

DEFINITIONS

Types of Misconduct

Nature of the Offense - Information under this category contains data elements relating to the description and the severity of the offense. The information was divided in the following four categories:

**Crimes against a person,
Crimes against property,
Crimes against society and
Illegal possession.**

Important Information

Making a determination related to violations of Act 26 of 1995 requires looking at the law and the spirit of the law. Section 1317.2 requires that a school district or area vocational technical school shall expel a student who brought onto or is in possession of any weapon on any school property, at a school- sponsored activity, or onto any public conveyance providing transportation to a school or school sponsored activity. The expulsion should be accomplished pursuant to applicable regulations in 22 Pa. Code, Chapters 12 and 14. The superintendent or administrative director may recommend to the board modifications of such expulsion requirements on a case-by-case basis. Every case is dependent upon its particular facts. Intent should be considered as part of the reasoning.

Schools are required to report on the PDE-360 (located at www.safeschools.state.pa.us) the possession, use, sale and transfer of controlled substances; the possession, use, sale or transfer of alcohol; and the possession, use, sale or transfer of tobacco. If alcohol, tobacco or illegal drugs are involved in another offense such as fighting, you are required to report the fight and list the alcohol, tobacco or drug possession, use, sale or transfer as a circumstance surrounding the incident.

If the superintendent or the reporter needs to make a determination for reporting any of the crimes under this category, it is recommended to consult with the district solicitor and local law enforcement agencies.

Remember to have clear discipline policies and procedures in place. Provide copies of your discipline policies to staff, students and parents.

CRIMES AGAINST A PERSON

Assault On Student(s) – An unlawful attack by one student upon another. By definition there can be no attempted assaults, only completed assaults. The act should intentionally, knowingly, or recklessly cause bodily injury and/or serious bodily injury to a student(s).

-Bodily injury is impairment of physical condition or substantial pain.

-Serious bodily injury is a bodily injury that creates a substantial risk of death, or that causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

-The definitions of assault (both simple and aggravated) in the crime codes include both bodily injury and serious bodily injury under specified circumstances.

Aggravated assault- An unlawful attack by one person upon another in which the offender uses a weapon or displays it in a threatening manner, or the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe lacerations, or loss of consciousness. This also includes assault with disease (as in cases when the offender is aware that he/she is infected with a deadly disease) by biting, spitting, etc. The type of weapon involved needs to be reported under Code 8 (Type of Weapon Involved - Other).

-Severe laceration is one that should receive medical attention.

-A loss of consciousness must be the direct result of force inflicted in the victim by the offender or offenders.

Simple assault- An unlawful physical attack by one student upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration or loss of consciousness.

EXAMPLES:

Student A jumps on Student B from behind. Student A punches Student B in the head with a metal chain, which was wrapped around his knuckles. The blow to Student B's head causes deep lacerations that required stitches. Is this an assault? Yes, the weapon was the metal chain and would be reported under Code 8 (Other)(Aggravated Assault).

During a shouting match between two 5th grade students, Student A pushes Student B off of the top of a sliding board. Student B lands on her back and has a bruise on her hip the next morning. Her family doctor has examined her, and x-rays reveal no broken bones. Is this assault? Yes (Simple Assault)

Assault On School Employee(s) - An unlawful attack by one person upon another. By definition there can be no attempted assaults, only completed assaults. The act should be intentionally, knowingly, or recklessly causing bodily injury or serious bodily injury to an employee(s).

- **Bodily injury** is impairment of physical condition or substantial pain.

- **Serious bodily injury** is a bodily injury that creates a substantial risk of death, or that causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

- The definitions of assault (both simple and aggravated) in the crime codes include both bodily injury and serious bodily injury under specified circumstances.

Aggravated assault - An unlawful attack by one person, herein the offender, upon another where the offender uses a weapon or displays it in a threatening manner, or the victim

suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe lacerations, or loss of consciousness. This also includes assault with disease (as in cases when the offender is aware that he/she is infected with a deadly disease) by biting, spitting, etc. The type of weapon involved needs to be reported in Code 8.

By Act 159 of 1998, "A person is guilty of aggravated assault if he attempts to cause or intentionally or knowingly causes bodily injury to a teaching staff member, school board member, or other employee, including a student employee, of any elementary or secondary publicly funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school."

Severe laceration is one that should receive medical attention.

A loss of consciousness must be the direct result of force inflicted in the victim by the offender or offenders.

Simple assault- An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration or loss of consciousness.

