence bag along with the test kit. I checked the labels and opened the evidence bag. I then recovered a small amount of the green leafy substance from the evidence bag and dropped it inside the test kit. The testing fluid immediately transitioned into a bright red color, indicating a positive presence of THC. This was in fact Marijuana.

CASE STATUS: Closed

Reporting Officer
FULGENCIO, STEPHANIE

Supplement Date and Time Reported
09/28/2020 09:08

Reviewed By
TABOR, KEVIN

Approval Date and Time
09/28/2020 09:27

Signatures

Print Date and Time
09/28/2020 09:28

Printed By
TABOR, KEVIN

Page No.
3 of 3

Katy Independent School District
Notification of Out-of-School Suspension (OSS)

Student's Name Bronson McClelland		Student ID K1411995	Grade Level 12	Home Campus Katy High School
Date of Violation 9/17/2020	Administrator/Teacher A Darnell		Date of Report 9/17/2020	

This notice is to inform you that the above-named student has been removed from his/her regular classroom assignment and has been assigned an out-of-school suspension (OSS) as indicated below. This placement is for engaging in conduct that violates the District's Board-approved *Discipline Management Plan and Student Code of Conduct* and for which out-of-school suspension is an approved disciplinary consequence. The district shall ensure a student receives access to coursework for foundation curriculum courses while the student is placed in in-school or out-of-school suspension. The student will be given an opportunity to make up assignments and tests missed following his/her OSS.

Specific Disciplinary Infraction(s) Level IV: Possession of marijuana - found in vehicle	
Number of Days Suspended 3	First Day of Suspension 9/17/2020

- A copy of the "Discipline Notice" is attached to this notice for your reference.
- An investigation is still in progress and additional disciplinary consequences may be assigned at a later date.
- Additional paperwork attached: DAEP Recommendation JJAEP Recommendation

PROHIBITIONS/RESTRICTIONS

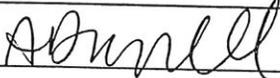
Students who are assigned out-of-school suspension are prohibited from being on school grounds or from attending or participating in school-sponsored or school-related activities, including practice, on or off school property until the day following the last day of suspension. Violation of one of these prohibitions may result in the student being arrested for or charged with trespassing. Absences due to suspension are considered excused absences under the compulsory attendance statute; however, the OSS assignment does count as an absence under the attendance for credit statute which requires a student to be present 90% of the days a class is offered in order to receive credit or be considered for promotion. Additional penalties may be imposed by sponsors of extracurricular groups/organizations in accordance with established guidelines. You are responsible for providing supervision of the student during the period of suspension.

DUE PROCESS

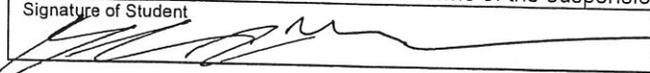
Prior to taking disciplinary action, an informal conference was conducted by the principal or other appropriate administrator at which your child was given an opportunity to tell his/her side of the story, an explanation of the disciplinary infraction, oral notice of the reason for the OSS assignment, and an opportunity to respond to the removal. Based upon the evidence presented, it was determined that your child engaged in this offense or there was sufficient evidence for the removal pending further investigation (as indicated above).

APPEAL

Chapter 37 of the *Texas Education Code* does not give parents and/or students any right to appeal an out-of-school suspension. While there is no disciplinary appeal for an out-of-school suspension, parental questions, concerns, or complaints regarding issues that were ancillary to the consequence should be addressed informally with the teacher, assistant principal, or campus principal, as appropriate. For example, a concern or complaint might allege that proper procedures were not followed. If you plan to bring a representative to the conference, please inform the administrator at the time you call to schedule the conference; failure to do so may result in the need to reschedule so that equal representation may be obtained. If these conferences are not satisfactory, parents may follow the formal concern or complaint process in accordance with Board Policy FNG (LOCAL). The FNG process may not be used to overturn a disciplinary consequence.

Name of Administrator Ashly Darnell		Date 9/17/2020
--	--	-------------------

My signature indicates I understand the terms of the suspension and restrictions as specified above.

Signature of Student 	Signature of Parent via phone
---	----------------------------------

Two (2) Copies to: Parent/Guardian; Parent/guardian Return (One copy to Admin. from after Sign)
 Copy to: Designated Administrator
 Attendance Clerk



Katy Independent School District
 6301 South Stadium Lane Katy, Texas 77494
 Phone: (281) 396-2218 Fax: (281) 644-1831

Order of Removal to a Disciplinary Alternative Education Program

STUDENT INFORMATION					
Student's Name Bronson McClelland			Date of Birth [REDACTED]	Student ID K1411995	
Home Campus Katy High School			Grade Level 12		
1. Guardian's Name: (Last, First, MI) Colburn McClelland		Home Phone 409-781-4125		Work Phone	
2. Guardian's Name: (Last, First, MI) Angie McClelland		Home Phone 409-781-4046		Work Phone	
Street Address [REDACTED]		City [REDACTED]	State [REDACTED]	Zip [REDACTED]	County [REDACTED]

OFFENSE INFORMATION
Specific Disciplinary Infraction(s) Level IV: Possession of marijuana - found in vehicle
Placement based on: <input type="checkbox"/> Conduct violating the student code of conduct (permissive) <input type="checkbox"/> Conduct for which a student may be removed from class under Teacher Removal provisions <input checked="" type="checkbox"/> Conduct for which placement in a DAEP is required (mandatory) ← <input type="checkbox"/> Continuation of placement from another school or district <input type="checkbox"/> Permissive or <input type="checkbox"/> Mandatory
Were Katy ISD Police Contacted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, are non-school disciplinary actions anticipated? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
How was the offense classified by the law enforcement officer? <input type="checkbox"/> Not classified <input checked="" type="checkbox"/> Misdemeanor ← <input checked="" type="checkbox"/> Report filed at present time only <input type="checkbox"/> Referred to Court <input type="checkbox"/> Ticketed <input type="checkbox"/> Arrested <input type="checkbox"/> Victim did not press charges <input type="checkbox"/> Felony <input type="checkbox"/> Report filed at present time only <input type="checkbox"/> Ticketed <input type="checkbox"/> Arrested <input type="checkbox"/> Victim did not press charges

PLACEMENT INFORMATION		
Appropriate due process (mandatory conference) has been completed: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Campus Assigned: <input type="checkbox"/> On-Campus DAEP (Elementary, Below 4 th Grade) <input checked="" type="checkbox"/> OAC (4 th and 5 th Grade Elementary or Secondary)		
Length of Assignment (Days): 45	First Day of OAC Assignment: 9/29/2020	Students will be returned to their home campus at the end of the three-week grading cycle after they complete the assigned number of days.
Does the placement extend beyond the end of the school year? <input type="checkbox"/>	<input checked="" type="checkbox"/> Yes (If yes, continue to the right.) <input type="checkbox"/> No	If "Yes," as the board's designee it has been determined: <input type="checkbox"/> (1) the student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or to another individual; or <input checked="" type="checkbox"/> (2) the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct.
Name of Administrator Ashly Darnell		Administrator's Phone: 281-237-6714
Date faxed to Juvenile Court		Faxed by (initials)

Original: Parent
 Copy to: Home Campus Principal
 OAC Principal/Elementary DAEP Principal
 District Discipline Administrator
 Authorized Officer of the Juvenile Court (if extends beyond 60 days or end of next grading period)
 ADA/Registrar – File in PR folder until completion of assignment

PEIMS DATA ENTRY		
Date	Incident #/ID	Initials

Administrative Action. As the Board's designee, I met with the student named to explain the alleged misconduct and offer an opportunity for him/her to tell his/her version of the incident and to respond to the charges. Based on my investigation, I have determined that he/she has engaged in the conduct circled or underlined. A period of out-of-school suspension was initiated (separate notice provided) so that transportation can be arranged and an intake conference can be conducted at the Opportunity Awareness Center (OAC). The parent or adult student must contact the OAC at 281-237-6350 to schedule an intake conference to enroll at the OAC. Following the suspension or unless the parent wishes to transport temporarily, the student is hereby ordered to be removed from class and placed at the OAC as follows:

First Day of OAC Assignment	9/29/2020	Length of Assignment (Days)	45
Conference/ Review	<input checked="" type="checkbox"/> Telephone Conference Conducted	<input type="checkbox"/> Telephone Conference Attempted (continue efforts to contact)	
	<input checked="" type="checkbox"/> Conference Scheduled: Date - 9/17/2020	Time - 10:30	Place - via phone

While placements at the OAC are for a specified period of time, students must also successfully complete the OAC's behavior expectation levels before they are eligible to return to the home campus. Likewise, students who successfully complete the behavior expectation levels and meet other criteria based on good behavior may be recommended for return to the home campus early. (The behavior expectation levels and the early release option will be explained to the student/parent during the intake conference.) Students who successfully complete the requirements for early release and obtain approval will proceed with a building change back to their home campus.

Conference/Review. Not later than the third class day after a student is removed from class, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, a parent or guardian of the student, the teacher removing the student (if appropriate), and the student (unless the parent chooses to represent the student). At the conference, the student is given an opportunity to tell his/her side of the story, an explanation of the disciplinary infraction, oral notice of the reason for the placement in the DAEP, and opportunity to respond to the reason(s) for the removal. The conference has been conducted or is scheduled, as noted above, unless rescheduled by mutual agreement. If valid attempts to notify the required persons' attendance fail, the conference will be held whether or not each requested person is in attendance. The student may not be returned to class pending this conference.

Hearing. Pursuant to the recommendation to place the student in a DAEP for a period that extends beyond 60 days or the end of the next grading period, whichever is earlier, the student is entitled to a hearing at the campus-level. Parents, desiring such a hearing, must contact the appropriate grade-level principal immediately to set a mutually agreed upon time for the hearing. The student may be represented at the hearing by a parent, guardian, or other adult. If a hearing is not requested within three (3) business days, the right to a hearing is waived. If the student will be represented at the hearing by an attorney, the District must be notified in advance of the hearing so that the administration can obtain equal representation. Failure to do so will result in the need to reschedule the hearing.

Appeal/Complaint. If the parent/student does not agree with the campus-level hearing decision, the parent/student may request an appeal. The parent/student must submit a written request for appeal to the District Discipline Administrator within three (3) business days after receipt of the campus-level hearing decision or the right to appeal is waived. The District Discipline Administrator will schedule an informal District-level hearing committee to hear the appeal. The proceeding will be recorded to provide an accurate record of the proceedings. The student will be placed in the appropriate DAEP pending the appeal. The decision of the District-level hearing committee is final; however, parental questions, concerns, or complaints regarding issues that were ancillary to the consequence should be addressed informally with the teacher, assistant principal, or campus principal, as appropriate. For example, a concern or complaint might allege that proper procedures were not followed. If these conferences are not satisfactory, parents may follow the formal concern or complaint process in accordance with Board Policy FNG (LOCAL). This policy may be reviewed on the campus or on the District's website. The FNG process may not be used to overturn the disciplinary consequence.

Order of Removal and 120-Day Review. A copy of the written order placing the student at the OAC is enclosed. When a student is removed to a DAEP for misconduct for which the penalty is mandatory removal and the term of removal extends beyond 60 days or the end of the next grading period, whichever is earlier, the Board or its designee is required to forward a copy of the student's written placement order not later than the second business day after the hearing to the appropriate authorized officer of the juvenile court. If a student is placed at the OAC for a period of time that exceeds 120 days, the student is entitled to a review of his/her status at intervals not to exceed 120 days. At this review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the general education classroom or home campus. OAC personnel will notify you of the review date.

Coursework/Assessment. Although the District is only required to provide core coursework (English language arts, mathematics, science, and history) in the DAEP setting, the OAC does offer many elective options. The District is required to offer a student placed in a DAEP an opportunity to complete coursework necessary to stay on track for graduation before the beginning of the next school year. Students in grades 8-12 assigned to the OAC will be offered summer school opportunities at the OAC free of charge to earn or regain credit. Students are permitted to complete any foundation curriculum course in which the student was enrolled at the time of removal to the OAC before the beginning of the next school year. Upon approval, courses may be completed through correspondence courses, distance learning opportunities, or summer school, at the expense of the District. If the student's OAC assignment extends into the next school year and the student/parent opts to utilize the regular summer school program at their own expense, the student must submit an application to request approval. Additionally, students who are assigned to a DAEP for a period of 90 school days or longer must be administered an assessment initially upon placement in the OAC and subsequently on the date of the student's completion at the OAC (or as near that date as possible). The assessment instrument dictated by TEC §37.0082 is required to assess at least a student's basic skills in reading and mathematics.

