



Education Law Center

*Making sure that all of Pennsylvania's children
have access to quality public schools*

WHAT ARE THE RULES FOR SCHOOL ATTENDANCE AND TRUANCY IN PENNSYLVANIA?

IMPORTANT: ELC's publications are intended to give you a general idea of the law. However, each situation is different. If, after reading our publications, you have questions about how the law applies to your particular situation, contact us for a referral, or contact an attorney of your choice.

WHO MUST ATTEND SCHOOL IN PENNSYLVANIA?

In Pennsylvania (except for Philadelphia), all children of "**compulsory school age**" - that is, children between the ages of **8 and 17** - must attend school. In Philadelphia, all children must attend school starting at age six (6). Also, once a child enrolls in first grade, the child must continue to attend even if s/he has not yet reached age eight.

"Attend school" means that the child must go to a regular public school, a charter school, a cyber charter school, a licensed private or religious school, or an approved homeschooling program.

Exception: If a student is 16 and holds a full-time job during school hours, then s/he does not have to attend school. The student must get an "employment certificate" (often called "working papers") from her/his school district.

WHO MUST MAKE SURE A CHILD ATTENDS SCHOOL?

The person(s) who are caring for the child - usually the child's parent(s), but sometimes a guardian, relative, or foster parent - are legally responsible for making sure that the child attends school.

WHAT IS A VALID EXCUSE FOR AN ABSENCE FROM SCHOOL?

Each school district has rules and policies about student attendance and absences. **Check your school district's student handbook or website** for this information. Many school districts will excuse absences only for illness, family emergency, death of a family member, medical or dental appointments, school activities, and educational travel with prior approval.

Even if your child is absent for just one day, you should *always* provide your child's teacher or principal with a note explaining the absence. Send the note in right away, and keep a copy for your records. If your child's absence was due to illness, send a doctor's note, if possible (and keep a copy).

WHAT IF MY CHILD IS AFRAID TO GO TO SCHOOL?

If your child becomes upset or fearful about attending school, s/he may have a learning or mental health problem. You should ask to meet with school personnel to discuss the problem and develop a plan to deal with it. (See below for more information about developing a "Truancy Elimination Plan.") You may also want to talk with a mental health professional.

In addition, you can ask for a **special education evaluation** to find out whether your child has a learning problem or an emotional problem that isn't being addressed at school. See ELC's fact sheet, *Getting a Special Education Evaluation for Your Child*, at www.elc-pa.org for more information. If your child is already receiving special education, you can request an Individualized Education Program (IEP) team meeting to discuss whether your child needs additional help.

More information about **school phobia** (also called school refusal or school avoidance) can be found at:

- <http://www.aafp.org/afp/2003/1015/p1555.html>
- http://www.aap.org/publiced/BK5_SchoolAvoid.htm

WHAT IF MY CHILD IS IN PHYSICAL DANGER AT SCHOOL?

The Education Law Center receives many calls from parents who fear for their children's safety at school. Unfortunately, the law does not excuse children from attending

school in these situations. **You should always meet with the school principal, and, if necessary, the Superintendent, to discuss ways to address your concerns.** Be sure that you explain, orally and in writing, why you think your child is in danger. In addition, you can call the police if your child is being threatened or has been harmed by other students.

For suggestions about how to handle bullying at school, see our fact sheets, *What Can You Do If Your Child is Being Bullied by Other Students* and *What to Do When Your Child is Being Bullied at a Philadelphia Public School*, at www.elc-pa.org.

IF A CHILD MISSES SCHOOL BECAUSE OF A COURT-ORDERED HEARING, MUST THE SCHOOL EXCUSE THE ABSENCE?

Yes.

MY RELIGION CELEBRATES AN IMPORTANT HOLIDAY ON A SCHOOL DAY, AND I WANT MY CHILD TO ATTEND RELIGIOUS SERVICES. MUST THE SCHOOL EXCUSE THIS ABSENCE?

Yes. Make a written request to the principal asking that your child be excused from school for a religious holiday or instruction.

WHAT IS TRUANCY?

Pennsylvania school law does not specifically define truancy. The Pennsylvania Department of Education says that **truancy is any unexcused absence from school**. Under the law, every principal or teacher must report to the superintendent, attendance officer, or the secretary of the school board any child who has had **three (3) unexcused absences in a school year**.

IS THE SCHOOL REQUIRED TO HELP ME DEAL WITH ATTENDANCE PROBLEMS?

The Pennsylvania Department of Education has said that, if your child has had **three (3) unexcused absences** in a school year, the school must hold a meeting with you to develop a "**Truancy Elimination Plan**" for your child. You and your child's teachers should meet to figure out what might be keeping your child from coming to school, and what can be done to help. To see a sample Truancy Elimination Plan, visit:

<http://www.portal.state.pa.us/portal/server.pt?open=18&objID=353655&mode=2>.

CAN A CHILD BE ARRESTED IF S/HE IS NOT ATTENDING SCHOOL?

