

Effective 5/14/2019

Superseded 5/12/2020

53G-8-211 Responses to school-based behavior.

(1) As used in this section:

- (a) "Evidence-based" means a program or practice that has:
 - (i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;
 - (ii) been rated as effective by a standardized program evaluation tool; or
 - (iii) been approved by the state board.
- (b) "Mobile crisis outreach team" means the same as that term is defined in Section 78A-6-105.
- (c) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed to enhance school safety, reduce school suspensions, and limit referrals to court, and is designed to help minors take responsibility for and repair the harm of behavior that occurs in school.
- (d) "School administrator" means a principal of a school.
- (e) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.
- (f) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.
- (g)
 - (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:
 - (A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;
 - (B) the activity uses the local education agency or public school's facilities, equipment, or other school resources; or
 - (C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.
 - (ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.
- (h)
 - (i) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.
 - (ii) Notwithstanding Subsection (1)(h)(i), a status offense does not include a violation that by statute is made a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense at the school where the student is enrolled:

- (a) on school property where the student is enrolled:
 - (i) when school is in session; or
 - (ii) during a school-sponsored activity; or
- (b) that is truancy.

(3)

- (a) If the alleged offense is a class C misdemeanor, an infraction, a status offense on school property, or truancy, the minor may not be referred to law enforcement or court but may be referred to evidence-based alternative interventions, including:

- (i) a mobile crisis outreach team, as defined in Section 78A-6-105;
 - (ii) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104;
 - (iii) a youth court or comparable restorative justice program;
 - (iv) evidence-based interventions created and developed by the school or school district; and
 - (v) other evidence-based interventions that may be jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health, or the Department of Human Services.
- (b) Notwithstanding Subsection (3)(a), a school resource officer may:
- (i) investigate possible criminal offenses and conduct, including conducting probable cause searches;
 - (ii) consult with school administration about the conduct of a minor enrolled in a school;
 - (iii) transport a minor enrolled in a school to a location if the location is permitted by law;
 - (iv) take temporary custody of a minor pursuant to Subsection 78A-6-112(1); or
 - (v) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.
- (c) Notwithstanding other provisions of this section, a law enforcement officer who has cause to believe a minor has committed an offense on school property when school is not in session nor during a school-sponsored activity, the law enforcement officer may refer the minor to court or may refer the minor to evidence-based alternative interventions at the discretion of the law enforcement officer.
- (4)
- (a) Notwithstanding Subsection (3)(a) and subject to the requirements of this Subsection (4), a school district or school may refer a minor to court for a class C misdemeanor committed on school property or for being a habitual truant, as defined in Section 53G-6-201, if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(a).
- (b)
- (i) When a minor is referred to court under Subsection (4)(a), the school shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.
 - (ii) A school representative appointed under this Subsection (4)(b) may not be a school resource officer.
- (c) A school district or school shall include the following in its referral to the court:
- (i) attendance records for the minor;
 - (ii) a report of evidence-based alternative interventions used by the school before referral, including outcomes;
 - (iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family; and
 - (iv) any other information the school district or school considers relevant.
- (d) A minor referred to court under this Subsection (4), may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-1101 when the underlying offense is a class C misdemeanor occurring on school property or habitual truancy.
- (e) If a minor is referred to court under this Subsection (4), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

- (5) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the minor may be referred directly to the juvenile court by the school administrator, the school administrator's designee, or a school resource officer, or the minor may be referred to the evidence-based alternative interventions in Subsection (3)(a).