

School Offense Referral Guide

The School Offense Referral Guide consists of a table that lists frequent offenses occurring on school property and whether law enforcement can charge or make a referral to juvenile court for youth who commit the offense on school property and are enrolled in the school. These are referred to as allowable offenses. The second portion of the guide includes commonly asked questions and answers and the final section of the guide provides contact information for Youth Receiving Centers and Mobile Crisis Outreach Teams.

School Offense Referral Table

The school offense referral table (pages 2-5) lists common delinquency offenses and indicates whether law enforcement can charge or refer youth to court if the offense occurs on school property and was committed by an enrolled student. The table provides examples of offenses that could potentially happen on school property but it is not a comprehensive list. Some of the offenses listed are not likely to occur on school property. If any offense that is marked “Yes” occurs on school property, it can be referred.

Some of the offenses listed in the table are considered **status offenses**. In Utah, status offenses are defined as “misbehavior which would not be criminal if committed by an adult (e.g. truancy, runaway, etc.), but is defined as an offense when committed by a minor because of the minor’s status.”¹

School and law enforcement personnel should use their discretion about whether to charge or refer allowable offenses. Just because an offense is eligible to be referred, does not always mean it should. School and law enforcement personnel have alternatives at their disposal including existing school disciplinary policies and procedures that do not include referral to juvenile court (e.g., in-school detention or suspension).² Additionally, a minor enrolled in school who commits offenses on school property may be referred to:

- Youth Receiving Centers operated by Juvenile Justice Services;
- Mobile crisis outreach teams;
- Youth court;
- Other restorative justice programs; or
- Any other community-based resource.

In the event that any of the listed offenses occur **off of school property**, a court referral can be made.

School-related Frequently Asked Questions

The frequently asked questions portion of this document addresses questions that have been posed by the education, law enforcement, and school resource officer communities. This portion of the document will be updated periodically with questions from the relevant communities, as appropriate.

Resources

Youth Receiving Centers and MCOT locations and contact information are provided on page 8 of this guide.

¹ Utah State Courts: *Dictionary of Legal Terms*. Accessed July 20, 2017 from <https://www.utcourts.gov/resources/glossary.htm#>. House Bill 239 defines status offenses as “committing violations of the law that would not be a violation but for the age of the offender” (House Bill 239 Section 78A-6-105).

² School resource officers should consult their contract to determine allowable responses.

School Offense Referral Table

Is the offense chargeable or referable to juvenile court?	Offense	Statute
Alcohol		
Yes	Use of false identification to purchase or attempt to purchase alcohol (Misdemeanor B)	32B-4-411
	Alcohol possession, attempted possession, consumption, and/or having a measurable amount of alcohol in the minor's body (Misdemeanor B)	32B-4-409
No	Attempt to enter an age-restricted establishment serving alcohol without use of false identification (Misdemeanor C)	32B-4-410
	While under the influence of alcohol or a controlled substance in a public place, endangering and/or disturbing others (Misdemeanor C)	76-9-701
Attendance		
No	Truancy notice-more than 5 unexcused absences, older than 12 years of age (Status)	53A-11-101.7
Property		
Yes	Criminal mischief resulting in damage to critical infrastructure (Felony)	76-6-106
	Criminal mischief resulting in vandalism (Misdemeanor B)	76-6-106
	Graffiti, damage of any amount (Misdemeanor B)	76-6-107
	Reckless burning - endangering human life, or property damage above \$500 (Misdemeanor A or B)	76-6-104
No	Reckless burning - property damage below \$500 (Misdemeanor C or Infraction)	76-6-104
Curfew		
No	Minor in any public or semipublic place between the hours of 12am and 6am (Status)	N/A
Drug		
Yes	Sale, manufacture, or possession of any controlled substance (Any Offense Type)	58-37-8
	Possession of drug paraphernalia (Misdemeanor B)	58-37a-5
	Use or possession of psychotoxic chemicals (Misdemeanor B)	76-10-107