Yes. An attendance officer, a home and school visitor, or a law enforcement officer may arrest a child who is truant. When the child is arrested, the person arresting the child must promptly notify the parents. Usually, the arresting officer will then take the child to school.

WHEN AND HOW DO THE COURTS GET INVOLVED?

The school district must provide the parent with written notice if the child has three (3) unexcused absences in a school year. **If you receive such a "truancy notice," you should contact the school AS SOON AS you receive this notice to discuss your child's attendance problem.** Contacting the school, and working with it, may help prevent legal proceedings.

If the child continues to miss school *after* the parent receives this notice, the district can file a **truancy petition** with the local district justice (or with Family Court in Philadelphia County). A truancy hearing is then scheduled in court or before the district justice. For more information about Philadelphia's process, see our fact sheet *The Truancy Process in the School District of Philadelphia* at www.elc-pa.org.

WHO MUST APPEAR AT TRUANCY HEARINGS AND WHAT HAPPENS THERE?

The child and the parent/guardian are required to appear at truancy hearings. Parents and children have the right to present witnesses and documents to the court, and to testify in their own behalf. If you have any doctor's notes or any other written information that shows your child should have been legally excused from school, you should bring it to the hearing. If you have anyone who can describe what steps you took to get your child to school, you should have that person testify.

DO I NEED AN ATTORNEY?

It is helpful, although not required, to bring an attorney or an advocate to a truancy hearing. To find an attorney, you can call the Pennsylvania Bar Association's Lawyer Referral Service at 1-800-932-0311. Some **legal services centers** may provide free legal representation to eligible parents and students in truancy hearings. To find your local legal services center, call 1-800-322-7572 or go to http://www.palegalservices.org/legal_help_finder.htm.

IF A JUDGE FINDS THAT THE CHILD IS TRUANT, WHAT CAN HAPPEN?

The parent can be found guilty of a summary offense and **fined up to \$300 for each truancy violation**. Or, the judge can require the parent to complete a "**parenting education program**." The judge can also decide that instead of, or in addition to, the fine or education program, the parent must perform **community service** in the school district where the child lives for up to six months.

If the parent fails to comply with the judge's order, the parent can be sentenced to serve up to **five (5) days** in a **county jail**. However, if the parents haven't paid the fine that the court has ordered, they can only be sent to jail after a hearing is held to determine whether they had the financial ability to pay the fine.

If the child is 13 years old or older, the **judge can fine the child up to \$300 for each truancy violation**, if the parents can show they tried to get the child to go to school. Or, the judge can assign the child to an "adjudication alternative program" (such as an education program or community service).

A child who is found to be truant can also lose her/his driver's license for 90 days (for the first truancy conviction) and an additional six months for every *additional* truancy conviction. If the child does not have a driver's license, the chance to apply for one will be suspended for 90 days for the first truancy offense, and six (6) months for additional offenses.

WHAT IF THE PARENT HAS TRIED TO GET THE CHILD TO ATTEND SCHOOL AND THE CHILD STILL DOES NOT GO?

If the parent can convince the court that s/he took **every reasonable step** to ensure school attendance by the child, the parent cannot be fined or penalized. The court must consider the individual circumstances of each case in determining whether the parent did as much as was reasonably possible.

CAN A PARENT OR CHILD APPEAL A FINE OR OTHER COURT ORDER?

Yes. A parent or student may appeal to the local county Court of Common Pleas within **30 calendar days** of the district justice's order. To appeal, the parent or child must post a bond equal to twice the original fine and court costs. For more information about your local Court of Common Pleas (which should be able to tell you how to appeal a truancy fine or other penalty), visit <http://www.pacourts.us/T/CommonPleas/>.

WHAT CAN HAPPEN IF A CHILD IS CONTINUALLY TRUANT?

Continual attendance problems may also cause a judge to refer a child to the local Children and Youth agency for services. The child could also be referred to the juvenile or family court for a decision on whether s/he is a **dependent child**. This could lead to the child's removal from the home and placement in a foster home or other setting. **This is**

why it is SO IMPORTANT that parents take action as soon as they receive the first truancy notice.

WHERE CAN I GET MORE INFORMATION ABOUT THE TRUANCY LAWS AND HOW TO PREVENT TRUANCY?

For Pennsylvania's Truancy Toolkit, including answers to frequently asked questions and resources to help prevent truancy, go to: <http://www.patruancytoolkit.info/> We have attached the Pennsylvania Department of Education's Frequently Asked Questions about truancy to this fact sheet.

For the Pennsylvania Department of Education's (PDE) Basic Education Circular (BEC) on "Compulsory Attendance and Truancy Elimination Plan," go to: http://www.portal.state.pa.us/portal/server.pt/community/purdon's_statutes/7503/compulsory_attendance_and_truancy_elimination_plan/507353. This BEC has a **sample Truancy Elimination Plan** attached to it.

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