

**Effective 9/1/2021**

**Superseded 5/3/2023**

**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) "Habitual truant" means a school-age child who:
  - (i) is in grade 7 or above, unless the school-age child is less than 12 years old;
  - (ii) is subject to the requirements of Section 53G-6-202; and
  - (iii)
    - (A) is truant at least 10 times during one school year; or
    - (B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.
- (c) "Minor" means the same as that term is defined in Section 80-1-102.
- (d) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.
- (e) "Prosecuting attorney" means the same as that term is defined in Subsections 80-1-102(58) (b) and (c).
- (f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:
  - (i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and
  - (ii) to help minors take responsibility for and repair harmful behavior that occurs in school.
- (g) "School administrator" means a principal of a school.
- (h) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.
- (i) "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.
- (j) "School-age child" means the same as that term is defined in Section 53G-6-201.
- (k)
  - (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's 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.
- (l)
  - (i) "Status offense" means an offense that would not be an offense but for the age of the offender.

- (ii) "Status offense" does not mean an offense that by statute is 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) except during the period between March 17, 2021 and June 1, 2022, that is truancy.
- (3)
  - (a) Except as provided in Subsections (3)(e) and (5), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy:
    - (i) a school district or school may not refer the minor to a law enforcement officer or agency or a court; and
    - (ii) a law enforcement officer or agency may not refer the minor to a prosecuting attorney or a court.
  - (b) Except as provided in Subsection (3)(e), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy, a school district, school, or law enforcement officer or agency may refer the minor to evidence-based alternative interventions, including:
    - (i) a mobile crisis outreach team;
    - (ii) a youth services center as defined in Section 80-5-102;
    - (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.
  - (c) 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 in accordance with Section 80-6-201; 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.
  - (d) Notwithstanding other provisions of this section, if a law enforcement officer has cause to believe a minor has committed an offense on school property when school is not in session and not during a school-sponsored activity, the law enforcement officer may refer the minor to:
    - (i) a prosecuting attorney or a court; or
    - (ii) evidence-based alternative interventions at the discretion of the law enforcement officer.
  - (e) If a minor is alleged to have committed a traffic offense that is an infraction, a school district, a school, or a law enforcement officer or agency may refer the minor to a prosecuting attorney or a court for the traffic offense.
- (4) A school district or school shall refer a minor for prevention and early intervention youth services, as described in Section 80-5-201, by the Division of Juvenile Justice Services for a class C misdemeanor committed on school property or for being a habitual truant if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(b).

- (5) A school district or school may refer a minor to a court or a law enforcement officer or agency for an alleged class C misdemeanor committed on school property or for allegedly being a habitual truant if the minor:
  - (a) refuses to participate in an evidence-based alternative intervention under Subsection (3)(b); and
  - (b) fails to participate in prevention and early intervention youth services provided by the Division of Juvenile Justice Services under Subsection (4).
- (6)
  - (a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (5), the school shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.
  - (b) A school representative appointed under Subsection (6)(a) may not be a school resource officer.
  - (c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:
    - (i) attendance records for the minor;
    - (ii) a report of evidence-based alternative interventions used by the school before the 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;
    - (iv) a report from the Division of Juvenile Justice Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (4); and
    - (v) any other information that the school district or school considers relevant.
  - (d) A minor referred to a court under Subsection (5) 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-6-353, when the underlying offense is a class C misdemeanor occurring on school property or habitual truancy.
  - (e) If a minor is referred to a court under Subsection (5), 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.
- (7) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a juvenile court or to the evidence-based alternative interventions in Subsection (3)(b).