Prohibitions/Restrictions. Students assigned to the OAC are prohibited from being on school grounds at the home campus or from attending or participating in school-sponsored or school-related activities on or off school property. Violation to one of these prohibitions may result in the student being arrested for or charged with trespassing. Additional penalties may be imposed by sponsors of extracurricular groups/organizations in accordance with established guidelines.

Notice to Staff. A school district must inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in an offense requiring placement in a DAEP of the student's misconduct. An educator is required by law to keep this information confidential. The State Board of Educator Certification may revoke or suspend the certification of an educator who intentionally violates a student's confidentiality.

Name of Administrator	Ashly Darnell	Date	9/17/2020
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Copy to: OAC Registrar
OAC Assistant Principal
Home Campus Principal

Katy Independent School District
Notification of Mandatory Placement in a Disciplinary Alternative Education Program (DAEP)
 (EXTENDS Beyond 60 Days Or The End Of The Next Grading Period, Whichever Is Earlier) - Page 1 of 2

Student's Name Bronson McClelland		Grade Level 12	Home Campus Katy High School
Date of Violation 9/17/2020	Referring Administrator Ashly Darnell	Date of Report: 9/17/2020	

This notice is to inform you that the above-named student has been removed from his/her regular classroom assignment and is being recommended for placement in a DAEP. According to state law, a student shall be removed from class and placed in a DAEP if the student:

- 1. Engages in conduct involving a public school that contains the elements of the offense of false alarm or report under *Penal Code 42.06*, or terroristic threat under *Penal Code 22.07*; or
- 2. Commits one of the following, on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property, serious offenses listed in law:
 - a. Engages in conduct punishable as a felony (if not specified as a mandatory expellable offense at Level V);
 - b. Engages in conduct that contains the elements of the offense of assault under *Section 22.01(a)(1), Penal Code*;
 - c. Sells, gives, or delivers to another person or possesses or uses or is under the influence of:
 - 1) Marihuana or a controlled substance, as defined by *Chapter 481, Health and Safety Code*, or by *21 USC Section 801 et seq.*; or
 - 2) A dangerous drug, as defined by *Chapter 483, Health and Safety Code*;
 - d. Sells, gives, or delivers to another person an alcoholic beverage, as defined by *Section 1.04, Alcoholic Beverage Code*, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;
 - e. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under *Section 485.031 through 485.034, Health and Safety Code*; or
 - f. Engages in conduct that contains the elements of the offense of public lewdness under *Section 21.07, Penal Code*, or indecent exposure under *Section 21.08, Penal Code*.
 - g. Engages in conduct that contains the elements of the offense of harassment under *Section 42.07(a)(1), (2), (3), or (7), Penal Code*, against an employee of the school district.
- 3. Except as provided by *Section 37.007(d), Education Code* (expellable offenses related to retaliation), a student shall be removed from class and placed in a DAEP if the student engages in conduct on or off school property that contains the elements of the offense of retaliation under *Section 36.06, Penal Code*, against any school employee.
- 4. A student shall be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school sponsored or school-related activity if:
 - a. The student received deferred prosecution under *Section 53.03, Family Code*, for conduct defined as a felony offense in *Title 5, Penal Code*, or the felony offense of aggravated robbery under *Penal Code 29.03*;
 - b. A court or jury finds that the student has engaged in delinquent conduct under *Section 54.03, Family Code*, for conduct defined as a felony offense in *Title 5, Penal Code*, or the felony offense of aggravated robbery under *Penal Code 29.03*; or
 - c. The superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as a felony offense in *Title 5, Penal Code*, or the felony offense of aggravated robbery under *Penal Code 29.03*.
- 5. A student shall be removed from class and placed in a DAEP, according to local policy, if a student takes more than the recommended dosage of his/her own medication or any other substance and receives a ticket or is arrested for public intoxication or a similar charge.
- 6. A student in possession of any device not included as a removable or expellable offense by statute, that is designed to propel a projectile either by a spring-type mechanism, air, or gas shall also be removed from class and placed in a DAEP according to local policy. This includes, but is not limited to, BB-guns, pellet guns, paintball guns, slingshots, air soft guns, etc.
- 7. A principal or designee shall recommend placing students in a DAEP who are found to be:
 - a. Involved in gang activity, including participating as a member or pledge, or soliciting another person to become a pledge or member of a gang; or
 - b. Involved in a public school fraternity, sorority, or secret society, including participating as a member or pledge, or soliciting another person to become a pledge or member of a public school fraternity, sorority, or secret society.
- 8. Katy ISD administrators will recommend placing a student in the DAEP (in lieu of expulsion) who is found to have engaged in the offense of aggravated assault under *Penal Code 22.02*, sexual assault under *Penal Code 22.011*, or aggravated sexual assault under *Penal Code 22.021*; murder under *Penal Code 19.02*, capital murder under *19.03, Penal Code*, or criminal attempt to commit murder or capital murder under *Penal Code 15.01*; or aggravated robbery under *Penal Code 29.03* against another student, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.
- 9. Katy ISD administrators will recommend placing a student in the DAEP (in lieu of expulsion) who is found to have engaged in conduct that contains the elements of the offense of breach of computer security under *Penal Code 33.02*, involving access to a computer, computer network, or computer system owned by or operated on behalf of the District.
- 10. Katy ISD administrators will recommend placing a student in the DAEP (in lieu of expulsion) who is found to have engaged in conduct described in *TEC 37.007(a)* if the student engages in that conduct on the school property of another district in this state or while attending a school-sponsored or school-related activity of a school in another district in this state.
- 11. Engages, while on school property, while within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related event on or off school property, in conduct that contains the elements of the offense of:
 - a. Assault under *Section 22.01(a)(1), Penal Code*, against a school district employee or a volunteer as defined by *Section 22.053, Education Code*; or
 - b. Deadly conduct under *Section 22.05, Penal Code*.
- 12. Katy ISD administrators will recommend, at minimum, placing a student in a DAEP if the student engages in conduct that contains the elements of the offense of assault against any employee or volunteer.

EXHIBIT 3

Keith Donati

From: Colburn McClelland <colburn55@yahoo.com>
Sent: Thursday, October 29, 2020 12:46 PM
To: Keith Donati
Subject: Fw: Testing of found material

Fyi....email to Dr Hull

Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "Hull, Richard D (KHS)" <RichardDHull@KATYISD.ORG>
To: "Colburn McClelland" <colburn55@yahoo.com>
Sent: Sat, Sep 19, 2020 at 9:26 AM
Subject: Re: Testing of found material
Mr. McClelland,

I have received your email. I will be responding in accordance with the process set forth in the Discipline Management Plan.

Thank you,
Rick Hull

On Sep 18, 2020, at 6:19 PM, Colburn McClelland <colburn55@yahoo.com> wrote:

CAUTION: This email originated from outside of Katy ISD, **DO NOT CLICK** on links or attachments unless you know the sender and the content is safe. For assistance, contact CaptainSafeData@katyisd.org

Dr. Hull,

After today's meeting, I realized I forgot to ask an important & relative question regarding the suspected plant material that was found on the floorboard of the back seat of my vehicle.

Is the material *illegal* marijuana or is it *legal* hemp? (according to Texas state law)

We have read throughout the KISD policy regarding this matter and I would like to specifically know what Bronson is being accused of being in possession of. I could not find the word "hemp" anywhere in KISD policy. The KISD policy specifically uses the words "controlled substances" and "illegal drugs", neither of which has been proven to of been found inside my vehicle.

Please advise.

Colburn McClelland

EXHIBIT 4



September 21, 2020

Colburn McClelland

Delivered via email per parent request
colburn55@yahoo.com

Dear Mr. McClelland:

On September 18, 2020, a hearing was held regarding the alleged misconduct of Bronson McClelland. Specifically, it was alleged that Bronson is guilty of a level IV infraction, specifically sells, gives, delivers to another person or possesses or uses or is under the influence of marijuana or a controlled substance as defined by Chapter 481, Health and Safety Code, or by 21 USC Section 801. At the hearing, you were afforded the opportunity to refute the charge of misconduct and to present evidence concerning a proper punishment. You were also allowed to hear the evidence presented by the administration and make argument.

Based upon the evidence presented, I have made the following findings:

- On September 17, 2020, Katy ISD Canine Officer Fulgencio conducted a routine search of the Katy High School parking lot. During that search, the canine alerted on Bronson's vehicle.
- Bronson was brought to the car where he gave permission to search the vehicle. The officers shared that upon opening the doors to the vehicle, a strong marijuana smell was evident. During the search, the officers found an empty, commercially produced package for marijuana, Zig-zag rolling papers, as well as cigarillos and other tobacco products in the driver's side door and center console. In addition, a small amount of marijuana was found in the car. Bronson told the officers that it was not his and that his brother uses the vehicle and smokes marijuana.
- You stated in the hearing that when you found out that Bronson was allowing his brother to use the vehicle, you told Bronson that he needed to make sure search the car, look in the car, and to make sure there was no garbage in the car. You specifically told him that he better make sure there was no dope, no paraphernalia, nothing was left in the car.
- You have admitted that the substance found was marijuana, and your witness, Walker, also confirmed that the substance was in fact marijuana.
- When purchasing a parking tag at Katy High School, Bronson confirmed that he had "read, understand, and will follow the guidelines in the Katy ISD DMP (Discipline Management Plan) and SCC (Student Code of Conduct Agreement) listed above". In the Parking Student Code of Conduct Agreement, it states, "A student will be held responsible for any prohibited objects or substances, such as tobacco, alcohol, drugs, or weapons, that are found in his/her car and will be subject to disciplinary action by the District as well as referral for criminal prosecution for having such objects or substances on school property".
- The Katy ISD Discipline Management Plan addresses student interrogations and searches and states, "If a dog alerts to a locker, a vehicle, or an item in a classroom, it may be searched by school officials regardless of whether or not a student is present. If contraband of any kind is found, the possessing student shall be subject to appropriate disciplinary action" (p. 12).
- The Katy ISD Discipline Management Plan also defines possession as, "'Possession' means actual care, custody, control, or management. In regard to drugs and alcohol, a student may also be considered in possession by means of consumption. A student shall be considered to be in possession of any amount of a substance or object prohibited or regulated by this Discipline Management Plan and Student Code of Conduct if the substance or object is:
 - 1. On the student's person or in the student's personal property, including but not limited to the student's clothing, purse, book bag, backpack, or briefcase;
 - 2. In any private vehicle driven by the student to or from school or school-related activities, including but not limited to, an automobile, truck, motorcycle, or bicycle; or" (p. 13).
- The Katy ISD Discipline Management Plan addresses vehicles and vehicle searches and states, "Students have full responsibility for the security and content of his or her vehicle parked on district property" (p. 16) and "A student has full responsibility for the security of his/her vehicle and should make certain that it is locked and that the keys are not given to others. A student will be held responsible for any prohibited objects or substances, such as tobacco, alcohol, drugs, or weapons, that are found in his/her car and will be subject to disciplinary action by the District as well as referral for criminal prosecution for having such objects or substances on school property".

- At the District's request, Katy ISD Police Department tested the substance on Monday, September 21, 2020. The substance came back as being positive for containing THC.
- Although Bronson's brother, Walker, claims that the marijuana is his, Bronson was in possession of the marijuana as described in the Katy ISD Discipline Management Plan and Parking Student Code of Conduct Agreement.
- Possession of marijuana on campus in Texas requires a mandatory placement at DAEP.

As a result of these findings, I have determined that your son did, in fact, engage in the offense alleged and that placement in a disciplinary alternative education program (DAEP) is the appropriate disciplinary sanction. The recommended period of placement to the Opportunity Awareness Center for 45 instructional days beginning on September 22, 2020 was also determined to be appropriate.

You have the right to appeal this decision to a district-level hearing committee. If you desire to make such an appeal, please notify:

Mrs. Sherri Ashorn
District Discipline Administrator
PO Box 159
Katy, Texas 77492-0159
SherriVAshorn@KatyISD.org

in writing within three (3) school business days from receipt of this letter. If you request to participate in an appeal proceeding, the Hearing Officer will notify you of the date and time for the hearing. If the student will be represented by an attorney, please notify Mrs. Ashorn in advance of the hearing so that the administration can obtain equal representation. Failure to do so will result in the need to reschedule the hearing. Your child will be assigned to the DAEP pending any appeal as permitted by law.

The decision of the District-level Hearing Committee on appeal is final; however, parental questions, concerns, or complaints regarding issues that were ancillary to the consequence may be addressed informally with the teacher, assistant principal, or campus principal, as appropriate. If these conferences are not satisfactory, parents may follow the formal concern or complaint process in accordance with Board policy FNG (LOCAL). This policy may be reviewed on the campus or on the District's website. The FNG process may not be used to overturn the disciplinary consequence.

