EDUCATION LAW CENTER | FACT SHEET

SCHOOL ATTENDANCE & ATTENDANCE BARRIERS (TRUANCY): FREQUENTLY ASKED QUESTIONS

August 2026

What's New: Attendance, Truancy, & Enrollment Rules for Students in Cyber Charters

Under Act 47, students who are "habitually truant" are prohibited from transferring to a cyber charter school during the school year without a court order from a judge. In addition, Act 47 imposes new requirements regarding what is considered "attendance" for children in synchronous and asynchronous learning in cyber charters and also mandates wellness checks for students in cyber charters and those attending full-time virtual programs in school districts. Learn more about these new requirements in our new fact sheet on Act 47: New Enrollment & Attendance Rules & Wellness Checks for Cyber Charters & Virtual Programs.

WHO MUST ATTEND SCHOOL IN PENNSYLVANIA?

All students in Pennsylvania must attend school no later than age 6 until age 18 or graduation, whichever occurs sooner.[1] These "compulsory school ages" went into effect during the 2020-21 school year.[2] Under the law, all students must attend school until their 18th birthday or graduation, whichever is sooner, unless they qualify for a limited exception, as explained below. Compulsory school-age requirements do not apply to youth under 18 who have a certificate of graduation from a regularly accredited, licensed, registered, or approved high school.[3]

In addition, once you first enroll your child in school, your child must attend school even if they have not yet reached age 6.[4] However, if you enroll your child in kindergarten and later decide that your child is not ready for school, you may formally withdraw your child from school, at which point your child is no longer required to attend school until their 6th birthday.[5] You cannot stop sending your child without first withdrawing them.

AM I COMPLYING WITH ATTENDANCE LAWS IF MY CHILD ATTENDS A PRIVATE SCHOOL OR IS HOMESCHOOLED?

Yes. A child must attend a regular public school, a charter school, a cyber charter school, or a licensed private or religious school, or participate in an approved homeschooling program (which has specific requirements under state law).[6]

ARE THERE ANY EXCEPTIONS TO THESE ATTENDANCE REQUIREMENTS?

Yes. Several limited exceptions generally apply to certain types of working students engaged in specific types of work. For example, students who are 16 or older and hold full-time jobs during school hours and obtain an employment certificate do not have to attend school.[7] The student must get a work permit (often called "working papers") from their school district,[8] and this must be completed by the parent, guardian, or legal custodian of the minor.[9]

WHAT ADULTS ARE RESPONSIBLE FOR ENSURING THAT A CHILD ATTENDS SCHOOL?

The law uses the term person(s) in "parental relation to the child" to describe the adults in a child's life who may be held legally responsible for making sure a child attends school.[10] The person(s) "in parental relation to the child" — who might be the child's parents or parent, or a guardian or relative — are legally responsible for making sure that the child attends school.[11] "Persons in parental relation" may be a biological or adoptive parent who has custody of the child; a biological or adoptive parent who does not have custody of the child; the child's guardian; or a person with whom the child lives and who is acting in a parental role for the child.[12] This would include a caregiver who enrolls a child by submitting an affidavit to the school district. See ELC-PA's fact sheet on How to Enroll a Child Living with Someone Other Than Their Parent.

HOW IS ATTENDANCE DETERMINED FOR CHILDREN AT A CYBER CHARTER SCHOOL?

If your child attends a cyber charter school, you must make sure you understand how the school will determine whether your child is marked "present" for the day. Determining attendance at a cyber charter school depends on whether a student is receiving synchronous (live instruction with a teacher) or asynchronous instruction (completing work independently without live instruction).

To be considered "present" and "attending" school for synchronous instruction at a cyber charter school, the student "must be present and visible to the teacher on camera during each synchronous instructional period for each course."[13] To be considered "present" for asynchronous instruction at a cyber charter school, a child must complete weekly benchmarks set and defined by the cyber charter school. Weekly benchmarks must be sufficient to demonstrate that the student is making adequate and consistent progress toward completion of each course in which the student is enrolled.[14] Any student who fails to meet a weekly benchmark will receive an unexcused absence.[15]

To learn more about these requirements, see our fact sheet on Act 47: New Enrollment & Attendance Rules & Wellness Checks for Cyber Charters & Virtual Programs.

CAN STUDENTS BE HELD LEGALLY RESPONSIBLE FOR NOT ATTENDING SCHOOL?

Yes. Students must attend school each school day if they are of compulsory school age. Once your child turns 15, the school may take them to court if they are not attending school as required by law.[16] Students who are 15 or older may face a range of long-lasting consequences, such as fines, community service, and suspension of their driver's license.[17] In addition, school-age students in the juvenile justice or adult criminal system may be required to attend school as a condition of their parole.