EXAMPLES:

A student lunges across the teacher's desk and attempts to strangle the teacher. Is this assault? YES (the teacher should file criminal charges against the student) (simple assault)

The custodian repeatedly punches a cafeteria worker. Is this an assault? YES (simple assault)

Racial/Ethnic Intimidation - Malicious intent toward another's person or property based on race, color, religion or national origin is a hate crime.

EXAMPLES:

Three white students place a noose around an African-American student's neck. Is this racial intimidation? YES

Everyday, three non-Latino students push and shove a Latino student from one corner of the cafeteria to another, refusing to let him sit down and eat lunch. They call him names. Is this intimidation? YES

All Other Forms Of Harassment - Repeated acts which serve no purpose other than intending to cause substantial emotional distress to another person

Harassment and stalking by communication or address.

(a) harassment by communication or address- a person commits the crime of harassment by communication or address when, with intent to harass, annoy or alarm another the person; he or she:

communicates to or about such person any lewd, lascivious, threatening or obscene words, language, drawings or caricatures
communicates repeatedly in an anonymous manner
communicates repeatedly at extremely inconvenient hours
communicates repeatedly in a manner not covered by #2 or #3.

(b) stalking by communicating or address – a person commits the crime of stalking by communication or address when the person engages in a course of conduct or repeatedly communicates to another under circumstances which demonstrate or communicate either of the following:

- (1) an intent to place such other person in reasonable fear of bodily injury.
- (2) an intent to cause substantial emotional distress to such other person.

EXAMPLES:

Student A (closely) follows Student B to the cafeteria on a daily basis and shouts words about her weight so that everyone can hear. Student A also writes notes about the “size” of Student B and hands them out a lunch time. Student A was called into the office regarding this behavior and continues this behavior despite the administrative directive to “leave Student B alone.” Is this harassment? YES

Student A follows Student B between classes, to the bus stop, to the cafeteria, and stands outside her house. Is this harassment? (More investigation is needed)

Student A, who is in fourth grade and six feet tall, demands 50 cents from every fourth grader in his class simply by standing next to him or her when demanding the money. Is this intimidation? YES

Fighting (Mutual altercation) –a) A student confrontation with another student in which the altercation is mutual, requiring physical restraint or resulting in injury or property damage. If the incident does not rise to that level, the incident should be classified as minor disruptive behavior or a minor infraction. b) Mutual participation in a fight involving physical violence, where there is no one main offender and no major injury. This does not include verbal confrontations, tussles or other minor confrontations. Law enforcement officers may refer this offense as simple assault. Administrators need to consider age and developmentally appropriate behavior before using this category.

EXAMPLES:

Two third grade students are in a pushing match. Is this fighting? NO

Four kids “fight” about a touchdown in physical education class; punches are thrown. The physical education teacher takes appropriate disciplinary action and medical attention was needed. Is this a fight? YES

Two kids are fighting on a bus on the way home; the bus driver must stop the bus and call for assistance. Is this a fight? YES

Homicide (Murder or manslaughter) - Murder, intentionally, knowingly, recklessly, or negligently causing the death of a human being. Suicide is not considered homicide. "Assault on murder" or "attempted murder" are to be reported as aggravated assault. Justifiable homicide or the killing of a perpetrator of a serious criminal offense by a peace officer in the line of duty, or the killing, during the commission of a serious criminal offense, of the perpetrator by a private individual should be reported as other.

EXAMPLES:

Student A intentionally and repeatedly runs over Student B in the parking lot. Student B dies. Is this homicide? YES

Student A and Student B are in a fight outside the cafeteria. Student A kicks Student B in the head five times. Student B dies. Is this homicide? YES

Sexual Offense - This category includes sexual intercourse, sexual contact or other unlawful behavior or conduct intended to result in sexual gratification. This category includes rape, statutory sexual assault, involuntary deviate sexual assault, sexual assault, aggravated indecent assault, indecent assault, and indecent exposure. Also included are prostitution and indecent exposure of private parts to the sight of another person in a lewd or indecent manner. This category doesn't include kissing, mooning, swearing or profanity. Administrators need to consider age and developmentally appropriate behavior before using this category.

EXAMPLES:

A student downloads and re-enters pornographic materials onto school computers. Is this a sexual offense? YES

A middle school student is raped in the bathroom by two high school students. Is this a sexual offense? YES

During a pep rally, a student runs from the locker room naked and exposed himself to students and staff. Is this a sexual offense? YES

A student is told during class that she has failed Geometry. She proceeds to tell her teacher exactly what he can do with his grades and roll book including unnatural positioning of said roll book. Is this a sexual offense? NO

Sexual Harassment - Discrimination against a student based on the student's submission or rejection of sexual advances and/or requests or creating an atmosphere of harassment based on sexual issues/activity. The unwelcome sexual advances, requests for sexual favors, other physical or verbal conduct or communication of a sexual nature, and any other gender based harassment which has the purpose or effect to interfere with the individual performance, work environment, or participation in school sponsored activities, or creates an intimidating, hostile, or offensive educational environment. This includes students and staff. Examples include behaviors such as leering, pinching, grabbing, suggestive comments, gestures, jokes or pressure to engage in sexual activity.