You may re-enroll Bronson at the home campus after he has completed his assignment unless he is eligible to return to the campus earlier based on the OAC's early release option. While attending the DAEP, your child may return to his home campus only for the purpose of discussing this placement or issues related to it with school administrators with a scheduled appointment.

If you do not request a hearing within three (3) days, you will waive your right to an appeal. If you have any further questions concerning my decision or any other aspects of this matter, please do not hesitate to call me.

Sincerely,



Dr. Rick Hull

Katy High School Principal and Hearing Officer

xc: District Discipline Administrator



MATER DEI HIGH SCHOOL
 1202 WEST EDINGER AVE.
 SANTA ANA, CA 92707

DISCIPLINARY CLEARANCE

Parent Authorization

I am the parent/legal guardian of a student applying to Mater Dei High School (the "School"). I understand that teacher evaluations, disciplinary records, transcripts, and records of standardized testing are all part of the School's application process. I hereby give permission to my student's current school (listed below) to submit my student's full disciplinary records to the School and waive any and all privacy rights I or my student has to such records. I hereby release and hold harmless the School, my child's current school, and the Catholic Diocese of Orange, as well as their respective employees, volunteers, directors, affiliates, and representatives, from any and all liability, damages, and causes of action relating in any way to the disclosure of my student's disciplinary records to the School.

If needed by the School, I also permit the School to contact my student's current school to discuss my student's discipline record and permit my current school to discuss such records in full.

Student's Name Bronson McClelland Grade 12 Home Phone 409-781-4125
 Current School KATY High School Phone 281-237-6700
 Parent Signature [Signature] Student Signature [Signature] Date 9/25/20

Administrator at Current School

The above named student has applied for admission to Mater Dei High School. We appreciate this child's behavior. *If you have any reason to change your recommendation after submitting the Admissions Office at Mater Dei High School.* This form will remain confidential to us at the permanent file of the prospective student.

How long has this student attended your school? 3 years

Has this student ever been asked to withdraw from this school? Yes No
 If Yes, please explain the circumstances below.

Has this student ever been placed on disciplinary probation? Yes No
 If Yes, please explain the circumstances below.

Name and Title Dr. Rick Hull, Principal

Telephone Number (281) 237-6700 ext. _____

Signature of Administrator [Signature] Date 9/29/20
 (Please attach a school business card)

Katy Independent School District

Dr. Rick Hull
Principal

Katy High School
6331 Highway Blvd
Katy, TX 77494

Phone: 281.237.6706
Fax: 281.644.1703
richardhull@katyisd.org
www.katyisd.org

Please check here if you would like us to call you to discuss this child in greater detail.

Please Fax this form and the student's Discipline Records to Mater Dei High School at (714) 754-1880



Ken Gregorski, Ed.D.
SUPERINTENDENT

CLEARED

September 28, 2020

Colburn McClelland
7019 Prairie Grass Ln,
Katy, Texas 77493

VIA ELECTRONIC MAIL

Re: Discipline Appeal

Please note that this letter references student discipline, which is confidential by federal law.

Dear Mr. McClelland:

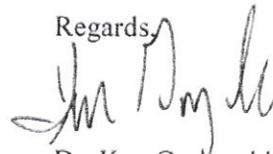
As is required at Katy ISD, the District has reviewed the alleged conduct of Bronson McClelland on September 17, 2020. In reviewing such discipline, Texas law requires that the District consider six factors, which include the “intent or lack of intent at the time the student engaged in the conduct” and the “student’s disciplinary history.” In light of these provision, I have determined the following.

On September 17, 2020, the District conducted a routine search of one of our high school parking lots. During that search, the canine alerted the vehicle driven to school by Bronson McClelland that morning. A search of the vehicle found an unusable amount of a substance that was field tested to contain THC. However, the District did not test the substance to determine whether the requisite amount of THC was present that would have indicated the substance was in fact marijuana as prescribed by Texas law.

During the campus level hearing, Bronson denied that the substance was his and his older brother came forward to give his account. His brother had recently totaled his personal vehicle and was temporarily using Bronson’s vehicle. His brother admitted that the substance was his. Unlike Bronson, the brother has a history of marijuana related incidents and charges which are well known. Bronson does not have any past drug related charges or incidents that the District is aware of.

As such, I have determined that Bronson did not intend to possess the substance on campus. Therefore, the discipline given to Bronson McClelland on September 17, 2020 is overturned and no disciplinary matters are pending.

Regards,



Dr. Ken Gregorski
SUPERINTENDENT
KATY INDEPENDENT SCHOOL DISTRICT

CLEARED

EXHIBIT 7

**Previous Athletic Participation Form
University Interscholastic League**

Eligibility Questionnaire for New Student Athletes in Grades 9-12

This Form Must be on File with School Before Participation at any Level in Grade 9-12
(To be filled out by the student and/or parent and filed with the school.)

For UIL Use Only

Name of Student (print) Bronson McClelland Grade 12 Birthdate 10/05/2001 Age 19
 Student's Current Address: _____ City _____ State _____ Zip Code _____
 New School: Manor City Manor Public Charter Private School
 Last School of Participation: Katy City Katy State Texas Public Charter Private School
 Date of enrollment in new school: 10/08/2020 Date of withdrawal from previous school: 09/29/2020

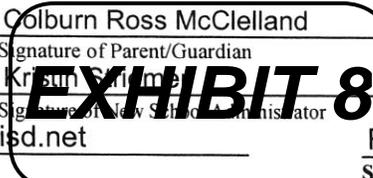
Has the student been continuously enrolled in the new school for one calendar year? Yes No

Yes	No	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1. Has the student ever practiced or participated in extracurricular athletic activities (before school, after school or during an athletic period) at another school in the United States or Mexico in grades 8-12? If yes, the student must complete page 2 in addition to page 1 and both pages must be sent to the District Executive Committee Chairperson. If no, the student must complete page 1 and file with the school and/or athletic department ONLY.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	2. Has the student ever enrolled or participated in a Magnet program, Charter school, Open/Choice Enrollment (within the ISD) or International Baccalaurete (IB) program in grades 9-12? If yes, please provide the name of the school _____ and school year _____.
PARENT RESIDENCE RULE: *QUESTIONS IN THIS SECTION ARE REFERRING TO BIOLOGICAL PARENTS. REFERENCE C&CR SECTION 440(B) & 442.		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	3. Does the student live with <input type="checkbox"/> one parent <input checked="" type="checkbox"/> both parents <input type="checkbox"/> guardian <input type="checkbox"/> foster parent(s)? If the student lives with a GUARDIAN or FOSTER PARENT(S), a UIL Parent Residence waiver may be required. You MUST contact the district Athletic Director/Coordinator then contact the UIL Athletics Department at (512) 471-5883.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	4. Are the parents of the student <input checked="" type="checkbox"/> married <input type="checkbox"/> never married <input type="checkbox"/> married- living apart <input type="checkbox"/> divorced <input type="checkbox"/> deceased? If the parents are MARRIED-LIVING APART or MARRIED and the student is LIVING WITH ONE PARENT, a UIL Parent Residence waiver may be required. You MUST contact the district Athletic Director/Coordinator then contact the UIL Athletics Department at (512) 471-5883.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	5. Does the parent(s) of the student reside outside the attendance zone of the school the student wishes to represent? If yes, a UIL Parent Residence waiver may be required. You MUST contact the district Athletic Director/Coordinator then contact the UIL Athletics Department at (512) 471-5883.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	6. Is there a change in schools but no change in address? If yes, please attach an explanation.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7. Is more than one residence owned, rented or maintained by the parents? If yes, please attach an explanation.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	8. Are any members of the family still residing at the previous residence? If yes, it should be investigated prior to participation on the varsity level.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	9. Are there other family members in grades K-12 attending a different school district other than the school district the student is now attending?
FULL TIME STUDENT RULE: REFERENCE C&CR SECTION 403.		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	10. Is the student enrolled in less than an average of four hours per day of instruction for either state or local high school credit? FOUR YEAR RULE AND AGE RULE: REFERENCE C&CR SECTION 400 & 405(FOUR YEAR) & 440(C), 446 (AGE).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	11. Did the student first enroll in the 9th grade more than 4 years ago? The first date of enrollment in 9th grade. <u>08/14/2017</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	12. Has the student ever repeated a grade since first entering the 7th grade? If yes, please attach an explanation.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	13. Will (or was) the student 19 years of age on or before September 1 of the current school year? FOREIGN EXCHANGE RULE: REFERENCE C&CR SECTION 468(3).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	14. Is the student a foreign exchange student? If yes, a Foreign Exchange Waiver is required for Varsity athletic participation. AMATEUR ATHLETIC RULE: REFERENCE C&CR SECTION 441.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	15. Has the student done anything to jeopardize their amateur athletic status? ASSIST IN DETERMINING IF STUDENT CHANGED SCHOOLS FOR ATHLETIC PURPOSES: REFERENCE C&CR SECTION 443.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	16. Did anyone from the new school contact the student prior to their enrollment in the new school?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	17. Was the student ever prohibited from participation at the previous school? If yes, please attach an explanation.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	18. Did the student play on a non-school team and is transferring to the school where members of the non-school team attend?

TO BE COMPLETED BY STUDENT, PARENT AND ADMINISTRATOR OF NEW SCHOOL

It shall be the responsibility of each school to have on file the following required annual forms for each student who participates in any practice (before school, after school or during an athletic period), scrimmage or game: Preparticipation Physical Examination (for students in their first and third year of high school participation), Medical History Form, Illegal Steroid Use and Random Steroid Testing, Parent and Student Notification/Agreement Form, Acknowledgement of Rules Form, Concussion Acknowledgement Form and Sudden Cardiac Arrest Awareness Form. Incorrect or untrue information provided by the parent or student could cause ineligibility and could result in the forfeiture of contests in which the student has participated in addition to other penalties. The following signatures certify that to the best of your knowledge, all information presented on this form is true and correct.

<u>Bronson McClelland</u>	<u>10/09/2020</u>	<u>Colburn Ross McClelland</u>	<u>10/09/2020</u>
Signature of Student	Date	Signature of Parent/Guardian	Date
<u>James Keller</u>	<u>10/09/2020</u>	<u>Kristin Strime</u>	<u>10/09/2020</u>
Signature of New School Coach	Date	Signature of New School Administrator	Date
<u>James Keller</u>	<u>james.keller@manorisd.net</u>		<u>Football</u>
New School Coach Name	Coach's Email Address		Sport



Previous Athletic Participation Form
University Interscholastic League

All new students in grades 9-12 who have ever practiced or participated in baseball, basketball, cross country, football, golf, soccer, softball, swimming and diving, team tennis, tennis, track and field, volleyball or wrestling in grades 8-12 at another school in the United States or Mexico MUST have this form completed by the last school of participation and be approved by the District Executive Committee before they are eligible to participate at the VARSITY LEVEL at the new school.

Name of Student Bronson McClelland New School: Manor Last School of Participation: Katy
Student's current address: [Redacted]

I. ELIGIBILITY CERTIFICATION: This section should be completed by the individual(s) with whom the student is currently residing at the new school. We, the undersigned, certify that the student is in compliance with the transfer and admission policies of the local school district. This student is not changing schools for athletic purposes and was not recruited. We understand that any false or incorrect information could cause the student to be declared ineligible and could result in the forfeiture of contests in which the student has participated at the new school, in addition to other penalties.
Previous address: [Redacted] Status of previous residence? [] sold [] leased [] vacant [x] still own
PARENT SIGNATURE Colburn Ross McClelland DATE 10/09/2020

II. NEW SCHOOL CERTIFICATION: We certify that to our knowledge no one from our community has offered any inducement, directly or indirectly to the student or parents to move into our district. To the best of our knowledge this student is not changing schools for athletic purposes.
Name of New School Manor Signature of new school superintendent or designated administrator Kristin Striemer Date 10/09/2020

III. LAST SCHOOL OF PARTICIPATION CERTIFICATION AND RELEASE: Section III must be completed for any new student in grades 9-12 who has ever participated in baseball, basketball, cross country, football, golf, soccer, softball, swimming and diving, team tennis, tennis, track and field, volleyball or wrestling in grades 8-12 at another school in the United States or Mexico before they are eligible to participate at the varsity level at the new school. Please check the appropriate responses below. If any of questions 1-5 are marked 'Yes', a full meeting of the District Executive Committee (DEC) would be required only if requested by a member of the committee in the new district. If question 6 is marked 'Yes', a full hearing of the DEC is required in the new district.
Yes No
[] [x] 1. Was there any conflict or dissatisfaction between the student, his/her parents, and the athletic/academic supervisors at the school?
[] [x] 2. Was this student recruited to attend another school or was any undue influence exerted upon this student or family to change schools?
[] [x] 3. Did this student quit an athletic activity or program while enrolled in your school? If yes, attach explanation to DEC.
[] [x] 4. Was this student ever suspended or removed from your school athletic program? If yes, attach explanation to DEC.
[] [x] 5. Would the student be prohibited from participation in athletics had they not changed schools? If yes, attach explanation to DEC.
[] [x] 6. Based on your knowledge of the student and their circumstances, is this student changing schools for athletic purposes? If yes, attach explanation to DEC.
Gary Joseph Print Name of Former superintendent or designated administrator AND Print Name of Former principal or coach
Gary Joseph *Signature of Former superintendent or designated administrator (* two signatures required) AND *Signature of Former principal or coach Date Signed 10/09/2020
Last School of Participation: Katy City Katy State Texas

IV. EXECUTIVE COMMITTEE APPROVAL: We certify the above named student is approved.
Check the appropriate box: [] Varsity [] Sub-varsity only ([] applying for a Waiver)
If a full hearing of the DEC is required based on the information in section III above, the student is ineligible for varsity athletic participation until the DEC hears testimony from the previous school, the student/parent and the new school and determines that the student did not change schools for athletic purposes. This process is required to be completed prior to the student applying for a waiver of the parent residence rule, if applicable. DATE OF HEARING
School Conference District No.
(School of District Executive Committee Chairman)
Signature of District Executive Committee Chairman Date Contact Email Address
The District Chairman makes two copies of the completed form. Send one copy to the student's current school and the other copy to the University Interscholastic League, Box 8028, University Station, Austin, Texas, 78713. Retain the original in your file.