SHOULD SCHOOLS WORK WITH FAMILIES TO ENSURE STUDENTS ATTEND SCHOOL?

Yes. As reflected in Pennsylvania Department of Education (PDE) guidance, creating positive relationships between a family and a school is essential.[18] Schools should work to establish positive relationships with families and clearly communicate expectations around school attendance and how to provide timely proof that an absence is excused. Schools and families should also work together to resolve attendance barriers to make sure that students do not accrue absences. As a parent or caregiver, you can also learn what your district is doing to address truancy and what programs and supports are or may be available to support school attendance — such as the Check & Connect program, mentorships in school, signing up celebrity wakeup calls, etc. To learn more about proactive research-based practices supported by PDE, see the School Attendance Toolkit.

WHAT IS AN EXCUSED ABSENCE?

Pennsylvania law broadly defines absences as excused when a student is prevented from attending school due to physical or mental conditions or "other urgent reasons."[19] An absence is lawful when a student is dismissed during school hours by a nurse, school administrator, or other designee, or when the student is absent to obtain professional health care or therapy provided by a licensed practitioner. Schools should consider illness, the need to quarantine due to COVID-19 exposure, family emergency, death of a family member, medical, mental health, or dental appointments, authorized school activities, and educational travel with prior approval as lawful absences.[20] Due to ongoing transportation shortages, schools must also excuse absences caused by a lack of school-provided transportation. Such absences fall within the category of "other urgent reasons." In addition, many schools have recognized that family concerns about immigration enforcement in schools also qualify as an excused absence for "other urgent reasons."

If your child was improperly marked as having an unexcused absence, you can request that your child's attendance record be corrected. See ELC-PA's attendance record correction self-advocacy tool.

ARE THERE SYSTEMIC BARRIERS THAT MAY PREVENT STUDENTS FROM BEING ABLE TO ATTEND SCHOOL EACH DAY?

Yes. Students may face school-based and systemic barriers that prevent them from attending school. Sadly, attendance barriers both in Pennsylvania and across the nation have increased since the beginning of the COVID-19 pandemic.[21] The Pennsylvania Joint State Government Commission's 2024 report, *The Truancy Process: The Challenge of Improving Attendance in Pennsylvania Schools*, outlined a number of root-cause barriers to school attendance that students and caregivers identified.[22] These barriers include a lack of reliable transportation, unmet mental health needs, lack of access to basic food and housing, fear of school and community violence, the need to balance full-time employment with school, and caregivers' difficulties in understanding school attendance policies.[23] School officials also identified ongoing trauma resulting from the COVID-19 pandemic, as well as bullying and harassment, as key drivers of absenteeism.[24] School employees also noted that due to time pressures, they were not able to provide adequate "individual support to families" to address barriers.[25] These same issues have also been acknowledged as barriers to attendance on a national level.[26]

The commission also found that to support student attendance, there need to be "more mental health resources and schools need more funding to provide better resources."[27] Research demonstrates the importance of such resources in improving attendance and academic outcomes, including the teaching of "engaging and culturally responsive curriculum and school-based supports" such as health and social services.[28] It is clear, as the commission has acknowledged, that "truancy is the result of root causes"[29] and that "chronic absenteeism" is a "robust measure of school climate."[30] This reality makes addressing harmful conditions at the root-cause level paramount.

DOES A CHILD HAVE ADDITIONAL PROTECTIONS IF THEY ARE EXPERIENCING HOMELESSNESS OR ARE IN FOSTER CARE?

Yes. Experiencing homelessness can cause a child to miss school. Schools cannot treat absences that are caused by a student's housing status as unexcused or "illegal" absences.[31] Such absences should be considered excused. Additionally, schools must work to remove barriers to attendance for students in these situations and revise school policies that cause such barriers.[32]

In addition, a child in foster care or the juvenile justice system must be excused for purposes of attending court hearings or conferences related to their involvement with a county children and youth agency or juvenile probation, as well as for family visitations.[33]

IS IT UNLAWFUL FOR ATTENDANCE POLICIES TO BE APPLIED IN A MANNER THAT DISCRIMINATES AGAINST CHILDREN BASED ON RACE?