Is the offense chargeable or referable to juvenile court?	Offense	Statute
Behavior		
Yes	Criminal mischief resulting in reckless endangerment of human life (Misdemeanor A)	76-6-106
	Disruption of school activities and failure to leave premises: 1 st and 2 nd offense (Misdemeanor B); 3 rd and subsequent (Misdemeanor A)	76-8-1402
	Disrupting operation of a school (Misdemeanor B)	76-9-106
	Failure to disperse (Misdemeanor B)	76-9-903
	Gambling (Misdemeanor B)	76-10-1102
	Criminal trespass upon school property (Misdemeanor B)	53A-3-503
	Making a false alarm (Misdemeanor B)	76-9-105
No	Issuance of habitual disruptive student behavior notice ³	53A-11-910
	Disorderly conduct: continued after request to stop (Misdemeanor C); without request to stop (Infraction)	76-9-102
	Public urination or defecation (Infraction)	76-9-702.3
	Runaway youth ⁴ (Status Offense)	62A-7-101
Person		
Yes	Assault of any kind (Any Offense Type)	76-5-102
	Murder (Felony)	76-5-203
	Rape (Felony)	76-5-402
Sex		
Yes	Accessing pornographic material on school property (Misdemeanor B)	76-10-1235
	Voluntary sex between a 17 year old and a 12 or 13 year old (Felony)	76-5-401.3
	Voluntary sex between a 16 year old and a 12 year old (Felony)	76-5-401.3
	Voluntary sex between a 16 year old and a 13 year old (Misdemeanor A)	76-5-401.3
	Voluntary sex between a 14 or 15 year old and a 12 year old (Misdemeanor A)	76-5-401.3
	Voluntary sex between a 17 year old and a 14 year old (Misdemeanor B)	76-5-401.3

³ This offense was removed from statute, effective 8/1/2017

⁴ Defined as when a youth willfully leaves the residence of a parent or guardian without their permission

Is the offense chargeable or referable to juvenile court?	Offense	Statute
Sex		
Yes	Voluntary sex between a 15 year old and a 13 year old (Misdemeanor B)	76-5-401.3
Yes ⁵	Voluntary sex between a 12 or 13 year old and a 12 or 13 year old (Misdemeanor C)	76-5-401.3
	Voluntary sex between a 14 year old and a 13 year old (Misdemeanor C)	76-5-401.3
Theft		
Yes	Theft of any kind (Any Offense Type)	76-6-412
	Receiving stolen property (Any Offense Type)	76-6-408
Tobacco		
Yes	Minor purchases or attempts to purchase any tobacco product (including electronic cigarette) using false identification (Misdemeanor A)	53-3-229
	Distribution of tobacco products to others, second or subsequent offense (Misdemeanor B)	76-10-112
No	Minor purchases, attempts to purchase, or possesses any tobacco product (including electronic cigarette) without using false identification (Misdemeanor C)	76-10-105
	Distribution of tobacco products to others, first offense (Misdemeanor C)	76-10-112
Driving/Traffic		
Yes	Using handheld device to text/email while operating vehicle, second or subsequent offense (Misdemeanor B)	41-6a-1716
	Engaging in a speed contest on a highway (Misdemeanor B)	41-6a-606
	Driving under the influence under any circumstance (Any Offense Type)	41-6a-503
	Reckless driving (Misdemeanor B)	41-6a-528
	Tampering with ignition interlock device (Misdemeanor B)	41-6a-518.1
No	Using handheld device to text/email while operating vehicle, first offense (Misdemeanor C)	41-6a-1716

⁵ These offenses are classified as Misdemeanor C Offenses but must still be reported to law enforcement, as teachers are mandatory reporters.