Tex. Health & Safety Code § 481.002

Texas Statutes & Codes Annotated by LexisNexis® > Health and Safety Code > Title 6 Food, Drugs, Alcohol, and Hazardous Substances (Subts. A — D) > Subtitle C Substance Abuse Regulation and Crimes (Chs. 481 — 500) > Chapter 481 Texas Controlled Substances Act (Subchs. A — I) > Subchapter A General Provisions (§§ 481.001 — 481.030)

Sec. 481.002. Definitions.

In this chapter:

- (1) “Administer” means to directly apply a controlled substance by injection, inhalation, ingestion, or other means to the body of a patient or research subject by:
 - (A) a practitioner or an agent of the practitioner in the presence of the practitioner; or
 - (B) the patient or research subject at the direction and in the presence of a practitioner.
- (2) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of a carrier or warehouseman acting in the usual and lawful course of employment.
- (3) “Commissioner” means the commissioner of state health services or the commissioner’s designee.
- (4) “Controlled premises” means:
 - (A) a place where original or other records or documents required under this chapter are kept or are required to be kept; or
 - (B) a place, including a factory, warehouse, other establishment, or conveyance, where a person registered under this chapter may lawfully hold, manufacture, distribute, dispense, administer, possess, or otherwise dispose of a controlled substance or other item governed by the federal Controlled Substances Act ([21 U.S.C. Section 801](#) et seq.) or this chapter, including a chemical precursor and a chemical laboratory apparatus.
- (5) “Controlled substance” means a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 3, or 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance. The term does not include hemp, as defined by *Section 121.001, Agriculture Code*, or the tetrahydrocannabinols in hemp.

EXHIBIT 9

- (6) “Controlled substance analogue” means:
- (A) a substance with a chemical structure substantially similar to the chemical structure of a controlled substance in Schedule I or II or Penalty Group 1, 1-A, 2 or 2-A; or
 - (B) a substance specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in Schedule I or II or Penalty Group 1, 1-A, 2 or 2-A.
- (7) “Counterfeit substance” means a controlled substance that, without authorization, bears or is in a container or has a label that bears an actual or simulated trademark, trade name, or other identifying mark, imprint, number, or device of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
- (8) “Deliver” means to transfer, actually or constructively, to another a controlled substance, counterfeit substance, or drug paraphernalia, regardless of whether there is an agency relationship. The term includes offering to sell a controlled substance, counterfeit substance, or drug paraphernalia.
- (9) “Delivery” or “drug transaction” means the act of delivering.
- (10) “Designated agent” means an individual designated under Section 481.074(b-2) to communicate a practitioner’s instructions to a pharmacist in an emergency.
- (11) “Director” means the director of the Department of Public Safety or an employee of the department designated by the director.
- (12) “Dispense” means the delivery of a controlled substance in the course of professional practice or research, by a practitioner or person acting under the lawful order of a practitioner, to an ultimate user or research subject. The term includes the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for delivery.
- (13) “Dispenser” means a practitioner, institutional practitioner, pharmacist, or pharmacy that dispenses a controlled substance.
- (14) “Distribute” means to deliver a controlled substance other than by administering or dispensing the substance.
- (15) “Distributor” means a person who distributes.
- (16) “Drug” means a substance, other than a device or a component, part, or accessory of a device, that is:

(A) recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or a supplement to either pharmacopoeia or the formulary;

(B) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(C) intended to affect the structure or function of the body of man or animals but is not food; or

(D) intended for use as a component of a substance described by Paragraph (A), (B), or (C).

(17) “Drug paraphernalia” means equipment, a product, or material that is used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, or concealing a controlled substance in violation of this chapter or in injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. The term includes:

(A) a kit used or intended for use in planting, propagating, cultivating, growing, or harvesting a species of plant that is a controlled substance or from which a controlled substance may be derived;

(B) a material, compound, mixture, preparation, or kit used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;

(C) an isomerization device used or intended for use in increasing the potency of a species of plant that is a controlled substance;

(D) testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness, or purity of a controlled substance;

(E) a scale or balance used or intended for use in weighing or measuring a controlled substance;

(F) a dilutant or adulterant, such as quinine hydrochloride, mannitol, inositol, nicotinamide, dextrose, lactose, or absorbent, blotter-type material, that is used or intended to be used to increase the amount or weight of or to transfer a controlled substance regardless of whether the dilutant or adulterant diminishes the efficacy of the controlled substance;

(G) a separation gin or sifter used or intended for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana;

- (H)** a blender, bowl, container, spoon, or mixing device used or intended for use in compounding a controlled substance;
- (I)** a capsule, balloon, envelope, or other container used or intended for use in packaging small quantities of a controlled substance;
- (J)** a container or other object used or intended for use in storing or concealing a controlled substance;
- (K)** a hypodermic syringe, needle, or other object used or intended for use in parenterally injecting a controlled substance into the human body; and
- (L)** an object used or intended for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, including:
 - (i)** a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;
 - (ii)** a water pipe;
 - (iii)** a carburetion tube or device;
 - (iv)** a smoking or carburetion mask;
 - (v)** a chamber pipe;
 - (vi)** a carburetor pipe;
 - (vii)** an electric pipe;
 - (viii)** an air-driven pipe;
 - (ix)** a chillum;
 - (x)** a bong; or
 - (xi)** an ice pipe or chiller.

(18) “Federal Controlled Substances Act” means the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 ([21 U.S.C. Section 801](#) et seq.) or its successor statute.

(19) “Federal Drug Enforcement Administration” means the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

(20) “Hospital” means:

- (A)** a general or special hospital as defined by Section 241.003;

- (B) an ambulatory surgical center licensed under Chapter 243 and approved by the federal government to perform surgery paid by Medicaid on patients admitted for a period of not more than 24 hours; or
 - (C) a freestanding emergency medical care facility licensed under Chapter 254.
- (21) “Human consumption” means the injection, inhalation, ingestion, or application of a substance to or into a human body.
- (22) “Immediate precursor” means a substance the director finds to be and by rule designates as being:
- (A) a principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;
 - (B) a substance that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and
 - (C) a substance the control of which is necessary to prevent, curtail, or limit the manufacture of a controlled substance.
- (23) “Institutional practitioner” means an intern, resident physician, fellow, or person in an equivalent professional position who:
- (A) is not licensed by the appropriate state professional licensing board;
 - (B) is enrolled in a bona fide professional training program in a base hospital or institutional training facility registered by the Federal Drug Enforcement Administration; and
 - (C) is authorized by the base hospital or institutional training facility to administer, dispense, or prescribe controlled substances.
- (24) “Lawful possession” means the possession of a controlled substance that has been obtained in accordance with state or federal law.
- (25) “Manufacture” means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance other than marihuana, directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes the packaging or repackaging of the substance or labeling or relabeling of its container. However, the term does not include the preparation, compounding, packaging, or labeling of a controlled substance:
- (A) by a practitioner as an incident to the practitioner’s administering or dispensing a controlled substance in the course of professional practice; or

(B) by a practitioner, or by an authorized agent under the supervision of the practitioner, for or as an incident to research, teaching, or chemical analysis and not for delivery.

(26) “Marihuana” means the plant *Cannabis sativa* L., whether growing or not, the seeds of that plant, and every compound, manufacture, salt, derivative, mixture, or preparation of that plant or its seeds. The term does not include:

- (A) the resin extracted from a part of the plant or a compound, manufacture, salt, derivative, mixture, or preparation of the resin;
- (B) the mature stalks of the plant or fiber produced from the stalks;
- (C) oil or cake made from the seeds of the plant;
- (D) a compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;
- (E) the sterilized seeds of the plant that are incapable of beginning germination; or
- (F) hemp, as that term is defined by *Section 121.001, Agriculture Code*.

(27) “Medical purpose” means the use of a controlled substance for relieving or curing a mental or physical disease or infirmity.

(28) “Medication order” means an order from a practitioner to dispense a drug to a patient in a hospital for immediate administration while the patient is in the hospital or for emergency use on the patient’s release from the hospital.

(29) “Narcotic drug” means any of the following, produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (A) opium and opiates, and a salt, compound, derivative, or preparation of opium or opiates;
- (B) a salt, compound, isomer, derivative, or preparation of a salt, compound, isomer, or derivative that is chemically equivalent or identical to a substance listed in Paragraph (A) other than the isoquinoline alkaloids of opium;
- (C) opium poppy and poppy straw; or
- (D) cocaine, including:
 - (i) its salts, its optical, position, or geometric isomers, and the salts of those isomers;
 - (ii) coca leaves and a salt, compound, derivative, or preparation of coca leaves; and

(iii) a salt, compound, derivative, or preparation of a salt, compound, or derivative that is chemically equivalent or identical to a substance described by Subparagraph (i) or (ii), other than decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine.

(30) “Opiate” means a substance that has an addiction-forming or addiction-sustaining liability similar to morphine or is capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes its racemic and levorotatory forms. The term does not include, unless specifically designated as controlled under Subchapter B, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).

(31) “Opium poppy” means the plant of the species *Papaver somniferum* L., other than its seeds.

(32) “Patient” means a human for whom or an animal for which a drug:

- (A) is administered, dispensed, delivered, or prescribed by a practitioner; or
- (B) is intended to be administered, dispensed, delivered, or prescribed by a practitioner.

(33) “Person” means an individual, corporation, government, business trust, estate, trust, partnership, association, or any other legal entity.

(34) “Pharmacist” means a person licensed by the Texas State Board of Pharmacy to practice pharmacy and who acts as an agent for a pharmacy.

(35) “Pharmacist-in-charge” means the pharmacist designated on a pharmacy license as the pharmacist who has the authority or responsibility for the pharmacy’s compliance with this chapter and other laws relating to pharmacy.

(36) “Pharmacy” means a facility licensed by the Texas State Board of Pharmacy where a prescription for a controlled substance is received or processed in accordance with state or federal law.

(37) “Poppy straw” means all parts, other than the seeds, of the opium poppy, after mowing.

(38) “Possession” means actual care, custody, control, or management.

(39) “Practitioner” means:

- (A) a physician, dentist, veterinarian, podiatrist, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, analyze, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state;

(B) a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state;

(C) a person practicing in and licensed by another state as a physician, dentist, veterinarian, or podiatrist, having a current Federal Drug Enforcement Administration registration number, who may legally prescribe Schedule II, III, IV, or V controlled substances in that state; or

(D) an advanced practice registered nurse or physician assistant to whom a physician has delegated the authority to prescribe or order a drug or device under Section 157.0511, 157.0512, or 157.054, Occupations Code.

(40) “Prescribe” means the act of a practitioner to authorize a controlled substance to be dispensed to an ultimate user.