Yes. Yet reports show that in Pennsylvania, and across the country, families of color and families living in poverty are most likely to be subjected to truancy proceedings due to a variety of systemic barriers, including racism and unequal access to resources.[34]

Pennsylvania schools are some of the nation's most unequal. Black and Brown children disproportionately attend schools that have been identified as being "grossly underfunded," and the least well-resourced.[35] This means that Black and Brown students have fewer opportunities compared with their white peers in Pennsylvania and across the nation,[36] including school-based supports to address attendance barriers, which are often available in the most well-resourced schools. Sadly, "no other state in the nation provides such high access to education opportunity to its White students and students from higher income families while providing such low access for its Black and Hispanic students and students from low-income families."[37]

Importantly, when analyzing barriers to school attendance, the Pennsylvania Joint State Government Commission **determined that both poverty and racism caused disparities.**[38] Despite this significant finding, the fault is often inappropriately ascribed to individual families, even though racism and other systemic factors often lie at the root of attendance barriers.[39] Families of color may also encounter racially hostile school environments or individual school personnel who do not permit families to correct their children's attendance records or who continue to mark children absent when a known school-based barrier, such as lack of transportation, has prevented them from attending school.

All of these harmful realities lead to involvement in truancy proceedings and can have devastating and lifelong consequences for students and their families, including a child's removal from their

home. Moreover, the truancy proceedings themselves often fail to address the root causes that resulted in the child missing school in the first place.

Schools violate federal law when they intentionally discriminate and may also violate the law when implementing seemingly neutral policies and practices that have the unjustified effect of discriminating against students on the basis of race, national origin, or color.[40]

WHAT IS 'TRUANCY' UNDER PENNSYLVANIA LAW?

Truancy means having three or more unexcused absences in the current school year.[41] These absences do not need to be in a row.

WHAT IS 'HABITUAL TRUANCY' UNDER THE LAW?

Habitual truancy means having six or more unexcused absences in the current school year.[42] These absences do not need to be in a row.

WHAT HAPPENS IF MY CHILD IS CONSIDERED TO BE 'TRUANT' UNDER THE LAW?

Once your child has three or more unexcused absences in the current school year — meaning your child is truant as defined by law[43] — your child's school must send you written notice explaining that your child has the legal status of being truant. The school **must** send this notice within 10 days of your child's third unexcused absence. The notice **must** be in the language of communication that you prefer, as you indicated on the home language survey when you first enrolled your child in school.

The notice **must** describe what will happen if your child accrues six or more absences in the current school year and is considered to have the legal status of being habitually truant. The notice **may** also include an offer to meet to discuss the reasons your child is encountering attendance barriers and a plan to help your child overcome barriers to school attendance. Moreover, under Act 47, this notice must also explain that a child who becomes *habitually truant* (accruing six or more unexcused absences) may not transfer during the school year to a cyber charter school unless a judge determines that the transfer is in the child's educational best interest.[44] The notice must also include a separate notice outlining a parent, guardian or student's right to request that the court hold an educational best interest hearing if the child becomes habitually truant.[45] Finally, the notice sent by the school must provide resources to assist families to support improved attendance and provide opportunities for academic recovery in response to the attendance issues.[46]

WHAT HAPPENS IF MY CHILD IS CONSIDERED TO BE 'HABITUALLY TRUANT' UNDER THE LAW?

Once your child has six or more unexcused absences in the *current* school year[47] — meaning your child is considered under law to be habitually truant[48] — **your child's school must hold a conference** to discuss the reasons for your child's absences and create a plan to address and remove barriers to attendance. This meeting is called a "school attendance improvement conference."[49]

Before holding this conference, the school must let you know about it and try to get you to attend. The school **must** provide you with **advance written notice** of the time and date of the

conference and **must** also make **at least two attempts to reach you by phone.**[50] Any attempts to contact or communicate with you must be in your preferred language.[51]

Once your child is considered to be habitually truant under the law, the school must take certain actions, depending on whether your child is under age 15 or is 15 or older. These actions include **referrals to attendance improvement programs, the county Children and Youth Services (CYS) agency, or court.**[52] In addition, under Act 47, a student who is habitually truant may not transfer to a cyber charter school during the school year unless a judge determines the transfer is in the educational best interest of the student.[53]

Attendance Barrier Screening Tools

To help proactively identify and address attendance barriers, ELC-PA created three separate attendance barrier screening tools — one that can be used by families,[54] one for schools,[55] and one for Magisterial District Court Judges (MDJs).[56] If you will be attending a school attendance improvement conference, consider completing and bringing the family needs self-assessment tool with you to make sure your child's school properly documents and addresses all barriers to attendance.

WHAT IS A SCHOOL ATTENDANCE IMPROVEMENT CONFERENCE?

This type of conference is a meeting "where the child's absences and reasons for the absences are examined in an effort to improve attendance, with or without additional services."[57] The purpose of the conference is to **identify all of the barriers** your child is facing to school attendance and **address them** by creating a plan to help your child attend school on a regular basis. Your child's school should consider all barriers that could be preventing your child from attending school, including those that may be caused by the school or by conditions in the school. These barriers could include the following: Your child is facing harassment or bullying at school; your child needs special education to access or attend school; school-provided transportation is not coming; or housing instability is preventing your child from coming to school.

