



**COLORADO**

Department of Education

# Guide for Determining “Most Serious” Incident Student Discipline data

## Overview

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The Safe School Act; 22-32-109.1(2)(b), C.R.S. requires each school district and Charter School Institute to have a Safe School plan that requires, in part: “A policy whereby the principal of each public school in a school district is required to submit annually, in a manner and by a date specified by rule of the state board, a written report to the board of education of the school district concerning the learning environment in the school during that school year. The board of education of the school district shall annually compile the reports from every school in the district and submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report must be easily accessible by the public through a link on the department of education’s web site homepage. The report must include, but need not be limited to, the following specific information for the preceding school year:...(IV) The number of conduct and discipline code violations, each of which violations shall be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the following types of violations....”

Therefore, if a situation includes more than one violation, school officials must determine which among the violations they deem to be the “most serious behavior” for the purposes of reporting the incident. A determination of “most serious behavior” is a judgment call entirely dependent upon local circumstances. At times it may be difficult to conclude which among two or more serious behaviors within one incident should be considered the most serious of all. Although the Colorado Department of Education offers the following guidance for a school’s consideration, it must be understood that the discretion for determining seriousness rests with the local school and school district. All guidance has its limits. There could be many valid reasons for finding exceptions to the guidance offered herein. This guidance is intended to guide a person’s thinking and not an attempt to rank the current incidents required to be reported from most serious to least serious of behaviors.

**Important:** The guidance applies only when a situation includes more than one behavior violation. Incidents considered only one violation will be reported as that behavior.

## Guidance

### In general:

Please report all disciplinary actions resulting from each incident with the locally determined most serious behavior.

Behaviors that rise to the level of violating the criminal code are considered more serious than those that do not, and:

- crimes against persons are considered by law to be more serious than crimes against property,
- crimes classified as felonies are more serious than misdemeanors

### Note:

Incidents given their own reporting category that may be a felony are to be reported per the incident’s category. “Other Felonies” refer only to those felonies that don’t have their own separate category. For example, the “willful destruction or defacement of school property” may be a felony if the cost of the damage is quite high. It would be reported under the defacement-related category and not the “other felony” category.

### Examples:

1. Fights and Assaults: According to state statutes, 1st and 2nd degree assaults and vehicular assaults are felonies. 3rd degree assault and disorderly conduct are misdemeanors. Disorderly conduct for SDA purposes is defined as “fights with another in a public place except in an amateur or professional contest of athletic skill”. If a fight resulted in the commission of a 1st or 2nd degree assault, then it would be reported as an assault instead of a 3<sup>rd</sup> degree assault/disorderly conduct.

2. Dangerous Weapons: A dangerous weapon in and of itself should be reported as a dangerous weapon. If the weapon was used to inflict death or serious bodily injury it would be reported in the 1st and 2nd degree/vehicular assault category.
3. Alcohol, Fights, Weapons: If a student scuffled with another student in the parking lot which was considered to be a fight, then pulled out a knife (measuring longer than 3”) and threatened but did not harm the other student, and was found to have a six-pack of beer in his car, the student has committed three violations. The school official would weigh the harm and potential harm caused by the student and determine the appropriate action for one or more of the violations. The potential for the knife to cause death would most likely be considered the most dangerous of the behaviors so it would be reported in the dangerous weapons category. (This may also be considered a felony menacing crime reportable as “Other Felony”.)
4. Tobacco, Defiance: A student becomes confrontational with a teacher during class, frightens other students in the meantime and walks out. The student has a pack of cigarettes in his/her shirt pocket. He/she is suspended for defiance and possession of tobacco because they had been caught and warned several times before about the tobacco. The school considered the “willful disobedience and openly defiant” the more serious of the violations because it involved a person-to-person confrontation as well as involving other students by disrupting the entire class.
5. Bullying: A teacher breaks up a verbal argument between two students. Talking with one of the students after the incident, the student says that she is targeted everyday by the other student for her weight. The other student will call her “fat” when walking by her in the hallway or make snorting sounds when she is eating lunch. Usually, other students laugh when they hear the comments, and she doesn’t know how to make it stop. This is a case of bullying that should be investigated further because it is repeated or likely to be repeated, marked by an imbalance of power, and appears to be intentional.

### Incident Ranking: Most Severe to Less Severe (*a guide*)

This ranking is intended as guidance only. Incidents can vary in seriousness on a case-by-case basis that would deviate from the order listed.

1. 1st, 2nd Degree or Vehicular Assaults
2. Rape or Attempted Rape
3. Dangerous Weapons - Unless weapon was used to inflict death or serious bodily injury in which case it would be reported under the 1st, 2nd Degree or Vehicular Assaults category.
4. Sexual Violence/Battery (other than Rape)
5. 3rd Degree Assaults/Disorderly Conduct
6. Robbery
7. Other Felony (not reported in another descriptive category)
8. Bullying (New code for 2022-2023 Collection)
9. Detrimental Behavior
10. Drug Violations
11. Marijuana Violations
12. Alcohol Violations
13. Destruction of School Property
14. Disobedient/Defiant or Repeated Interference
15. Tobacco Violations
16. Other Violations of Code of Conduct