

University Park Municipal Court Youth Diversion Plan

Effective January 1, 2025

I. Description

As provided by Chapter 45, subchapter “E” of the Texas Code of Criminal Procedure, and contingent on eligibility, a child shall be diverted from formal criminal prosecution through an established youth diversion program. Youth diversion is applicable for a child who is alleged to have engaged in conduct that constitutes a misdemeanor punishable by fine only, other than a traffic offense (Article 45.302 Code of Criminal Procedure). A child’s participation is voluntary, requires the child to accept responsibility in the alleged conduct, and requires written consent from both the child and the parent in a diversion agreement.

If the child withdraws or does not successfully complete the diversion agreement, a University Park Municipal Judge will conduct a non-adversarial hearing to determine if the diversion was unsuccessful. If it is determined the diversion measures were unsuccessful, the charge may be filed for criminal prosecution, with the prosecutor’s approval.

If it is determined that more time is necessary for a young person to successfully complete diversion, a diversion contract can be extended and/or adjusted not to exceed 180 days (Article 45.309(a)). A judge, however, may extend up to one year from the original start of the diversion after a non-adversarial hearing (45.309(b)).

II. Objective

The purpose of the City of University Park Youth Diversion Program and its related procedures is to:

- A. Reduce recidivism and the occurrence of at-risk behavior through intervention without criminal adjudication.
- B. Identify at-risk youth, juveniles utilizing a social service approach.
- C. Divert instances of deviant behavior from criminal adjudication with an emphasis or therapeutic strategies for accountability and responsibility of the child and the child’s parent(s), or guardian while promoting public safety and order.

III. Eligibility (Article 45.3.04 Code of Criminal Procedure)

1. **Initial Screening:** Upon referral, the court will conduct an initial screening to determine eligibility based on offense type, age, and prior history.
2. **Parental Consent:** Consent from a parent or guardian is required for youth to participate in the program.
3. **Assessment:** A comprehensive assessment, the Municipal Judge will evaluate the youth's needs, strengths, and any underlying issues contributing to their behavior.
4. **Article 45.312** authorizes the clerk of the court to collect from a child's parent a \$50 administrative fee to defray the costs of the diversion of the child's case. If the fee is not paid, the court must order the parent, if financially able, to pay the fee to the clerk. An order to pay is enforceable by contempt. If a parent is indigent or does not have sufficient resources or income to pay, they must complete a financial hardship waiver.

IV. Diversion Evaluation, Intake, and Implementation

The Municipal Judge and Youth Diversion Coordinator (YDC) shall collaborate to determine eligibility and devise a strategy to correct the specific behavior and achieve the objectives of the program, utilizing available resources.

Resources may include, but are not limited to Teen Court, school related disciplinary and educational measures, drug and alcohol evaluation and educational programs, tobacco education, self-improvement strategies or classes, leadership training, manners/social skills, anger management, mental health evaluations, community service and recommended services, and any other services that are determined to be necessary to improve empathy, the parent-child relationship, or life skills.

Once eligibility has been established, the Youth Diversion Coordinator shall review all the information available and applicable to the child and compile a case plan utilizing a strategy suitable for the rehabilitation of the child. The YDC will notify the parent and child of the eligibility. If the parent and child agree in the child's participation, a Municipal Judge shall meet with the parent and child to evaluate the individual needs of the youth, educational, mental health, or substance abuse issues. The Judge will also evaluate the parent-child relationship, youth's support system, consider parent input or require the parent to participate in the case plan if appropriate. The diversion plan may be for a reasonable period not to exceed 180 days. Upon successful completion, the case shall be closed and reopened as successful to the court.

V. Diversion Agreement

There shall be a written binding diversion agreement that contains the components required in Article 45.309 & 45.310 of the Texas Code of Criminal Procedure. The objectives shall:

- a.) consider the child's circumstances,
- b.) be rationally relevant to the alleged conduct,
- c.) be realistic to accomplish,
- d.) be in the best interest of the child and the community.

The written agreement shall contain the following components as required by law:

- A. An identification of the alleged conduct and diversion agreement terms in clear and concise language understandable to the child.
- B. Positive and negative consequences of successful completion of, or failure to comply with the terms of the diversion agreement.
- C. An explanation that a Guilty plea is not required, and that participation is not an admission of guilt.
- D. An explanation of the review and monitoring process of compliance with the diversion agreement.
- E. The agreed length of time of the diversion plan.
- F. Signatures of the child and the parent indicating each's consent to diversion, with the understanding that diversion is optional. Notification that the child's and/or the child's parent may terminate the diversion at any time, and acknowledgement that upon termination, the case will be referred to court.

VI. Not Eligible for Diversion, Prosecutor Objection, Declined Participation by Child or Parent, or Unsuccessful Completion

If the Prosecutor objects, the child and/or parent decline(s); or the child does not successfully complete the Intermediate Diversion Program, the case shall be set for a non-adversarial hearing before The Municipal Judge, Prosecutor and Youth Diversion Coordinator. The Judge will confer with all interested parties to determine what is in the best interest of the child, what protects the long-term safety of the community, and whether to:

- a. Declare the diversion unsuccessful, and/or
- b. Amend or set aside terms in the diversion agreement.
- c. Extend the diversion period not to exceed one year from the initial start date.
- d. Continue the hearing for not more than sixty (60) days to allow additional time for compliance with the terms of the agreement.
- e. Require the parent(s) to perform any act, or refrain from performing any act, which the court determines will increase the likelihood the child will successfully complete the diversion and comply with any order of the court that is reasonable and necessary for the welfare of the child.
- f. Find substantial compliance and successful completion.
- g. Refer the case to the prosecutor for filing.
- h. Transfer the case to the Juvenile Court for an alleged Child in Need of Supervision (CINS) under Section 51.08 of the Texas Family Code.

VII. Court Proceedings

If the diversion is determined unsuccessful, or the child declines the intermediate diversion plan, upon filing of a complaint by the Prosecutor the case shall be set on a regular docket, If the case proceeds to trial, it shall be assigned to the presiding Judge or an assigned Associate Judge, other than the originally assigned Judge, and will proceed to disposition in accordance with the Texas Code of Criminal Procedures Article 45.041(a-2) and (b-3)

VIII. Judicial Diversion

If the child wants to contest the charges and/or if the parents do not give written consent for participation in the University Park Youth Diversion Program (UPYDP), the case will be referred to the prosecutor for filing of the case. The child will be set on a docket to determine if they would like to go to trial. If a verdict of guilt is returned, the presiding judge will determine if the child is eligible for diversion. If the child is eligible as outlined in section III of this plan, the judge may offer participation in the UPYD program.

If the child and parent consent, the Youth Diversion Coordinator will proceed in, utilizing the recommended components, determine referrals, programming, monitoring compliance and informing the court of non-compliance. If the child or parent do not consent to the diversion program, the judge will continue with the finding of guilt and proceed with sentencing.

IX. Expunction

All records of a diversion pertaining to a child under Subchapter E shall be expunged without the requirement of a motion or request on the child's 18th birthday.