At the end of the conference, the school **must create a plan,** called a school attendance improvement plan (SAIP), that will help your child attend school and eliminate barriers to attendance. You should ask for a copy of this plan and keep it for your records.

WHO MUST BE INVITED TO AN ATTENDANCE IMPROVEMENT CONFERENCE?

The school **must** invite the following people to the attendance improvement conference:

- The child.
- The person in parental relation to the child (you).
- Other people that you or your child think may be helpful resources (like an auntie, grandparent, sibling, family friend, advocate, community member, etc.).

- Appropriate school personnel. These should include members of the child's IEP or Section 504 Team if the child is a student with a disability.
- Recommended service providers (such as case managers, behavioral health providers, probation officers, children and youth practitioners, etc.). If you do not approve of the participation of someone from outside the school, that person should *not* be permitted to attend the meeting.

DO I HAVE TO ATTEND THE SCHOOL ATTENDANCE IMPROVEMENT CONFERENCE?

No. You are **not required** to attend the attendance improvement conference.[58] However, it is a good idea to attend because it is an opportunity to create a plan in collaboration with school officials that will help your child attend school. There are no consequences for not attending, but if a good plan is not in place, your child is likely to continue to face attendance barriers, accrue more unexcused absences, and may be subject to the filing of a truancy citation and court referral.

IF I DO NOT ATTEND, DOES MY CHILD'S SCHOOL STILL HAVE TO HOLD A SCHOOL ATTENDANCE IMPROVEMENT CONFERENCE?

Yes. The school **must** hold a school attendance improvement conference, whether you attend or not. This is important because parents are often very busy, but the school must still do its job to identify and help remove any barriers to attendance that your child is facing.[59]

WHAT HAPPENS AFTER THE SCHOOL ATTENDANCE IMPROVEMENT CONFERENCE?

After the conference, your child must attend school. The school attendance improvement plan (SAIP) that is created during the school attendance improvement conference should include action steps for all members of the team — you, your child, the school, and others — to help your child attend school.[60] Remember to ask for a copy of the SAIP. There is no set time that the plan must be in place before the school can take legal action against you and/or your child. Although the school should allow some time to put the plan into place before taking legal action, once your child becomes habitually truant as defined by law — meaning they have six or more unexcused absences — the school is obligated to take legal action. The Joint State Government Commission has emphasized the importance of comprehensive plans and the need for teams that are equipped with resources, including referrals to mental health supports, as "one solution to eliminating specific barriers for specific students."[61] It has also recommended that schools allow time for plans to work and "evaluate the effectiveness of the SAIP" before taking additional steps.[62]

CAN THE SCHOOL TAKE LEGAL ACTION AGAINST ME OR MY CHILD IF IT HASN'T HELD A SCHOOL ATTENDANCE IMPROVEMENT CONFERENCE?

No. Schools **cannot** take legal action against you and/or your child until **after** the date of the school attendance improvement conference.[63] When referring a student and/or family to the county Children and Youth Services (CYS) agency for habitual truancy, the school must provide CYS with **verification** (proof) that it held a school attendance improvement conference.[64] This means that the school must provide a copy of the attendance improvement plan to CYS. Similarly, when referring a student and/or parent to court for habitual truancy, the school must provide **verification** of the school attendance improvement plan to the court.[65]

If your child's school failed to hold a meeting to discuss your child's absences and did not create a school attendance improvement plan before referring you and/or your child to CYS or court, you should immediately let the CYS worker or court know. You should also notify the Pennsylvania Department of Education's Office for Safe Schools at 717-787-4417. The school **must** hold this meeting before taking any legal action against you and/or your child.[66]

I HAVE A CHILD WITH A DISABILITY WHO IS STRUGGLING WITH SCHOOL ATTENDANCE. WHAT SHOULD I KNOW?

If your child has a disability — meaning they have an Individualized Education Program (IEP) or Section 504/Chapter 15 plan — and is considered to be truant or habitually truant under the law, the school should bring together the IEP Team to discuss the ways that attendance barriers impact your child's educational program.[67] Because missing school obviously makes it difficult for your child to learn, the team should discuss strategies to improve your child's attendance, as well as to make sure that your child receives an education even when they cannot attend school due to their disability. The team should change the IEP or Section 504 plan to offer appropriate services and supports that are unique to your child.

It is important that the school brings together your child's IEP or Section 504 team instead of just having a school attendance improvement conference.[68] That is because the services and supports that go into an IEP or Section 504 plan are legally binding, and you can hold the school accountable for failing to provide these services to your child. The school attendance improvement plan is not legally binding like an IEP or Section 504 plan. While some of the people the school is required to invite to the school attendance improvement program may also be invited to the IEP or Section 504 team meeting, there are additional people who are required by law to be at the IEP team meeting, such as your child's special education teacher and a person at the school who is authorized to make decisions on behalf of the school.