EXAMPLES:

A student posts a rating scale on every girl in the class daily. Is this sexual harassment? YES

Student A is always sitting close to and massaging Student B's neck and shoulders. Student B appears to be uncomfortable with this and stated this to the student and to his counselor. Student A continues touching and massaging Student B even when he/she was told Student B was uncomfortable with this behavior. Is this sexual harassment? YES

Student A has declined to accept a date with Student B. Student A spreads rumors about how "easy" Student B is including writing her phone number on the wall in the boys' locker room. Is this sexual harassment? YES

Kidnapping - Removal or confinement of an individual by another through force, threat, or deception or (if person is under 14 years) without consent of a parent, guardian or school. Kidnapping/abduction includes hostage taking.

EXAMPLES:

In the midst of a custody battle, a grandmother walks into the first grade class and politely takes her granddaughter out of school. She can't be found. The parents don't know where the grandmother is or why she took the granddaughter out of school. Is this kidnapping? YES, unless the grandmother had the expressed consent of the custodial parent to do so. (The grandmother certainly should be confronted about walking into school without signing in as a visitor in the main office. Technically, she is trespassing at the very least.)

Threatening Or Intimidating A School Official Or A Student – (Physical, verbal, written, or electronic threat or intimidation) - To unlawfully place another person in fear of bodily harm through verbal threats without displaying a weapon or subjecting the person to actual physical attack. Stalking (i.e., secretly or stealthily pursuing another, spying on or watching another person, with or without the intent to harm, frighten, or coerce) should be included here.

EXAMPLES:

Student A is threatening Student B to physically attack him or beat him up. Student A continuously harasses him if he doesn't share his lunch money with him. Is this a threat or intimidation? YES

Student A left a note to her English teacher threatening to kill her if she doesn't pass her English class. Is this a threat or intimidation? YES

Reckless Endangering – Engaging in conduct that places or may place another person in danger of death or serious bodily injury.

EXAMPLES:

Two students sneak onto the auditorium stage and spray Teflon on stage. Is this reckless endangerment? YES

Five students, on a whim, accept a challenge to race to the bottom of the stairs from the third floor; a student coming up the steps gets trampled. Is this reckless endangerment? NO (Further investigation is needed)

Robbery - The taking, or attempting to take, anything of value under confrontational circumstances from the control, custody or care of another person by force or threat of force or violence and/or by putting the victim in fear of immediate harm. The type of weapon used is to be entered into question 8 (Type of weapon involved). Because some type of assault may be an element of the crime of robbery, an assault should not be reported as an assault as long as it was performed in furtherance of the robbery. However, if the injury resulted in death, the incident must be reported as a homicide. Carjackings are robbery offenses where a motor vehicle is taken into force or threat of force.

EXAMPLES:

Student A punches Student B and rips the gold necklace off her neck. Is this robbery? YES

A student takes money from the wallets in all the unlocked lockers in the boys' locker room during class. Is this robbery? NO, this is burglary.

CRIMES AGAINST PROPERTY

Burglary - the unlawful entry into a building or other structure with the intent to commit a felony or theft. It is not necessary that force be used in gaining entry, neither is it necessary that property loss occur. Attempts to unlawfully enter a structure without expressed permission are also counted in this category.

EXAMPLE:

An offender forces a door or uses a mechanical contrivance (e.g., a passkey or skeleton key) to unlawfully enter a school for the purpose of burglarizing. Is this a burglary? YES

Arson – The unlawful and intentional damage or attempt to damage any real or personal property by fire or incendiary device. Setting a fire (by match, lighter, fireworks, firecrackers, trashcan fires, Molotov cocktails, or any other incendiary device) providing aid, counsel or pay toward same. This category does not include a simple act of lighting a match.

EXAMPLES:

A student sets a trashcan on fire in the girls' locker room. Is this arson? YES

Student A convinces Student B to stuff roman candles in Student B's backpack. Is Student B guilty of arson (or intent to commit arson)? YES. Is Student A guilty? YES, he aided and abetted the incident.

A student has dreams of Olympic victory. He streaks down the hall carrying a lit homemade Olympic torch. Is this arson? NO

Vandalism (Destruction of school or personal property) - The willful and or malicious destruction or defacement of school or private property without the consent of the person or entity having custody or control over it. This category includes graffiti.

