

## School Offense Referral Guide (Updated June 2018)

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### School Offense Referral Table

The school offense referral table 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. If any offense that is marked “Yes” occurs on school property, it can be referred. The table provides examples of offenses that could happen on school property but it is not a comprehensive list.

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).<sup>1</sup>

For additional relevant information, please also refer to the “School Resource Officers (SRO)/Law Enforcement Memo that can be found here under the header “HB239 Materials”:  
<https://justice.utah.gov/Juvenile/hb239.html>

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<sup>1</sup> School resource officers should consult their contract to determine allowable responses.

Under current law is the offense referable to court?	Offense	Statute
<b>Alcohol</b>		
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
<b>Attendance</b>		
No	Truancy notice-more than 5 unexcused absences, older than 12 years of age (Status)	53G-6-203
	<b>Exception for referring a Truancy notice:</b> Only if the youth refuses to participate in an evidence based intervention, may a court referral be made for habitual truancy (53G-6-201)	
<b>Property</b>		
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
	<b>Exception for referring Reckless burning Class C Misdemeanor:</b> Only if the youth refuses to participate in an evidence based intervention, may a court referral be made for a class C Misdemeanor (53G-6-201)	
<b>Curfew</b>		
No	Minor in any public or semipublic place between the hours of 12am and 6am (Status)	N/A
<b>Drug</b>		
Yes	Sale, manufacture, or possession of any	58-37-8

Under current law is the offense referable to court?	Offense	Statute
	controlled substance (Any Offense Type)	
	Possession of drug paraphernalia (Misdemeanor B)	58-37a-5
	Use or possession of psychotoxic chemicals (Misdemeanor B)	76-10-107
<b>Behavior</b>		
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 <sup>st</sup> and 2 <sup>nd</sup> offense (Misdemeanor B); 3 <sup>rd</sup> 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 <sup>2</sup>	53A-11-910
	Public urination or defecation (Infraction)	76-9-702.3
	Runaway youth <sup>3</sup> (Status Offense)	62A-7-101
	Disorderly conduct: continued after request to stop (Misdemeanor C); without request to stop (Infraction)	76-9-102
	<b>Exception for referring Disorder Conduct:</b> Only if the youth refuses to participate in an evidence based intervention, may a court referral be made for a class C Misdemeanor (53G-6-201)	
<b>Person</b>		
Yes	Assault of any kind (Any Offense Type)	76-5-102
	Murder (Felony)	76-5-203
	Rape (Felony)	76-5-402

<sup>2</sup> This offense was removed from statute, effective 8/1/2017

<sup>3</sup> Defined as when a youth willfully leaves the residence of a parent or guardian without their permission

Under current law is the offense referable to court?	Offense	Statute
<b>Sex</b>		
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
	Voluntary sex between a 15 year old and a 13 year old (Misdemeanor B)	76-5-401.3
	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
	<b>Note:</b> All Misdemeanor C sex offenses must still be to law enforcement, as teachers are mandatory reporters.	
<b>Theft</b>		
Yes	Theft of any kind (Any Offense Type)	76-6-412
	Receiving stolen property (Any Offense Type)	76-6-408
<b>Tobacco</b>		
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

Under current law is the offense referable to court?	Offense	Statute
<b>Tobacco (continued)</b>		
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
	<b>Exception for referring Class C Misdemeanor Tobacco offenses:</b> Only if the youth refuses to participate in an evidence based intervention, may a court referral be made for a class C Misdemeanor (53G-6-201)	
<b>Driving/Traffic</b>		
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
	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
<b>Weapons</b>		
Yes	Possession of a dangerous weapon by minor: 1 <sup>st</sup> offense (Misdemeanor B); 2 <sup>nd</sup> and subsequent (Misdemeanor A)	76-10-509
	Possession of a handgun by minor: 1 <sup>st</sup> offense (Misdemeanor B); 2 <sup>nd</sup> and subsequent (Misdemeanor A)	76-10-509.4

Under current law is the offense referable to court?	Offense	Statute
<b>Weapons (continued)</b>		
Yes	Possession of a dangerous weapon on school premises: firearm (Misdemeanor A); other dangerous weapon (Misdemeanor B)	76-10-505.5
<b>Other</b>		
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
<b>Does the current law restrict the ability to refer class A or B misdemeanors to court?</b>	No	Current law 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.
<b>Does the current law restrict the ability to refer a class C misdemeanor, infraction, or status offenses to court?</b>	Yes	Current law allows schools to refer class C misdemeanors to court only if the youth refuses to participate in an evidence based intervention.
<b>Does the current law impact responses to truancy?</b>	Yes	Current law allows schools to refer habitual truancy only if the youth refuses to participate in an evidence based intervention.
<b>Are there programs available to schools to address truancy?</b>	Yes	Current law expands effective options for responding to truancy including receiving centers, Mobile Crisis Outreach Teams (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.
<b>Are there options for holding parents/guardians accountable for a youth's truancy?</b>	Yes	Parents may be held accountable for intentionally or recklessly failing to prevent a youth's absence from school (53A-11-101)  When appropriate, a referral to Division of Child and Family Services (DCFS) may be made 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.
<b>Do provisions in the current law apply only when school is in session?</b>	No	Provisions in the current law apply to alleged offenses on school property, by minors enrolled in school year-round, both during school hours and outside of school hours.
<b>Are the consequences different for certain offenses committed in a school zone versus those committed outside of a school zone?</b>	Yes	Provisions in the current law 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.
<b>Can school districts<sup>4</sup> access resources from the juvenile system without involving the court?</b>	Yes	Department of Human Services 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.

### Resources

<sup>4</sup> 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 (MCOTs) 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)

Mobile Crisis Outreach Teams use a multidisciplinary group of community partners to provide family-based interventions to empower parents when a youth is identified as needing mental, emotional, and behavioral supports. Families or schools can contact MCOT when a youth is experiencing mental, emotional, or behavioral crisis and a two-person team will respond in-person to a home, school, or other community location and work with the family to create and sign a behavioral contract to give parents tools for responding to escalating behavior in order to hold youth accountable. Services include weekly in-home contact and over the phone counseling and may also include crisis respite and linking to community resources.

For more information about House Bill 239, please visit: [justice.utah.gov/juvenile](http://justice.utah.gov/juvenile)