Finally, your child's school should never punish your child for behavior that causes absences that is related to or caused by your child's disability, including full or partial hospitalization caused by their disability. This includes referrals to CYS and court, as well as suspension and expulsion. If you receive a truancy citation from your child's school and your child has a disability, you should immediately contact the school's special education coordinator to request an IEP Team meeting to discuss your child's absences. You can also file a complaint with the Bureau of Special Education at the Pennsylvania Department of Education. For more information on this process, see ELC-PA's fact sheet Resolving Special Education Disagreements.

WHAT LEGAL ACTION CAN THE SCHOOL TAKE IF MY CHILD IS CONSIDERED TO BE 'HABITUALLY TRUANT' UNDER THE LAW AND IS UNDER THE AGE OF 15?

If your child is under 15 and is considered to be habitually truant under the law — meaning they have six or more unexcused absences — the school **must** refer your child to either:[69]

- A school-based or community-based attendance improvement program **or**
- The county Children and Youth Services agency for services. CYS may also file a petition to adjudicate your child as a dependent of the state for being considered to be habitually

truant under the law. This means that your child might be placed on supervision or removed from your home and placed into foster care or a group home.

In addition, if your child is under 15 and is considered to be habitually truant under the law, the school **may file a citation against you in district court.**[70]

WHAT LEGAL ACTION CAN THE SCHOOL TAKE IF MY CHILD IS CONSIDERED TO BE HABITUALLY TRUANT UNDER THE LAW AND IS 15 OR OLDER?

If your child is **15 or older** and is considered to be habitually truant under the law — meaning they have six or more unexcused absences — the school must either:[71]

- Refer your child to a school-based or community-based attendance improvement program **or**
- File a citation against your child or you in the local district court.

In addition, if the school refers your child to a school-based or community-based attendance improvement program and your child does not attend the program or has more unexcused absences from school, the school may refer your child to the county Children and Youth Services agency.[72] CYS **may** file a petition to adjudicate your child as a dependent of the state who is considered to be habitually truant under the law.[73] This means that your child could be placed on court supervision or removed from your home and placed into foster care or a group home.

WHAT IS A SCHOOL-BASED OR COMMUNITY-BASED ATTENDANCE IMPROVEMENT PROGRAM?

Such programs are designed to improve school attendance by seeking to **identify** and **address** all of the underlying reasons for a child's absences. Your school or community may or may not have a program like this.

WHAT IS THE COURT PROCESS IF MY CHILD OR I HAVE BEEN CITED FOR TRUANCY?

If you or your child has been cited for truancy in a local district court, called a magisterial district court or "MDJ" court, the court **must** provide you with **written notice** of the hearing in your preferred language.[74] The notice should also include information about the availability of a pre-conviction diversionary program.[75] These programs can help students and families avoid a truancy conviction.

Once you receive notice of a hearing in a local district court, the first thing you should do is determine whether it is the correct court. If your child attends a public or charter school, the correct court will be the local district court based on the address of the school.[76] If your child attends a **cyber charter school**, the correct court will be the local district court based on the address of the residence of your child.[77] If you or your child have been cited in the wrong court, you should make this argument to the judge and request a dismissal of the case.

This hearing must also include a representative from the school where the child is currently enrolled, a person in parental relation to the child who resides with them, and the child, if 15 years of age or older unless they are excused by the judge.[78] The hearings must be in person, unless the judge determines that "two-way simultaneous communications necessary and in compliance with court rules."[79]

At the hearing, the school will present its case against you or your child. Next, you and your child have the chance to present your case and defense. The school has the burden of proving **beyond a reasonable doubt**[80] that you or your child was:

- Subject to compulsory school attendance.
  - This means that your child is **aged 6 through 18 and has not yet graduated**, **or is younger, but enrolled in school**, and does not qualify for one of the exceptions to mandatory school attendance.

- Considered to be habitually truant under the law.
  - This means that your child had six or more unexcused absences in the *current* school year.

- Without justification.
  - This means that the school **must** present evidence to the court that your child's absences were *not justified*. If the school fails to present this evidence, then the school has *failed to meet its burden*, and you or your child *must not be convicted for truancy*.

Next, you or your child has the chance to present your case. If you have been cited, you can present evidence that you took **every reasonable step** to make sure that your child attended school.[81] If you present strong evidence on this point, you should not be "convicted," which is the term used in the law for being found to be in violation of compulsory school law.[82]

Tips: If your child's absences were justified for any reason, you should present this evidence. For example, if your child's absences were legally excusable under the attendance policy of your child's school, you should explain why. Bring any documentation you have to support any excuse you believe you or your child have.