(41) “Prescription” means an order by a practitioner to a pharmacist for a controlled substance for a particular patient that specifies:

(A) the date of issue;

(B) the name and address of the patient or, if the controlled substance is prescribed for an animal, the species of the animal and the name and address of its owner;

(C) the name and quantity of the controlled substance prescribed with the quantity shown numerically followed by the number written as a word if the order is written or, if the order is communicated orally or telephonically, with the quantity given by the practitioner and transcribed by the pharmacist numerically;

(D) directions for the use of the drug;

(E) the intended use of the drug unless the practitioner determines the furnishing of this information is not in the best interest of the patient; and

(F) the legibly printed or stamped name, address, Federal Drug Enforcement Administration registration number, and telephone number of the practitioner at the practitioner’s usual place of business.

(42) “Principal place of business” means a location where a person manufactures, distributes, dispenses, analyzes, or possesses a controlled substance. The term does not include a location where a practitioner dispenses a controlled substance on an outpatient basis unless the controlled substance is stored at that location.

- (43) “Production” includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.
- (44) “Raw material” means a compound, material, substance, or equipment used or intended for use, alone or in any combination, in manufacturing a controlled substance.
- (45) “Registrant” means a person who has a current Federal Drug Enforcement Administration registration number.
- (46) “Substitution” means the dispensing of a drug or a brand of drug other than that which is ordered or prescribed.
- (47) “Official prescription form” means a prescription form that is used for a Schedule II controlled substance under Section 481.0755 and contains the prescription information required by Section 481.0755(e).
- (48) “Ultimate user” means a person who has lawfully obtained and possesses a controlled substance for the person’s own use, for the use of a member of the person’s household, or for administering to an animal owned by the person or by a member of the person’s household.
- (49) “Adulterant or dilutant” means any material that increases the bulk or quantity of a controlled substance, regardless of its effect on the chemical activity of the controlled substance.
- (50) “Abuse unit” means:
- (A) except as provided by Paragraph (B):
 - (i) a single unit on or in any adulterant, dilutant, or similar carrier medium, including marked or perforated blotter paper, a tablet, gelatin wafer, sugar cube, or stamp, or other medium that contains any amount of a controlled substance listed in Penalty Group 1-A, if the unit is commonly used in abuse of that substance; or
 - (ii) each quarter-inch square section of paper, if the adulterant, dilutant, or carrier medium is paper not marked or perforated into individual abuse units; or
 - (B) if the controlled substance is in liquid or solid form, 40 micrograms of the controlled substance including any adulterant or dilutant.
- (51) “Chemical precursor” means:
- (A) Methylamine;
 - (B) Ethylamine;
 - (C) D-lysergic acid;

- (D) Ergotamine tartrate;
- (E) Diethyl malonate;
- (F) Malonic acid;
- (G) Ethyl malonate;
- (H) Barbituric acid;
- (I) Piperidine;
- (J) N-acetylanthranilic acid;
- (K) Pyrrolidine;
- (L) Phenylacetic acid;
- (M) Anthranilic acid;
- (N) Ephedrine;
- (O) Pseudoephedrine;
- (P) Norpseudoephedrine; or
- (Q) Phenylpropanolamine.

(52) "Department" means the Department of Public Safety.

(53) "Chemical laboratory apparatus" means any item of equipment designed, made, or adapted to manufacture a controlled substance or a controlled substance analogue, including:

- (A) a condenser;
- (B) a distilling apparatus;
- (C) a vacuum drier;
- (D) a three-neck or distilling flask;
- (E) a tableting machine;
- (F) an encapsulating machine;
- (G) a filter, Buchner, or separatory funnel;
- (H) an Erlenmeyer, two-neck, or single-neck flask;
- (I) a round-bottom, Florence, thermometer, or filtering flask;
- (J) a Soxhlet extractor;
- (K) a transformer;
- (L) a flask heater;

- (M) a heating mantel; or
 - (N) an adaptor tube.
- (54) “Health information exchange” means an organization that:
- (A) assists in the transmission or receipt of health-related information among organizations transmitting or receiving the information according to nationally recognized standards and under an express written agreement;
 - (B) as a primary business function, compiles or organizes health-related information that is designed to be securely transmitted by the organization among physicians, health care providers, or entities within a region, state, community, or hospital system; or
 - (C) assists in the transmission or receipt of electronic health-related information among physicians, health care providers, or entities within:
 - (i) a hospital system;
 - (ii) a physician organization;
 - (iii) a health care collaborative, as defined by [Section 848.001, Insurance Code](#);
 - (iv) an accountable care organization participating in the Pioneer Model under the initiative by the Innovation Center of the Centers for Medicare and Medicaid Services; or
 - (v) an accountable care organization participating in the Medicare shared savings program under [42 U.S.C. Section 1395jjj](#).
- (55) [2 Versions: As added by [Acts 2015, 84th Leg., ch. 1](#)] “Executive commissioner” means the executive commissioner of the Health and Human Services Commission.
- (55) [2 Versions: As added by [Acts 2015, 84th Leg., ch. 1268](#)] “Board” means the Texas State Board of Pharmacy.

History

Enacted by *Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1*, effective September 1, 1989; am. *Acts 1989, 71st Leg., ch. 1100 (S.B. 1046), § 5.02(b)*, effective September 1, 1989; am. *Acts 1993, 73rd Leg., ch. 351 (S.B. 621), § 27*, effective September 1, 1993; am. *Acts 1993, 73rd Leg., ch. 789 (S.B. 472), § 15*, effective September 1, 1993; am. *Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 2.01*, effective September 1, 1994; am. *Acts 1997, 75th Leg., ch. 745 (H.B. 1070), §§ 1, 2*, effective January 1, 1998; am. *Acts 1999, 76th Leg., ch. 145 (S.B. 254), §§ 1, 5(1)*, effective September 1, 1999; am. *Acts 2001, 77th*

Leg., ch. 251 (S.B. 753), § [1](#), effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1188 (H.B. 3351), § [1](#), effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 88 (H.B. 1095), § [2](#), effective May 20, 2003; am. Acts 2003, 78th Leg., ch. 1099 (H.B. 2192), § [4](#), effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 418 (S.B. 406), § [23](#), effective November 1, 2013; am. Acts 2013, 83rd Leg., ch. 1226 (S.B. 1643), § [1](#), effective September 1, 2013; am. [Acts 2015, 84th Leg., ch. 1 \(S.B. 219\), § 3.1227](#), effective April 2, 2015; am. [Acts 2015, 84th Leg., ch. 64 \(S.B. 172\), § 1](#), effective September 1, 2015; am. [Acts 2015, 84th Leg., ch. 65 \(S.B. 173\), § 1](#), effective September 1, 2015; am. [Acts 2015, 84th Leg., ch. 712 \(H.B. 1212\), § 3](#), effective September 1, 2015; am. [Acts 2015, 84th Leg., ch. 1268 \(S.B. 195\), § 2](#), effective September 1, 2016; am. [Acts 2019, 86th Leg., ch. 1105 \(H.B. 2174\), § 2](#), effective September 1, 2019; am. [Acts 2019, 86th Leg., ch. 764 \(H.B. 1325\), § 8](#), effective June 10, 2019.

Annotations

LexisNexis® Notes

Notes

STATUTORY NOTES

1997 Note:

Section 481.002, as amended by ch. 745, applies only to an offense committed on or after September 1, 1997. An offense committed before September 1, 1997, is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose. Acts 1997, 75th Leg., ch. 745, § 42(a).

2001 Note:

The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date. Acts 2001, 77th Leg., ch. 1188, § 11.

Amendment Notes

2013 amendment, by ch. 418, in (39)(D), added “registered,” substituted “prescribe or order a drug or device” for “carry out or sign prescription drug orders,” and substituted “Section 157.0511, 157.0512, or 157.054” for “Section 157.0511, 157.052, 157.053, 157.054, 157.0541, or 157.0542.”

2013 amendment, by ch. 1226, deleted “(Texas Hospital Licensing Law)” following “Section 241.003” of (20); substituted “under Chapter 243” for “by the Texas Department of Health” in (20)(B); added (20)(C), (32)(B), and (54); added the (32)(A) designation; and made related changes.

2015 amendment, by ch. 1, substituted “state health services” for “public health” in (3); and added (55).

2015 amendment, by ch. 64, added “or solid” in (50)(B).

2015 amendment, by ch. 65, substituted “Penalty Group 1, 1-A, 2, 2-A, 3, or 4” for “Penalty Groups 1, 1-A, or 2 through 4” in the first sentence of (5); and substituted “Penalty Group 1, 1-A, 2, or 2-A” for “Penalty Group 1, 1-A, or 2” in (6)(A) and (6)(B).

2015 amendment, by ch. 712, substituted “Penalty Group 1, 1-A, 2, 2-A, 3, or 4” for “Penalty Groups 1, 1-A, or 2 through 4” in the first sentence of (5); and substituted “Penalty Group 1, 1-A, 2, or 2-A” for “Penalty Group 1, 1-A, or 2” in (6)(A) and (6)(B).

2015 amendment, by ch. 1268, added “the federal Controlled Substances Act (21 U.S.C. Section 801 et seq.) or” in (4)(B); substituted “has a current Federal Drug Enforcement Administration registration number” for “is registered under Section 481.063” in (45); and added (55).

The 2019 amendment by H.B. 1325, § 8, added the last sentence of (5); added (26)(F); and made a related change.

The 2019 amendment by H.B. 2174, § 2, in (10), substituted “Section 481.074(b-2)” for “Section 481.073” and added “in an emergency”; and in (47), added “is used for a Schedule II controlled substance under Section 481.0755 and” and substituted “Section 481.0755(e)” for “Section 481.075.”

Applicability.

[*Acts 2015, 84th Leg., ch. 64 \(S.B. 172\), § 4*](#) provides: “The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2015]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.”

[*Acts 2015, 84th Leg., ch. 65 \(S.B. 173\), § 4*](#) provides: “The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2015]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for

that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.”

Acts 2015, 84th Leg., ch. 712 (H.B. 1212), § 7 provides: “The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2015]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.”

Tex. Agric. Code § 121.001

Texas Statutes & Codes Annotated by LexisNexis® > Agriculture Code > Title 5 Production, Processing, and Sale of Horticultural Products (Subts. A — H) > Subtitle F Hemp (Chs. 121 — 122) > Chapter 121 State Hemp Production Plan (§§ 121.001 — 121.004)

Sec. 121.001. Definition.

In this chapter, “hemp” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

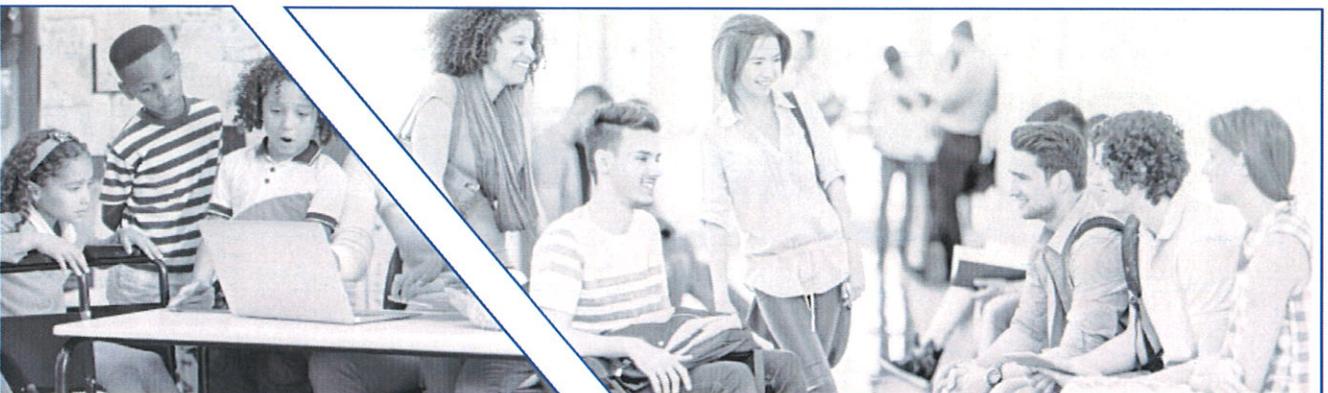
History

Enacted by [*Acts 2019, 86th Leg., ch. 764 \(H.B. 1325\), § 2*](#), effective June 10, 2019.

EXHIBIT 10

Katy Independent School District

Discipline Management Plan and Student Code of Conduct



2020-2021



EXHIBIT 11

Quick Reference Guide to the 2020-2021 Discipline Level System

This chart depicts brief examples of offenses at each of the disciplinary levels. For a list of appropriate consequences and for more specific detail refer to pages 24-39 of the *Discipline Management Plan and Student Code of Conduct*.