EXAMPLE:

A person destroys school computer records, carving initials or words in the desktop and/or spray paints on the walls. Is this vandalism? YES

CRIMES AGAINST SOCIETY

Rioting - A person is guilty of a riot, a felony of the third degree, if he participates with two or more others in a course of disorderly conduct:

- (1) with intent to commit or facilitate the commission of a felony or misdemeanor.
- (2) with intent to prevent or coerce official action or
- (3) when the actor or any other participant to the knowledge of the actor uses or plans to use a firearm or other deadly weapon.

In general, a “riot” is a tumultuous disturbance of the peace by three or more persons assembled and acting with a common intent, either in executing a lawful private enterprise in a violent and turbulent manner to the terror of the people, or in executing an unlawful enterprise in a violent and turbulent manner.

EXAMPLE:

During a change of classes, two groups of students face each other, pull down the florescent lights to use as weapons and attack each other. Twenty students are involved in this incident. Is this a riot? YES

Disorderly Conduct (serious class or campus disruption, etc.) - Any act which substantially disrupts the orderly conduct of the school function or behavior which substantially disrupts the orderly learning environment or poses a threat to the health, safety, and/or welfare of students, staff or others. The intent may be to cause public inconvenience, annoyance, or alarm. If the action results in a more serious incident, report in the most serious category. Administrators need to consider age and developmentally appropriate behavior before using this category. Examples include: serious instances of classroom and campus disruption, such as pulling the fire alarm, defiance of authority, disobeying or showing disrespect to others, using obscene or inappropriate language or gestures, and disruptive demonstrations.

EXAMPLE:

The cafeteria food is so bad that a senior student demands students walk out of the school building in protest. 375 students follow her lead and refuse to return after the principal speaks to them. Is this disorderly conduct? YES

Terroristic Threats (other than bomb threats) – This is a threat, direct or indirect, to commit a violent crime, with the intent to terrorize another person, cause evacuation of a building or other place of assembly, including transportation, or otherwise cause serious public inconvenience.

EXAMPLES:

A student calls the middle school office on his cell phone and states that a toxic chemical substance has been placed somewhere in the building. Is this a terroristic threat? YES

A student continues to spread false rumors of anthrax in the school. Many students are alarmed at the possibility. Is this a terroristic threat? YES

A student threatens to run over his ex-girlfriend at her school bus stop sometime within the next two weeks. Is this a terroristic threat? YES, even though the act might not happen on school grounds.

Bomb Threats - This is a threat, direct or indirect, to commit a violent crime by communicating that a bomb has been placed or will be placed in a particular location with the intent to terrorize another person, cause evacuation of a building or other place of assembly, including transportation, or otherwise cause serious public inconvenience.

EXAMPLES:

A student calls the school from a cell phone and tells the secretary that a bomb has been placed somewhere in the school. He/she further explains that the bomb will go off around lunchtime. Is this a bomb threat? YES

Two students hold up a “bomb on board” sign on a bus during a school field trip. A passing motorist notifies police and a SWAT team stops the bus. Is this disorderly conduct? YES

ILLEGAL POSSESSION

Possession Of Firearms § 6110.1 (a) – No person age 18 or under shall possess or transport a firearm anywhere in the Commonwealth of PA. A firearm is any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or a machine gun. A destructive device is any bomb, grenade, mine, rocket, missile, pipe bomb, or similar device containing some type of explosive that is designed to explode and is capable of causing bodily harm or property damage. Includes firearms of any kind (operable or inoperable, loaded or unloaded): including but not limited to hand, zip, pistol, rifle, shotgun, starter gun, flare gun.

EXAMPLES:

A student is going hunting after school and has his rifle locked in a gun rack in the back of his truck. He parks his truck in his usual parking spot on school grounds. Is he in possession of a firearm? YES

A student carries a derringer hidden in her pocket. Is she in possession of a firearm? YES

Possession Of Knives/Cutting Instruments – An object which one can cut or stab such as, but not limited to any type of knife including a pocket or penknife, razor blades, hatchet, ax, cleaver, scissors, glass, broken bottle, dagger, ice pick, dirks, machete, or similar instruments with sharp cutting edges including pencils and pens, nunchakus and brass knuckles. Administrators need to consider age and developmentally appropriate behavior before using this category.

EXAMPLES:

Student A stabbed and punctured the skin of Student B with a newly sharpened pencil. Is this a weapon? YES, and it should be identified as “other” for purposes of Act 26 reporting.