Common reasons that children are absent from school include health reasons, reasons related to a child's disability, or transportation. If this is the case for your child, you should be sure to present this information to the court. As always, be prepared to show any documentation you have that explains your child's health condition or disability.

Make sure you attend the school attendance improvement conference. At the conference, you can advocate for services and supports from your child's school to help your child attend school. Get a copy of the school attendance improvement plan and bring it to your court hearing to show the court what you have done to help your child attend school and what your child's school has done or not done to help your child.

WHAT CONSEQUENCES DOES MY CHILD FACE IF THEY ARE 'CONVICTED' OF TRUANCY IN A LOCAL DISTRICT COURT?

First, schools may only cite children who are **15 or older** in a local district court.[83] No child under 15 should ever be cited in district court. If, after a hearing, a judge convicts your child of violating the compulsory school attendance law, then the judge has the discretion (that is, choice) to sentence your child.[84] The judge **does not have to sentence** your child. However, if the judge decides to issue a sentence, it may include:[85]

- **A fine**: Your child may be fined **up to** $300 for the first offense, **up to $500** for the second offense, and **up to $750** for the third and any subsequent offense;
- **Community service**; **or**
- **Completion of a course or program designed to improve school attendance.**

Under Act 47, if a student is convicted for truancy, then at the time of conviction, the judge is required to determine whether it is in the educational best interest of a student to transfer to a cyber charter school, even if this has not been requested by the family.[86] This does not mean that a student must transfer to a cyber charter school, but rather a judge will decide if the student has the court's permission to do so.

HOW DOES A JUDGE DETERMINE WHETHER A CHILD WHO IS HABITUALLY TRUANT MAY TRANSFER TO A CYBER CHARTER SCHOOL?

Under Act 47, a judge must determine whether a proposed transfer to a cyber charter school will be in the "educational best interest" of the child at the time a child is convicted of truancy or in response to a request from a parent or a student 15 years of age or older.[87] A judge may also issue

a cyber school-transfer determination without convicting the student or parent of truancy. Judges have wide discretion in making this determination and shall consider the following factors:

- "Health and well-being of the child, including anxiety and trauma.
- Attendance records.
- Grades.
- School enrollment history.
- Likelihood of success in proposed program.
- Safety concerns, including bullying.
- Academic access to programs.
- Disciplinary or criminal actions.
- Family support.
- Other relevant factors."[88]

CAN MY CHILD BE FINED FOR EVERY DAY OF UNEXCUSED ABSENCE DURING THE SCHOOL YEAR?

No. Your child may only be fined for each "**offense**," which means each **citation** filed by the school, not each unexcused absence.[89] Therefore, if your child has 15 unexcused absences this school year, but was only cited **once** by the school, they can be fined only up to $300 if they are convicted, not up to $4,500, which would be $300 times 15 absences.

Note: Schools do not have the authority under Act 138 to fine students for violating compulsory school attendance law. Only judges can do this.[90]

IF MY CHILD STARTS ATTENDING SCHOOL, CAN THE COURT SUSPEND THEIR SENTENCE?

Yes. If your child attends school in accordance with a plan created by the court, the judge may suspend your child's sentence and may cancel or waive fines and court costs at any time.[91] If your child is doing better with school attendance, you should consider petitioning the court to suspend the sentence.

WILL MY CHILD'S DRIVER'S LICENSE BE SUSPENDED IF THEY ARE CONVICTED OF TRUANCY BY A LOCAL DISTRICT COURT?

Not necessarily. The judge has the **choice** to notify the Department of Transportation of your child's conviction — and only under certain conditions.[92] If your child (1) fails to comply with a lawful sentence ordered by the court, *and* (2) is not subject to an exception to the compulsory school attendance requirement, the judge **may** send the Department of Transportation a certified record of your child's conviction.[93] However, if the Department of Transportation receives a certified record of your child's conviction, it **must** suspend your child's driver's license for 90 days.[94] If the Department of Transportation receives a record of a second or subsequent conviction of your child for truancy, it **must** suspend your child's license for six months.[95]

MY CHILD'S LICENSE WAS SUSPENDED, BUT MY CHILD NEEDS TO DRIVE TO GET TO WORK OR SCHOOL. WHAT CAN I DO?

Your child can apply for what is called an occupational limited driver's license if it is essential for your child's occupation, work, trade, treatment, or study.

CAN MY CHILD GET THEIR LICENSE RESTORED?