Level I	Level III	Level IV: Removals to DAEP
<p>The focus at Level I of the Discipline Management Plan and Student Code of Conduct is on the implementation of the District's proactive Response to Intervention (RTI) process and the use of tiered supports to teach and reinforce positive behavioral expectations for all students in the classroom setting.</p>	<p>3.1 Ammunition (possessing) 3.2 Assault of another student or an adult that is not a removable or expellable offense 3.3 Blackmail, extortion or coercion 3.4 Bullying or cyberbullying, multiple incidents confirmed 3.5 Disrupting the school environment or educational process 3.6 Drug/Medication, non-prescription; prohibited substance (possessing, using, selling, attempting to sell, delivering, or transmitting) 3.7 Elopement (multiple incidents) 3.8 Failing to disclose information, hiding/covering up info/evidence for self or others, committing perjury, or lying as a witness, falsifying a report, making a 9-1-1 call that is not a mandatory removable offense 3.9 Fighting, physical aggression or contact 3.10 Fire extinguisher, an automated external defibrillator, or their storage cabinet (tampering) 3.11 Fireworks, stink bombs, smoke bombs, other noxious chemicals or chemical dispensing devices (possessing, distributing or using) 3.12 Forging or altering school records, parent notes, forms, or school/home communications (sec.) 3.13 Gambling 3.14 Gang activity, participating in an unauthorized organization or secret society 3.15 Hacking (illegal or unauthorized entry or attempted entry into District's computer system) 3.16 Harassment, multiple incidents confirmed 3.17 Hazing; stalking (non sexual) 3.18 Health or safety hazard or a situation that may result in possible or potential injury (creating a) 3.19 Illegal conduct that does not constitute a removable or expellable offense 3.20 Language, profane, vulgar, obscene, or threatening, including hit lists (written or verbal); or obscene gestures 3.21 Libelous or slanderous remarks (verbal or written) 3.22 Lighters or matches (using) 3.23 Mooning; streaking; other forms of nudity; exposing or attempting to expose one's undergarments or those of another ("pantsing") 3.24 Overnight trips, inappropriate behavior not addressed elsewhere 3.25 Paraphernalia (drug), aerosol paint, or fixative spray (possessing) 3.26 Persistent offenses from Level II, including bus infractions 3.27 Pornographic or sexually-oriented material/ items or material that promotes violence or other illegal activities, including sexting (possessing, distributing or creating) 3.28 Prohibited substance through verbal or written communication without being in possession (attempting to sell or purchase) 3.29 Sexual comments (making) or sexual conduct (engaging) 3.30 Slurs, ethnic, racial or gender-related or inappropriate acts toward others 3.31 Stealing, unauthorized possessing of another person's property, theft, committing burglary 3.32 Tardies (excessive) 3.33 Telecommunication devices: taking photos/videos, uploading, cheating, etc. (violating the guidelines of) 3.34 Tobacco or electronic cigarettes (possessing multiple times, selling or using) 3.35 Trespassing, interfering with school activities, boycotting, and group demonstrations 3.36 Vaping, possessing multiple times, selling, attempting to sell or using paraphernalia, devices, accessories 3.37 Vandalizing, defacing or damaging school property, including non-felony graffiti 3.38 Weapon, not included as a removable or expellable offense (possessing, distributing or concealing) 3.39 Weapon, look-alike (exhibiting, delivering, using, or selling)</p>	<p>Mandatory Placements</p> <ol style="list-style-type: none"> False alarm/report; terroristic threat Conduct punishable as a felony Assault with bodily injury Marijuana (non-felony) Controlled substances (non-felony) Dangerous drugs (non-felony) Alcohol (non-felony) Abusable volatile chemicals Public lewdness/indecent exposure Harassment against an employee Retaliation against any school employee (regardless of location) Public intoxication other than alcohol, marijuana, controlled substance or dangerous drugs Possession of a device designed to propel a projectile (BB-guns, pellet guns, air soft guns, slingshots, etc.) Title V felonies or aggravated robbery (off-campus) Gang activity Fraternity, sorority, or secret society activity Expellable offenses occurring on another district's property in Texas #4, #6, or #9 (below) against a student (regardless of location) Breach of computer security Registered sex offenders under court supervision Assault against any employee or volunteer <p>Permissive Placements</p> <ol style="list-style-type: none"> Persistent misbehavior at Level III Felonies other than Title V felonies or aggravated robbery (off-campus) Registered sex offenders not under court supervision Bullying that encourages suicide, incites violence, or releases or threatens to release intimate visual material.
<p>Level II</p> <ol style="list-style-type: none"> Bullying or cyberbullying (confirmed through investigation) Cheating or copying the work of another Damaging property including library or classroom materials or textbooks, including removal of bar codes; defacing/damaging another's property Detention (failing to serve) Disturbance, creating/participating in or inappropriate activity Dress code Violation (sec.); repeated violations (elem.) Drugs/Medications, current prescription (possessing); nonprescription drug, natural and/or homeopathic-like substances, dietary supplements, or energy pills (using) Electronic devices (unauthorized), such as radio, CD player, MP3 player, calculator, gaming device (unauthorized use) Elopement Falsehood to an adult (not associated with an investigation) Fighting (encouraging or promoting) Food (inappropriately using) Forging or altering school records, parent notes, forms, or other school/home communications (elem.) Hall pass (abusing the use of) Harassment (confirmed through investigation) Identification (ID) badge violation Language, inappropriate (verbal or written) Laser pointer (possessing or using) Loitering on school campus before or after school Noncompliance with the directives; disrespectful Parking (violation of) (high school) Persistent offenses Physically contacting another student creating a disruptive environment Public display of affection (inappropriate, engaging in an act of familiarity with another) Recording device: camera, video/audio recorder, etc. (possessing or using) Responsible Use Guidelines (violating) Selling or soliciting for sale unauthorized merchandise Skateboard, roller blades, shoes with wheels, or other similar devices (possessing or using) Tardies (repeated) Telecommunication, violating the guidelines for devices (third and subsequent minor offenses) Tobacco-related paraphernalia, lighters, matches-(possessing) Toys/nuisance items (possessing) Truancy, skipping class, leaving school/class without permission Stealing or theft (minor), unauthorized using property Unauthorized area, being present in area without permission Unauthorized publications (possessing or distributing) Vaping, possession of paraphernalia, devices accessories Weapon, look-alike (possessing) 	<p>Level V: Expulsions to JJAEP</p> <p>Mandatory</p> <ol style="list-style-type: none"> Firearm Unlawful carry of a weapon Prohibited weapon Aggravated assault, sexual assault, or aggravated sexual assault Arson Murder, capital murder, or criminal attempted murder or capital murder Indecency with a child Aggravated kidnapping Aggravated robbery Manslaughter Criminally negligent homicide Continuous sexual abuse of young child or children Marijuana (felony) Controlled substances (felony) Dangerous drugs (felony) Alcohol (felony) Retaliation against an employee or volunteer (regardless of location involving #1-15 above) <p>Permissive</p> <ol style="list-style-type: none"> Serious misbehavior while placed in a DAEP (by statute) Assault against an employee or a volunteer (on campus or within 300') Deadly conduct (on campus or within 300') Retaliation against an employee or volunteer (regardless of location) Criminal mischief (felony) #5, #7, or #9 (above) against a student (off-campus) Expellable offenses occurring on another district's property in Texas Title V felonies or aggravated robbery under 37.0081 	

Disruption of Classes

KATY ISD POLICIES FNCI (LEGAL) and GKA (LEGAL)

For purposes of this rule, “school property” shall include the public school campuses or school grounds or buildings used by the District schools for assemblies or other school-related activities, and “public property” includes any street, highway, alley, public park, or sidewalk. No person shall be permitted, on school property or on public property within 500 feet of school property, to intentionally disrupt, alone or in concert with others, the conduct of classes or other school activities. Conduct which disrupts the educational activities of a school includes:

1. Emissions by means of noise of an intensity that prevents or hinders classroom instruction;
2. Enticement or attempted enticement of students away from classes or other school activities that students are required to attend;
3. Prevention or attempted prevention of students from attending classes or other school activities that students are required to attend; and
4. Entrance into a classroom without consent of either the principal or the teacher and either through acts of misconduct and/or use of loud or profane language causing disruption of class activities.

Education Code 37.124

Disruption of Transportation

KATY ISD POLICY CNC (LEGAL)

Any person other than a primary or secondary grade student who intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school on a vehicle owned or operated by the District or to or from activities sponsored by a school on a vehicle owned and/or operated by the District shall be guilty of a misdemeanor. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age. *Education Code 37.126*

If the illegal act is conducted through use or exhibition of a firearm, the person shall be guilty of a felony. *Education Code 37.125*

Distribution of Materials

Approval of the campus principal or designee must be obtained prior to distributing to students or posting written materials on school property. Decisions regarding the appropriateness of materials will be consistent with the criteria and timelines specified in Board Policies FMA, FNAA, and GKDA and according to whether the materials are for a curriculum-related or noncurriculum-related group. The principal or designee shall determine the time, place, and manner for distribution of information or notices regarding meetings and activities for curriculum-related and school-sponsored groups/organizations. Approved materials for noncurriculum-related groups will be placed/posted in a designated area accessible to students.

Only announcements pertaining to curriculum-related and school-sponsored meetings/events will be made over the school’s public address system. Students distributing materials without permission will be assessed a disciplinary consequence as appropriate.

Each campus has a location designated for the distribution of nonschool-related materials for nonprofit organizations that have obtained District approval. This information (community flyers) can also be found on the campus and District Web site.

The District prohibits the distribution of nonschool-related materials to students for “for-profit” businesses/groups.

Birthday invitations are classified as nonschool-related materials and may not be distributed to students at school since no other flyers from “like” groups are allowed to be directly distributed to students.

(See “Publications — Nonschool, by Students” and “Publications — Student Speech” for additional information and Board Policy GKDA for nonschool literature by nonstudents.)

Dress Code

KATY ISD POLICY FNCA (LOCAL)

In order to maintain an orderly environment conducive to the attainment of the educational mission and purpose of the District, all students shall be required to conform to a reasonable dress and grooming code. The provisions of the dress and grooming code shall be enforced equally with regard to all students to whom the provisions apply.

Students shall be dressed and groomed in a manner that is clean and neat and that will not be a health or safety hazard to themselves or others. The District prohibits any clothing or grooming that in the principal’s judgment may reasonably be expected to cause disruption of or interference with normal school operations.

The District prohibits pictures, emblems, or writings on clothing that:

1. Are lewd, offensive, vulgar, or obscene.
2. Advertise or depict tobacco products, alcoholic beverages, drugs, or any other substance prohibited under FNCF (LEGAL).

The principal at each campus is authorized to determine the suitability of student attire and grooming, within the expressed wording and intent of this policy and in regard to exceptions necessary to address medical or safety concerns or adhere to religious practices. The principal is also the person designated as the person responsible for enforcing this policy at the campus level. Principals at individual campuses are authorized to publish and enforce additional rules that are felt to be necessary to maintain a safe and orderly learning environment.

If the principal determines that a student’s clothing or grooming violates the District’s dress code, the student shall be given an opportunity to correct the problem at school or in some cases the parent may be given the option to correct the problem, i.e. granting permission for the student to shave. If the problem is not corrected, the student shall be assigned to in-school-suspension for the remainder of the day or until the problem is corrected. Repeated offenses will result in more serious disciplinary action.

The principal, in cooperation with the sponsor, coach, or other person in charge of an extracurricular activity, may regulate the dress and grooming of the students who participate in the activity. Students who violate these standards may be removed or excluded from the activity for a period determined by the principal or sponsor and may be subject to other disciplinary action.

(See the Dress Code Chart on page vii.)

Drug/Alcohol Use/Abusable Volatile Chemicals

KATY ISD POLICY FNCF (LEGAL), FNCF (LOCAL), FOC (LEGAL), and FOD (LEGAL)

No student shall, during any school term and while on school premises or off school premises at a school-sponsored activity, function, or event, sell, give, deliver, use, possess, or be under the influence of any amount of:

1. Marijuana or a controlled substance, as defined by Chapter 481, *Health and Safety Code*, or by 21 USC 801, et. seq.;
2. A dangerous drug, as defined by Chapter 483, *Health and Safety Code*; or
3. An alcoholic beverage, as defined by Section 1.04, *Alcoholic Beverage Code*.

Education Code 37.006, 37.007

In addition to the above prohibitions, no student shall inhale, ingest, apply, use, or possess an abusable glue, aerosol paint, or other volatile chemical with intent to inhale, ingest, apply, or use them in a manner:

1. Contrary to directions for use, cautions, or warnings appearing on a label of a container of the glue, paint, or substance; and
2. Designed to affect the central nervous system, create or induce a condition of intoxication, hallucination, or elation, or change, distort, or disturb the person’s eyesight, thinking process, balance, or coordination.