Is the offense chargeable or referable to juvenile court?	Offense	Statute
Driving/Traffic		
No	Speeding, including in a school zone (Misdemeanor C)	41-6a-604
	Operation of a motor vehicle by a minor under age 16 (Infraction)	41-8-3
	Open container of alcohol in a vehicle (Misdemeanor C)	41-6a-526
	Driving without a license or registration (Misdemeanor C)	41-12a-603
Weapons		
Yes	Possession of a dangerous weapon by minor: 1 st offense (Misdemeanor B); 2 nd and subsequent (Misdemeanor A)	76-10-509
	Possession of a handgun by minor: 1 st offense (Misdemeanor B); 2 nd and subsequent (Misdemeanor A)	76-10-509.4
	Possession of a dangerous weapon on school premises: firearm (Misdemeanor A); other dangerous weapon (Misdemeanor B)	76-10-505.5
Other		
Yes	Attempted Misdemeanor A (Misdemeanor B)	76-4-102
	Tampering with records (Misdemeanor B)	76-6-504
No	Attempted Misdemeanor B (Misdemeanor C)	76-4-102

School-Related Frequently Asked Questions

Question	Answer	Explanation
Does HB 239 restrict the ability to refer class A or B misdemeanors to court?	No	HB 239 makes no changes whatsoever to current law regarding the ability of schools to refer class A or B misdemeanors to law enforcement or the courts.
Does HB 239 restrict the ability to refer a class C misdemeanor, infraction, or status offenses to court?	Yes	Minors may no longer be referred to law enforcement or court for alleged class C misdemeanor, infraction, or status offenses occurring at school.
Does HB 239 impact responses to truancy?	Yes	Minors may no longer be referred to law enforcement or court for truancy. Additionally, HB 239 removes provisions regarding habitual truant.
Are there alternative responses to truancy available to schools?	Yes	<p>HB 239 expands effective options for responding to truancy including receiving centers, MCOTs, youth courts, and other restorative justice programs. Location and contact information for MCOTs and Youth Receiving Centers is provided on the last page of this guide.</p> <p>Other options remain available to respond to truancy, including:</p> <ul style="list-style-type: none"> • Holding parents accountable for intentionally or recklessly failing to prevent a youth’s absence from school; • Truancy support centers; • Truancy mediation; and • When appropriate, referral to DCFS if the school believes the child is the victim of abuse or neglect by their parents, provided other options have been exhausted before referring a truant youth to DCFS.

Question	Answer	Explanation
Do HB 239 provisions apply only when school is in session?	No	HB 239 provisions apply to alleged offenses on school property, by minors enrolled in school year-round, both during school hours and outside of school hours.
Are the consequences different for certain offenses committed in a school zone versus those committed outside of a school zone?	Yes	HB 239 provisions only apply to alleged offenses committed on school grounds. Law enforcement can charge or refer misdemeanor C, infractions, and status offenses that occur outside school grounds to court.
Can school districts access resources from the juvenile system without involving the court?	Yes	DHS agencies will expand the services offered to youth outside of the judicial system. Contact information for MCOTs and receiving centers is provided on the last page of this guide.
Can smaller districts combine their resources?	Yes	Regional service center coordinators can help smaller schools combine their resources.

Youth receiving centers currently operate in the following locations:

- Blanding
- Cedar City
- Logan
- Ogden
- Price
- Provo
- Richfield
- Roosevelt
- Saint George
- Salt Lake City
- Tooele
- Vernal
- West Jordan

For more information, including center contact information, please visit:

<https://jjs.utah.gov/services/receiving-centers/>

Mobile Crisis Outreach Teams currently operate in the following locations:

- Carbon County-*limited services* (435-637-0893)
- Davis County (1-801-773-7060)
- Emery County-*limited services* (435-381-2404)
- Grand County-*limited services* (435-259-8115)
- Iron County (1-800-574-6763)
- Salt Lake County (1-801-587-3000)
- Tooele County (435-882-5600)
- Utah County (801-373-7393)
- Wasatch County (801-318-4016)
- Washington County (435-634-5600)

For more information about House Bill 239, please visit: justice.utah.gov/juvenile