Yes. Your child may apply to have their license restored. The state Department of Transportation has a form that your child must fill out. The form must contain a certified record from your child's school that proves that your child:[96]

- Has attended school for at least two months after their first conviction or four months after their second conviction *without an unexcused absence or unexcused tardy*;
- Is subject to an *exception* to compulsory school attendance; or
- Has *graduated*, legally withdrawn from school, received a general education diploma (GED), or enlisted in the military.

CAN MY CHILD GET THEIR TRUANCY RECORD EXPUNGED? IF SO, HOW?

Yes. To get their record expunged – which means the truancy conviction is taken off their record – your child must petition the local district court. Your child's record must be expunged if **all** of the following apply:[97]

- Your child has earned a high school diploma, a Commonwealth secondary school diploma, or another equivalent approved by the Department of Education, *or* is subject to an exception to compulsory school attendance; *and*
- The child has satisfied any sentence imposed by the court related to your child's conviction, including payment of fines and court costs.

If the court grants your child's petition for expungement, the court **must** also order the Department of Transportation to expunge all administrative records related to your child's conviction(s).[98]

WHAT CONSEQUENCE DO I FACE AS A PARENT IF I AM 'CONVICTED' OF TRUANCY IN A LOCAL DISTRICT COURT?

As a parent or guardian, you may be cited in a local district court by your child's school if your child has six or more unexcused absences during the current school year, regardless of your child's age. That means that you can be forced to go to court if your child who is under 15 is considered to be habitually truant under the law, or if your child who is 15 or older is considered to be habitually truant under the law.[99] If, after a hearing, a judge convicts you of violating the compulsory school attendance law, then the judge has the discretion (that is, the choice) to sentence you.[100] The judge *does not* have to sentence you.

However, if the judge decides to issue a sentence, the sentence may include:[101]

- **A fine**: You may be fined **up to** $300 for the first offense, **up to** $500 for the second offense, and **up to** $750 for the third and any subsequent offenses.
- **Community service.**
- Or **completion of a course or program designed to improve school attendance**.

CAN THE COURT FINE ME FOR EVERY DAY OF UNEXCUSED ABSENCE MY CHILD HAD DURING THE SCHOOL YEAR?

No. The court may fine you may only for each "**offense**," which means each **citation** filed by the school, not each unexcused absence.[102] Therefore, if your child has 15 unexcused absences this school year, but you were only issued a citation **once** by the school, the court can only fine you up to $300 if you are convicted, not up to $4,500, which would be $300 times 15 absences.

IF MY CHILD STARTS ATTENDING SCHOOL, CAN THE COURT SUSPEND MY SENTENCE?

Yes. If your child attends school in accordance with a plan created by the court, the judge may suspend your sentence and may cancel or waive fines and court costs at any time.[103] If your child is doing better with school attendance, you should consider petitioning the court to suspend the sentence.

CAN I BE SENT TO JAIL FOR MY CHILD'S TRUANCY?

Yes, but *only if* you (1) failed to comply with a lawful sentence ordered by the judge, (2) had the ability to comply with the penalty imposed, **and** (3) *willfully* failed to comply with the sentence.[104] For example, if the judge orders you to pay a fine or do community service, but you fail to do so, the judge may hold you "in contempt" of court and jail you for up to three days. However, the judge can **only** order you to be jailed **if** the judge holds a court hearing and makes specific findings that (1) you failed to pay the fine or do the community service, (2) you had the reasonable ability to pay the fine or do the community service, and (3) you willfully failed to pay the fine or do the community service.[105]

> ***TIP:*** If a court is trying to hold you in contempt of court and put you in jail for failing to comply with a sentence ordered in a truancy case, you should contact your **local public defender's office.** To show that you did not have the ability to pay fines ordered by a judge, you should bring documents that demonstrate your income. You should also present evidence that you tried to pay the fines but were unable. If the judge ordered you to take a course or complete community service, but you were unable to because of other obligations, like work or caregiving, you should bring documents to present to the judge that show that you were working or were required to be a caregiver. You should also present evidence that you tried to complete the course or community service.

MAY I BRING AN ATTORNEY TO MY TRUANCY COURT HEARING?

Yes. Persons appearing before magisterial district courts have the right to be represented by an attorney. Indeed, it is helpful to bring an attorney or an advocate to a truancy hearing. 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 https://palegalaid.net/find-legal-help.

CAN I APPEAL A FINE OR OTHER COURT ORDER?

Yes. You or your child may appeal a sentence for truancy to the local county Court of Common Pleas.[106] You must make this appeal within **30 days** of the court's order.[107] An individual who appeals a conviction of 24 P.S. 13-1333 is **not** required to post a bond or pay court costs in order to

appeal. 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.

If you appeal, you have the right to a new trial before a judge in Common Pleas Court.[108] This means that the school will have to present its case all over again and that you will be able to present your case again, too. If you appeal, we recommend that you **contact an attorney of your choice** for representation.