Health & Safety Code 485.031

No person shall intentionally or knowingly use or possess

may not be used to overturn a disciplinary assignment.
(See “Complaints” on page ix.)

Continuation of Placement

If a student who is assigned an out-of-school suspension withdraws and enrolls in another school district before the expiration of the period of suspension, the District is required to forward a copy of the suspension notice along with other student records. The District in which the student enrolls may continue the out-of-school suspension or may allow the student to attend regular classes without completing the period of suspension. If a secondary student withdraws from the District after being assigned a suspension and returns within the same school year, the student will be required to serve the remainder of his/her out-of-school suspension if the suspension was not completed in another district.

Transfers

Katy ISD will require a student enrolling in the District to complete an out-of-school suspension ordered by the previous school district upon receipt of the written notice.

Disciplinary Alternative Education Program (DAEP)

Katy ISD shall provide a disciplinary alternative education program (DAEP) that:

1. Is provided in a setting other than a student’s regular classroom;
2. Is located on or off a regular school campus;
3. Provides education for the students who are assigned to the DAEP to be separated from students who are not assigned to the program;
4. Focuses on English language arts, mathematics, science, social studies, and self-discipline;
5. Provides for students’ educational and behavioral needs;
6. Provides supervision and counseling;
7. Requires each teacher to meet all certification requirements; and
8. Provides a minimum of at least seven (7) hours of instructional time per day.

In addition to the general guidelines considered when determining whether DAEP is an appropriate disciplinary sanction, the administrator will also consider self-defense (as defined at “Self-Defense”), the intent or lack of intent at the time the student engaged in the conduct, if the student has a disability that substantially impairs the student’s capacity to appreciate the wrongfulness of the student’s conduct and the student’s discipline history, if the student has a status in the conservatorship of the Department of Family and Protective Services or if the student is considered homeless.

The Opportunity Awareness Center (OAC) serves as the District’s off-campus DAEP site for secondary students and fourth and fifth grade elementary students. Elementary students below grade four placed in a DAEP will be accommodated on their home campuses. **A student who is younger than six years of age may not be removed from class and placed in a DAEP.** Elementary students will be separated in a DAEP from students not in elementary school.

Academically, the mission of a DAEP shall be to enable students to perform at grade level. However, **Katy ISD is not required to provide a course necessary to fulfill a student’s high school graduation requirements other than the core areas specified above in item #4 while placed in the off-campus DAEP setting.** The District is required to offer a student placed in a DAEP an opportunity to complete coursework necessary to stay on track for graduation before the beginning of the next school year. Students in grades 8-12 assigned to the OAC at any point during the school year are eligible to attend the summer academic program offered at the OAC free of charge to earn or regain credit. Students are permitted to complete any foundation curriculum course in which the student was enrolled at the time of removal to the OAC before the beginning of the next school year. Upon approval, courses may be completed through correspondence

courses, distance learning opportunities, or summer school, at the expense of the District.

Permissive Placement

Secondary students or fourth and fifth grade elementary students who continue to engage in serious or persistent misbehavior at the home campus **may be recommended** for a permissive placement at the OAC. Campuses may request a permissive placement committee to consider a DAEP placement for a student who continues to commit persistent Level II and Level III offenses, despite campus interventions. Additionally, campus administrators may request a committee to consider a permissive placement for a student who commits a serious offense if the continued presence of the student in the regular classroom will be detrimental to the educational process or threatens the safety of the other students or teacher(s).

A student who is required to register as a sex offender (under Chapter 62, *Code of Criminal Procedures*) and who is **not under** any form of court supervision, **may be removed** from the regular classroom and placed in a DAEP as specified in *TEC 37.305*. The District may not place the student in the regular classroom if the Board’s designee determines that the student’s presence in the regular classroom:

1. Threatens the safety of other students or teachers;
2. Will be detrimental to the educational process; or
3. Is not in the best interests of the district’s students.

Students will not be considered for a permissive placement for the offenses of truancy and tardies.

In addition, a student **may be removed** from class and placed in a DAEP based on **conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:**

1. The superintendent or the superintendent’s designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Section 29.03, *Penal Code*, or those offenses defined in Title 5, *Penal Code*; and
2. The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense by the *Penal Code*, the superintendent or the superintendent’s designee may consider all available information including the information furnished under Article 15.27, *Code of Criminal Procedures*. The length of stay for this offense will be determined on an individual basis.

Mandatory Placement

Secondary students committing offenses for which mandatory removal to a disciplinary alternative education program (DAEP) is required will be placed at the OAC. Elementary students in fourth or fifth grade will be placed at the OAC. Elementary students below fourth grade will be placed in an on-campus DAEP.

A student shall be removed from class and placed in a DAEP if the student:

1. Engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, *Penal Code*, or terroristic threat under Section 22.07, *Penal Code*; or
2. Commits the following on or within 300 feet of school property, as measured from any point on the school’s real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:
 - a. Engages in conduct punishable as a felony (if not specified as a mandatory expellable offense at Level V);
 - b. Engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), *Penal Code*;
 - c. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of:
 - 1) Marijuana or a controlled substance, as defined by

Chapter 481, *Health and Safety Code*, or by 21 USC Section 801 et seq.; or

- 2) A dangerous drug, as defined by Chapter 483, *Health and Safety Code*;
- d. Sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, *Alcoholic Beverage Code*, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;
- e. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under section 485.031 through 485.034, *Health and Safety Code*; or
- f. Engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, *Penal Code*, or indecent exposure under Section 21.08, *Penal Code*.
- g. Engages in conduct that contains the elements of the offense of harassment under Section 42.07(a)(1), (2), (3), or (7), *Penal Code*, against an employee of the school district.

In lieu of placement in a DAEP, the District may expel a student for conduct listed in items 1, 2(c), 2(d), or 2(e) above.

Except as provided by Section 37.007(d), *Education Code* (expellable offenses related to retaliation), a student **shall be removed** from class and placed in a DAEP if the student engages in conduct on or off school property that contains the elements of the offense of retaliation under Section 36.06, *Penal Code*, against any school employee.

A student in possession of any device, not included as an expellable offense by statute, that is designed to propel a projectile either by a spring-type mechanism, air, or gas **shall also be removed from class and placed** in a DAEP according to local policy. This includes, but is not limited to, items such as BB-guns, pellet guns, slingshots, etc.

A student **shall be removed** from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school sponsored or school-related activity if:

1. The student received deferred prosecution under Section 53.03, *Family Code*, for conduct defined as a felony offense in Title 5, *Penal Code* (see page 19 for Title 5 offenses), or the felony offense of aggravated robbery under Section 29.03, *Penal Code*.
2. A court or jury finds that the student has engaged in delinquent conduct under Section 54.03, *Family Code*, for conduct defined as a felony offense in Title 5, *Penal Code*, or the felony offense of aggravated robbery under Section 29.03, *Penal Code*; or
3. The superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as a felony offense in Title 5, *Penal Code*, or the felony offense of aggravated robbery under Section 29.03, *Penal Code*.

A student **shall be removed from class and placed** in a DAEP, according to local policy, if a student takes more than the recommended dosage of his/her own medication or any other substance (regardless of whether it is a nonprescription medicine, nonregulated synthetic substance, etc.) and is referred to court, receives a ticket or is arrested for public intoxication or a similar charge.

Katy ISD administrators **shall recommend** placing a student in a DAEP who is found to be:

1. Involved in gang activity, including participating as a member or pledge, or soliciting another person to become a pledge or member of a gang.
2. Involved in a public school fraternity, sorority, or secret society, including participating as a member or pledge, or soliciting another person to become a pledge or member of a public school fraternity, sorority, or secret society.

A student who is required to register as a sex offender (under Chapter 62, Code of Criminal Procedures) and who is **under** any form of court supervision, including probation, community supervision, or parole, **shall be removed** from the regular

classroom and placed in a DAEP as specified in *TEC 37.304*.

Katy ISD administrators **will recommend**, at a minimum, placing a student in the DAEP (in lieu of a permissive expulsion) who engaged in conduct that contains the elements of any of the offenses listed in 2(a), 2(c), or 2(f), as specified in the expellable offenses at Level V, if the offense is against another student, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.

Katy ISD administrators **will recommend**, at a minimum, placing a student in the DAEP (in lieu of a permissive expulsion) who has engaged in conduct described in items 1, 2, and 3, as specified at the beginning of the section on Expulsion [37.007(a)], if the student engages in that conduct on the school property of another district in this state or while attending a school-sponsored or school-related activity of a school in another district in this state.

Katy ISD administrators **will recommend**, at a minimum, placing a student in the DAEP (in lieu of a permissive expulsion) who has engaged in conduct that contains the elements of the offense of breach of computer security under Section 33.02, *Penal Code*, involving access to a computer, computer network, or computer system owned by or operated on behalf of the District.

Katy ISD administrators **will recommend**, at minimum, placing a student in a DAEP if the student engages in conduct that contains the elements of the offense of assault against any employee or volunteer.

Katy ISD administrators **may recommend** placing a student in a DAEP as provided in *Texas Education Code 37.008* if the student engages in bullying that encourages a student commit or attempt to commit suicide; incites violence against a student through group bullying; or releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.

Emergency Placement

The principal or principal's designee may order the immediate placement of a student in an off-campus DAEP if the principal or principal's designee reasonably believes the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn or with the operation of the school or a school-sponsored activity. *Education Code 37.019*

(See "Emergency Placement/Expulsion" on page 40.)

Information Related to Permissive and/or Mandatory DAEP Placements

Length of Removal

The recommended length of removal for secondary students that engage in conduct that constitutes a permissive or mandatory removal to a DAEP will be for a minimum of 45 school days. A student's placement may extend if the ending date of the placement would occur prior to the end of the three-week grading cycle. If the assignment is made under *TEC 37.304, 37.305, or 37.0081* applicable provisions regarding the length of placement under those statutes will be used. Students that engage in a second mandatory offense within the same school year shall be placed for a minimum of 75 school days and returned to the home campus at the end of the three-week grading cycle. A second mandatory offense within the current and previous school year may result in a placement to the DAEP for a minimum of 75 school days with the approval of the appropriate Assistant Superintendent for School Leadership and Support.

The District may remove a student for up to one calendar year on a case-by-case basis depending upon the severity of the offense. Parents will be notified of placement lengths that fall outside of the general guidelines established.

Placements at the OAC are for a specified period of time; however, a student may be granted the option of an early release

Katy ISD Mission Statement:

Katy Independent School District, the leader in educational excellence, together with family and community, provides unparalleled learning experiences designed to prepare and inspire each student to live an honorable, fulfilling life... to create the future.

Katy ISD Vision Statement:

Be the legacy.

2020-2021

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The contents of this handbook are not contractual, and do not give rise to a claim of breach of contract against the school district. Further, the contents of this handbook apply to all students of the district, as the content now appear in the handbook or may be amended in the future.

It is the policy of Katy ISD not to discriminate on the basis of sex, disability, race, religion, color, gender, age, or national origin in its educational programs and/or activities, including career and technology programs, nor in its employment practices and to provide equal access to the Boy Scouts and other designated youth groups.





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Legal Questions About CBD and Marijuana in Schools

Published online in [TASB School Law eSource](#)

The law involving marijuana is in flux. A majority of states have legalized medical marijuana to some extent, including the District of Columbia and eleven states that allow for recreational use. Federal laws also address marijuana. As new approaches continue to be tested in the ‘laboratories of democracy,’ the marketplace has responded with cannabis-related products such as cannabidiol (CBD), which can be purchased in any jurisdiction thanks to the Internet. School officials may be wondering how these new products and legal developments impact Texas public schools.

What is CBD?

CBD, or cannabidiol, is one of many naturally occurring chemical compounds of *Cannabis sativa* L., the plant from which both marijuana and hemp are derived. Tetrahydrocannabinol, or THC, is another compound of the cannabis plant. The primary difference between hemp and marijuana is the amount of THC, which is the main component of marijuana that creates a “high” sensation. Both hemp and marijuana contain CBD, which is non-intoxicating. CBD has been shown to be effective in treating some forms of epilepsy. Preliminary research has also suggested that CBD may be used to treat other health conditions, including anxiety, insomnia, and chronic pain.¹ Unlike whole-plant marijuana, which is usually smoked or vaporized, CBD is commonly consumed as an oil extract or a pre-mixed additive in food or beverages.

How do Texas and federal laws treat CBD and medical marijuana?

Both Texas and federal laws have decriminalized CBD that is extracted from hemp. *Hemp* is defined by law as the plant *Cannabis sativa* L. and any part of that plant with a THC concentration of no more than 0.3 percent. In 2019, the 86th Texas Legislature enacted House Bill 1325, legalizing hemp and mandating a regulatory framework for the manufacture and sale of consumable hemp products, defined as food, drugs, devices, or cosmetics containing hemp or a hemp-derived cannabinoid such as CBD.²

¹ Peter Grinspoon, MD, [Cannabidiol \(CBD\)--what we know and what we don't](#). Harvard Health Blog (Aug. 24, 2018).

