

School Notification of Felony Delinquency Charges

As students across North Carolina head back to school, it is a good time to review the law that governs notifying schools about juvenile delinquency cases. Prior to raise the age, notification of charges for high school students required an understanding of the requirements under both the Juvenile Code for delinquency cases and the Criminal Code for cases in which students were accused of crimes committed at ages 16 and 17. Now, under the post-raise the age statutory structure of juvenile jurisdiction, the Juvenile Code requirements will govern nearly all school notifications.

Here are the headlines:

- school notification can only be made by a juvenile court counselor to the school principal and under the specific circumstances outlined in the Juvenile Code, and
- the information disclosed must remain confidential and may only be used by the school in the limited way allowed for by the law.

When is school notification of delinquency cases authorized?

Juvenile court records of delinquency cases, delinquency records maintained by the Division of Adult Correction and Juvenile Justice (DACJJ), and law enforcement records concerning juveniles involved in delinquency matters are confidential unless there is a statute or court order that authorizes their release. [G.S. 7B-3000](#); [7B-3001](#).

One statute, [G.S. 7B-3101](#), provides explicit statutory authority for school notification about certain delinquency matters. School notification is allowed only when

- a delinquency petition alleging a felony offense is filed,
- the case ceases to be a delinquency matter, either because the case is transferred to superior court (making it a criminal proceeding) or the petition alleging a felony is dismissed, or
- the court issues, modifies, or vacates a dispositional order concerning a juvenile alleged to be or found delinquent for a felony offense.

School notification must be made both verbally and in writing. Verbal notification must occur in person or by telephone before the beginning of the next school day. Delivery of written notice must be made in person or by certified mail and must occur as soon as practicable and at least within five days of the action that triggered the notification.

There is an exception for motor vehicle offenses, which are included in Chapter 20 of the General Statutes. Because motor vehicle offenses are not subject to the notification requirements, school

notification of felony motor vehicle offenses that originate as delinquency proceedings is not permitted by statute. Chapter 20 motor vehicle offenses that are alleged to have been committed by a juvenile who is 16 or 17 years old are not subject to juvenile court jurisdiction and are treated as criminal charges. School notification of criminal charges is governed by [G.S. 15A-505](#). That statute also excludes Chapter 20 offenses from school notification of criminal matters. Therefore, there should not be school notification of any Chapter 20 offenses, regardless of whether the matter begins as a juvenile or a criminal matter.

There is an information sharing statute that also applies, [G.S. 7B-3100](#). Under this law, information sharing with schools about delinquency cases is also allowed under certain circumstances. This statute allows a range of entities, including law enforcement, DACJJ, and local school administrative units, to share information about a juvenile when a petition alleging delinquency is filed in court. Information can no longer be shared when the juvenile court's jurisdiction over the petition ends. Shared information must remain confidential and can be used only for the protection of the juvenile and others or to improve the educational opportunities of the juvenile. This information sharing is therefore less about school notification and more about allowing the various entities who may be working with the juvenile to share information to support case planning for the juvenile and enhance safety.

Who is allowed to be involved in school notification?

School notification pursuant to G.S. 7B-3101 can only be done by a juvenile court counselor. The notification can only be made to the principal of the school.

What information can be included in the notification?

G.S. 7B-3101 describes the information that is allowed to be part of the notification. A notification that a felony delinquency petition has been filed must describe the nature of the offense. Notification of an initial order of disposition, a modified or vacated order of disposition, or transfer of the case to superior court must describe the court's action and any applicable disposition requirements. The statute is silent as to the contents of a notification of the dismissal of a felony petition.

What can schools do with information about a delinquency case?

An education law, [G.S. 115C-404](#), provides the following very specific rules for how information obtained by a school as a result of a school notification made pursuant to G.S. 7B-3101 or information sharing pursuant to G.S. 7B-3100 can be stored and used:

- Written notifications and information obtained are confidential and are not public records.
- The principal must maintain any documents in a safe, locked record storage that is separate from the student's other school records.

- The principal may not make copies of the documents.
- Any documents received by the principal can only be used “to protect the safety of or to improve the education opportunities for the student or others.” G.S. 115C-404(b).
- The principal is directed to share each document *only* with those individuals who have 1) direct guidance, teaching, or supervisory responsibility for the student and 2) a specific need to know in order to protect the safety of the student or others.
- Each person who is given access to the document must indicate in writing that they have read it and that they will maintain its confidentiality.
- Information gained through G.S. 7B-3100 (information sharing) cannot be the sole basis for a decision to suspend or expel the student.

The education statute provides serious consequences for failure to maintain the confidentiality of a school notification or other juvenile justice document received as part of information sharing. Failure to maintain the confidentiality of the documents is grounds for dismissal of employees.

Schools are not authorized to retain any school notification or information sharing documents indefinitely. If the student graduates, withdraws from school, is suspended for the remainder of the school year, is expelled, or transfers to another school, then the documents must be returned to the juvenile court counselor. If the student transfers, the principal must also provide the juvenile court counselor with contact information for the new school. The juvenile court counselor must then deliver the notification to the new school as soon as practicable, in person or by certified mail. [G.S. 7B-3101\(b\)](#).

The principal is also required to shred, burn, or otherwise destroy documents received pursuant to G.S. 7B-3100 (information sharing) when the principal

- receives notification that the case was dismissed, transferred to superior court, or the student’s petition for expunction was granted, or
- when the principal finds that the school no longer needs the information to protect the safety of or to improve the educational opportunities for the student or others.

What if a student is enrolled in an adult education program at a community college?

All of the laws discussed in this blog apply to school notification and information sharing between juvenile justice and elementary and secondary educational institutions. The school notification provisions of G.S. 7B-3101 apply to public and private schools authorized under Chapter 115C of the General Statutes (Elementary and Secondary Education). Information sharing under G.S. 7B-3100 is authorized with local school administrative units. Local school administrative units are defined by the education law as “a subdivision of the public school system which is governed by a local board of education. It may be a city school administrative unit, a county school administrative unit, or a city-county school administrative unit.” [G.S. 115C-5\(6\)](#).

Because these statutes apply only to the elementary and secondary education system, community colleges are not included. While most youth who are subject to juvenile jurisdiction are not enrolled in the community college system, it is possible that some may be enrolled in adult education GED programs or other programs at a community college. There is no law that allows for school notification of delinquency proceedings in these circumstances.

Juvenile justice and schools

This is the beginning of what I hope to be a deeper dive into the intersection between juvenile justice involvement and the education system. I owe thanks to Sarah Cheeley, a UNC law student, for her pro bono research this summer to help me get started in this direction. I welcome any thoughts that you may have about the content related to this intersection that would be helpful to you in your work. Feel free to email them to me at greene@sog.unc.edu.