It is Halloween, and a student dresses up as Sir Lancelot, sword and all. Is the sword a cutting instrument? Technically YES. However, school officials should have informed the parents in advance of Halloween that certain objects as part of a Halloween costume are not acceptable and will not be tolerated on school grounds. Should it be reported? Not unless the sword was used or an intent to do harm was established.

A penknife with a ½” blade is used as a zipper pull on a student’s backpack. Is this a weapon? Technically, YES. The school has to identify this instrument as a weapon in their school policies. The school should advise students and parents what is or what is not a weapon. Any possible weapon such as scissors, penknife and other should be left at home. If the student persists on carrying this penknife, one must question intent and thus report this as a weapon’s offense.

Student A took her teacher’s letter opener and stuck it in Student B’s thigh. Is Student A in possession of a weapon? YES

Exacto-knife is intentionally removed from art class and student “displays” it to other students during lunch. Is this a weapon? YES

Possession Of Other Weapon - Possession, use or intention of use of any instrument or object to inflict harm on another person, or to intimidate any person. Included in this category are all types of chains, metals or pipes, or any objects or instruments that are not being used for the purpose for which they were normally intended and are capable of harming an individual. Chinese stars, billy clubs, tear gas gun, electrical weapon or device (stun gun), toy guns (if they are authentic replicas or are used in a threatening manner), M80’s, mace, pepper gas, and any other instrument that when implemented can be capable of inflicting serious bodily injury.

EXAMPLE:

During a locker room argument, Student A sprays hairspray directly into the eyes of Student B. Is this a weapon? YES

Possession/Use/Sale/Transfer Of Controlled Substance And Or Illegal Substance (Class I, II, III, IV, V drugs or ALL “controlled,” rx prescriptions) - The unlawful use, cultivation, manufacture, distribution, sale, transfer, solicitation, purchase, possession, transportation, or importation of any controlled drug/narcotic substance or substances representing a drug or

equipment and devices used for preparing or taking drugs or narcotics. Infractions include being under the influence of drugs while in school, on school transportation, or at school sponsored events. Use should be reported only if the students are caught in the act of using, are tested and found positive for use by an officer during/after arrest, or are discovered to have used in the course of investigating the incident. This category does not include tobacco.

EXAMPLE:

A student slides out of her seat and is sent to the nurse. The nurse determined the student can't function in the school and calls the parents. The parents have the student's blood tested and provide a copy of the lab report to the school. It shows use of heroin. Is this a substance abuse offense? YES

Possession/Use/Sale/Transfer Of Alcohol - possession of alcohol on a person, who was caught in the act of using, transferring or testing positive for use.

The violation of laws or ordinances prohibit the manufacture, sale, purchase, transportation, possession or use of intoxicating alcoholic beverages or substances represented as alcohol. This would include being intoxicated at school, school-sponsored events, and on school-sponsored transportation or possessing substances represented as alcohol. Use should be reported only if students are caught in the act of using, are tested and found positive for use by an officer during/after arrest, or are discovered in the course of investigating the incident to have used alcohol.

EXAMPLE:

A can of beer is in a student's locker. Is this an alcohol offense? YES

Possession/Use/Sale/Transfer Of Tobacco – possession of any tobacco product including cigarettes, cigars, pipe tobacco, chewing tobacco, and/or tobacco leaves. Where applicable, the possession, use, transfer, distribution or sale of tobacco products on school grounds, at school-sponsored events, on transportation to and from school, or on other school transportation.

EXAMPLE:

The teacher sees an obviously visible pack of cigarettes in a boy's shirt. He is sent to the principal's office. The information is confirmed. Is this a tobacco offense? YES

EXPLOSIVES – possession or transport of any incendiary explosive material or substance.

EXAMPLES:

An M-80/dynamite is lit and tossed into the boys' room. Is this an explosive? YES

A student brings a mason jar filled with gasoline, saying he needs it for science class. Is this an explosive? YES

A student brings a bullet for second grade show and tell. Is this an explosive? NO. The student/parent would be told that bullets are not permitted in the future.

A student brings firecrackers to school. Are these explosives? YES.

Online Reporting System
for
Violence and Weapons Possession
in
Pennsylvania's Schools

Welcome to the Pennsylvania Department of Education's Violence and Weapons Possession (PDE-360) Reporting Project.

The goal of this online reporting system is to provide schools with the tools to accurately, and in a timely manner, fulfill the reporting requirements of Act 26 of 1995, the Safe Schools Act.

Additionally, this site will serve as the forum for publishing information regarding violence and weapons possession incidents in Pennsylvania's public schools.

NEW ♦ [Online Reporting System 2002-2003](#)

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NEW ♦ [Click here](#) for a detailed definition of the Misconduct Types.

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2 Online Now

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