² Act of June 10, 2019, 86th Leg., R.S. H.B. 1325 (to be codified at Tex. Agric. Code ch. 122 and Tex. Health & Safety Code ch. 443).

Distinguishing between legal and illegal CBD is complicated. The extensive regulations and testing procedures required by House Bill 1325 have not yet been put into place. A product may purport to be legal, but without standardized regulations or labeling requirements for CBD, vendors' claims are unreliable. To make things even more complicated, interpretations and enforcement of the new laws may vary in local jurisdictions.

Federal law

Under federal law, CBD that is extracted from hemp and contains less than 0.3 percent THC is exempt from the Controlled Substances Act.³ Currently, the Federal Drug Administration (FDA) has not approved CBD to be added to foods or other preparations to be consumed.⁴ The FDA has only approved one CBD-based medication, Epidiolex, which may be prescribed to treat seizures associated with Lennox-Gastaut syndrome and Dravet syndrome, two rare and severe forms of epilepsy.⁵

Many unlicensed manufacturers label CBD products as dietary supplements, rather than medication or food products, in an unsuccessful attempt to avoid FDA testing requirements. The FDA has stated that products containing THC or CBD do not qualify as dietary supplements and that selling them in interstate commerce is a violation of the Federal Food, Drug, and Cosmetic Act.⁶ The FDA has sent warning letters to companies selling "CBD products that claimed to prevent, diagnose, treat, or cure serious diseases, such as cancer"; however, the agency has discretion whether to initiate an enforcement action based on several factors, including whether a substance poses a threat to public health.⁷

In addition, federal law requires a school district to provide an educational environment and workplace that is free from controlled substances as a condition of receiving federal funds.⁸ In jurisdictions where medical marijuana is permitted, state law typically prohibits possessing or administering marijuana in public places, including school districts, in order to avoid a conflict between state and federal law that could jeopardize federal funding for school programs.

³ See 7 U.S.C. § 1639o(1); 21 U.S.C. § 802(16) (exempting "hemp," defined as any *Cannabis sativa* L. containing less than 0.3 percent of THC by dry weight).

⁴ 21 U.S.C. § 812(b); 21 C.F.R. § 1308.11(d)(58).

⁵ U.S. Food & Drug Administration, [FDA Approves First Drug Comprised of an Active Ingredient Derived from Marijuana to Treat Rare, Severe Forms of Epilepsy](#) (June 26, 2018).

⁶ U.S. Food & Drug Administration, [FDA Regulation of Cannabis and Cannabis-Derived Products: Questions and Answers](#) (Apr. 3, 2019).

⁷ U.S. Food & Drug Administration, [FDA Regulation of Cannabis and Cannabis-Derived Products: Questions and Answers](#) (Apr. 3, 2019).

⁸ Drug Free Workplace Act 41 U.S.C. § 81; ESEA, Title IV, Part A, §§ 4001 *et seq.*

State law

With House Bill 1325, the 86th Texas Legislature followed the example of federal law by removing hemp from the state list of controlled substances.⁹ *Hemp* is defined as the plant *Cannabis sativa* L. and any part of that plant with a THC concentration of no more than 0.3 percent.¹⁰ If a product labeled CBD is derived from this type of hemp, it is legal to use and possess. Some products may contain greater amounts of THC, however. Until these products are fully regulated, it is impossible to verify the contents without chemical testing.¹¹ Despite these complexities, CBD is widely available online and in retail stores across the state. Local law enforcement agencies have differing views on whether pursuing criminal charges related to CBD is an appropriate use of resources. As such, district officials should not assume that possession of CBD will be prosecuted as a crime.

Texas Compassionate Use Act

In 2015, the Texas legislature passed the Texas Compassionate Use Act, legalizing possession of cannabis with high CBD concentration under certain circumstances. A school district may not adopt or enforce any rule that prohibits a patient's access to low-THC cannabis pursuant to the Act, which the 86th Legislature expanded in 2019. Patients suffering from epilepsy, a seizure disorder, multiple sclerosis, spasticity, amyotrophic lateral sclerosis (ALS), autism, terminal cancer, or an incurable neurodegenerative disease may be prescribed low-THC, high-CBD cannabis by a licensed physician.¹² Valid patients, as well as their legal guardians, are exempt from criminal penalties for possession and the patient's use of low-THC cannabis.¹³ Districts that have adopted TASB's Model Student Code of Conduct can find this exception in their local codes.

Can we ban CBD on district property?

Given the current problems with testing to determine whether a substance is legal, school officials may want to adopt a general ban on CBD. Districts that wish to adopt a ban on use or possession of CBD on district property may likely do so under the school board's general authority to adopt rules for the safety and welfare of students and employees.¹⁴ Provisions in House Bill 1325 prohibit local authorities from adopting or enforcing a rule that prohibits the handling or sale of hemp, or the manufacture or sale of a consumable hemp product. These provisions do not restrict local prohibitions on possession or use of hemp or hemp products.

⁹ Act of June 10, 2019, 86th Leg., R.S. H.B. 1325, § 8 (to be codified at Tex. Health & Safety Code § 481.002(5) and (26)).

¹⁰ Tex. Agric. Code § 121.001.

¹¹ See [Brief Explanation of the Federal Farm Bill and Related Texas Legislation in the Context of Marijuana Prosecution](#), Tex. Forensic Science Commission (Aug. 2019) (discussing impact of federal and state legislation on forensic analysis of seized drugs).

¹² Act of June 14, 2019, 86th Leg. R.S. H.B. 3703, § 2 (to be codified at Tex. Occ. Code § 169.003).

¹³ Tex. Health & Safety Code § 481.111(e).

¹⁴ Tex. Educ. Code § 37.102(a).

Before adopting a local prohibition, district leaders would be wise to consult their school attorneys and coordinate with local law enforcement authorities to clarify how they are interpreting the recent changes in law.

Can district employees possess CBD products at work?

Unless employees are covered by the Texas Compassionate Use Act or prescribed Epidiolex, they should not use or possess at work any cannabis-related product with a THC concentration of more than 0.3 percent, including CBD. The Texas Educator's Code of Ethics prohibits "illegal use, abuse, or distribution of controlled substances, prescription drugs, and toxic inhalants."¹⁵ TASB Model Policies DH(LOCAL) and DH(EXHIBIT) make this ethical rule applicable to all certified and uncertified employees.

Cracking down on employees' use and possession of CBD may be difficult, however. In order to confirm that a product labeled CBD is a controlled substance, testing for trace amounts of THC would be required to determine if the product is legal hemp-based CBD or illegal marijuana.¹⁶ Districts should take care to communicate expectations to employees in advance. Many people use CBD for health-related issues. Even in states that have legalized medical marijuana, courts have determined that employers do not have to allow the use of medical marijuana because of federal law.¹⁷ Nonetheless, district officials should consider speaking to an attorney before taking specific disciplinary actions against an employee because of possessing or using CBD.

Does CBD use result in a positive drug test?

Possibly. Regular use of a commercially available CBD product containing even small amounts of THC can create a detectable buildup in a user's body over time. Therefore, regular use may lead to a positive result for marijuana on urinalysis and other forms of drug testing.¹⁸ Districts should follow U.S. Department of Transportation guidelines and their local policies and procedures for testing students and employees (found in the district's policy manual at FNF and DHE, respectively). Remember, CBD alone is not intoxicating. In order to justify a reasonable suspicion-based test, a district official should be able to identify specific observations of a student's or employee's speech, behavior, appearance, or body order that suggest the individual has or is

¹⁵ 19 Tex. Admin. Code § 247.2.

¹⁶ See Flaccus, Gillian, *Associated Press* "[Is it hemp or is it pot? DEA seeks testing technology while look-alike leads to false arrests](#)" (citing lack of field testing equipment sensitive enough to determine THC levels).

¹⁷ See *Emerald Steel Fabricators, Inc. v. Bureau of Labor and Indus.*, 230 P.3d 518 (Or. 2010) (state law did not require accommodation of employee's medical marijuana because possession of marijuana is unlawful under federal law); *Ross v. Ragingwire Telecomm., Inc.*, 174 P.3d 382 (Cal. 2008) (employee fired for medical marijuana use did not have claim for wrongful termination); but see *Barbuto v. Advantage Sales and Mktg., LLC*, 78 N.E.3d 37 (Mass. 2017) (permitting disability discrimination lawsuit by employee fired after testing positive for marijuana).

¹⁸ Karina Brown, [A School Employee Was Assured He Could Use a CBD Tincture and Still Pass a Drug Test. He Didn't](#). Willamette Week (Feb. 28, 2018).

under the influence of drugs or alcohol. District policy should also allow employees and students to provide relevant information about any factors that may influence a screening, whether based on reasonable suspicion or a law or policy requiring randomized testing.

What should we do if a student has CBD at school or a school-related activity?

The answer may depend on the product. CBD and THC products come in all varieties. If the product is designed to be smoked in an e-cigarette (vaping or Juuling), the answer is clear. Under state law, a minor under the age of 21 may not possess, purchase, consume, or accept an e-cigarette.¹⁹ The Texas Education Code also requires a school district board of trustees to prohibit smoking or using e-cigarettes at school-related or school-sanctioned activities on or off school property.²⁰ The TASB Model Student Code of Conduct prohibits e-cigarettes and any component, part, or accessory for an e-cigarette device. As such, a student's possession or use of CBD oil in any form intended to be used through an e-cigarette is a punishable violation on its own—in addition to possibly being punishable as use or possession of an illegal drug.

If the substance in question appears to be marijuana, but the student claims that it is legal hemp, consider the circumstances. State law does not authorize the manufacture of a product containing hemp for smoking. If, for example, a campus administrator can document that the substance is in a smokable form or smoke is obvious in the student's vicinity; the student has made statements indicating possession or intent to sell marijuana; or the student appears to be "high," the district has a strong legal basis for disciplinary action, including DAEP or expulsion for possession or use of a controlled substance at school.

Use, possession, sale, or delivery of oils, edibles, and other products may be punishable under a school district's student code of conduct as misconduct related to an illegal drug or a controlled substance if the product has THC in excess of the legal limit of 0.3 percent. As mentioned above, this determination requires chemical testing. District leaders should consult with local law enforcement authorities to determine how a student might be charged for using or possessing marijuana in their jurisdiction. Though school disciplinary decisions are not always reliant on criminal charges, parents and others may be confused if the school interprets conduct as criminal when law enforcement does not.

Before deciding on any disciplinary measure involving suspension, removal to a DAEP, expulsion, or placement in a JJAEP, the campus behavior coordinator must take into account the legally required mitigating factors: self-defense; intent or lack of intent; a student's disciplinary history; a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the misconduct; and whether the student is homeless or in foster care. Consideration of the mitigating factors is required even if the decision concerns a disciplinary measure described as "mandatory" in the Texas Education Code.²¹

¹⁹ Tex. Health & Safety Code § 161.252.

²⁰ Tex. Educ. Code § 38.006.

²¹ Tex. Educ. Code § 37.001(a)(4).

If a parent requests that a student be allowed to use CBD at school for an issue that could rise to the level of a disability, district officials should consult Policy FFAC(LOCAL) and work closely with legal counsel due to the complexity of the law. It may be wise to offer alternative accommodations. For instance, in the hypothetical situation of a student taking CBD to treat anxiety, the district could offer to provide preferential seating, testing accommodations, or opportunities to check in with a counselor or mentor.

Conclusion

In the rapidly changing field of cannabis law, even experts have a hard time explaining what is and is not legal. School officials are understandably confused. Paradoxically, when the law is changing quickly, the best advice may be to slow down. Don't rush to adopt a policy that may be impacted or even negated by pending issues on the state or federal levels. Don't rush to discipline; remember your policies and the legally required mitigating factors. Finally, don't rush to judgment. Approach employees, students, and parents without bias as to their choice of treatment.²³ TASB Legal Services will continue to keep districts informed as the law evolves.

This document is continually updated, and references to online resources are hyperlinked, at tasb.org/services/legal-services/tasb-school-law-esource/students/documents/legal-questions-about-cbd-in-schools.pdf. For more information on this and other school law topics, visit TASB School Law eSource at schoolawesource.tasb.org.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.

Updated August 2019

²³ See, e.g., [Position Brief – Cannabis/Marijuana](#), National Association of School Nurses (Jan. 2019) (requiring the school nurse to “approach the student and family without judgment regarding their choice of treatment or preferences”).