While the appeal is ongoing, the sentence you received cannot be imposed and you cannot be held in jail on collateral pending appeal because truancy is a summary offense and the execution of a sentence is stayed.[109] It is important to remember that because your case is being heard again, you still ultimately could be sentenced to pay a fine or serve a jail sentence if you lose your appeal.

CAN MY CHILD BE SUSPENDED, EXPELLED, OR SENT TO A DISCIPLINARY SCHOOL FOR HAVING UNEXCUSED ABSENCES OR FOR BEING CONSIDERED TO BE TRUANT OR HABITUALLY TRUANT UNDER THE LAW?

No. No child may be suspended, expelled, or transferred for having unexcused absences or because they are considered to be truant or habitually truant under the law.[110] No child should ever be told they cannot come to school because they had an unexcused absence, were tardy, or took an early dismissal. Similarly, no child should ever be transferred or reassigned to a disciplinary program or alternative school for having unexcused absences, tardies, or early dismissals. If your child has been suspended, expelled, or transferred for this reason, you should immediately contact the Education Law Center and/or PDE's Office of Safe Schools at 717-787-4417.

ARE THESE RULES DIFFERENT IF MY CHILD GOES TO A CHARTER SCHOOL?

No. Charter schools are subject to the same rules and must follow compulsory school attendance laws. If your child is considered to be habitually truant under the law, the charter school **must** hold a school attendance improvement conference and create an attendance plan.[111] The only difference is that if your child is enrolled in a cyber charter school, the proper court is based on where your child lives, not where the school is located, because many cyber charter schools are located far from where their students live.[112] This makes it easier for families to attend court. Cyber charter schools are allowed to participate in court hearings through teleconferencing if their representatives are unable to appear in person.[113]

ARE THERE DIFFERENT RULES OR CONSEQUENCES FOR A CHILD WHO ATTENDS A CYBER CHARTER SCHOOL?

Yes. First, attendance is determined in a different way at a cyber charter school, as explained above. Second, based on state guidance, if a child is habitually truant while attending a cyber charter school, the student may not transfer to another cyber charter school during the school year without a determination by a judge that the transfer is in the educational best interest of the child.[114]

WHAT IS A VALID EXCUSE FOR AN ABSENCE FROM SCHOOL?

Each school district has rules and policies about student attendance and absences.[115] **Check your school district's student handbook or website** for this information. Many school districts will

excuse absences only for illness, family emergencies, death of a family member, medical or dental appointments, school activities, and educational travel with prior approval. During the COVID-19 pandemic, many schools offered new ways to submit excuse notes, which families can still use today if permitted by your district or charter school – such as online, through text, or by using online forms.

Pennsylvania law specifically permits temporary absences from school for the following reasons:

Religious Holidays and Religious Instruction[116]
Schools may excuse students from attending school for religious holidays. You must make a written request to your school's principal before the holiday for the absence to be excused.

Additionally, your child may also be excused from school for religious *instruction* by making a written request to the superintendent. Excused absences for religious instruction cannot equal more than **36** hours in a single school year.[117] After each absence, you should provide a written statement to the superintendent confirming that your child did, in fact, attend the instruction, as well as the date and time of the instruction.

Tutorial Work[118]
Schools may excuse children from attending school for the purpose of receiving tutorial instruction in a field not offered in the district's curricula, but *only if* the following requirements are met:

- The absence does not interfere with the student's regular program of studies; and
- The qualifications of the instructor are approved by the district's superintendent.

Physical or Mental Health Care[119]
Schools may excuse children from attending school for the purpose of obtaining professional health care or therapy service, but **only if** the following requirements are met:

- The health or therapeutic services are delivered by a doctor or therapist who is licensed by the Commonwealth of Pennsylvania;
- It is not practical or possible for the student to receive the health care or therapy services outside of school hours; and
- The absence has as little interference with the child's regular program of study as possible.

Educational Tours and Trips That Are Not Sponsored by the School District[120]
Schools may excuse a child from attending school to participate in an educational tour or trip even if the trip is not sponsored by the school district, but **only if** the following conditions are met:

- You submit a written request prior to the tour or trip to the school district;
- Your child's participation on the tour or trip has been approved by the school district's superintendent; and
- There is an adult who is directing and supervising your child during the tour or trip who is acceptable to both you and the school district's superintendent.

TIP: 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 right away and keep a copy for your records. **You should consider emailing the excuse note to the school so that there is a record that the school received it. If you submit a note in person, you should keep a copy for yourself and get it stamped by the school so that you can prove that the school received it.** If your child's absence was due to illness, send a doctor's note, if possible (and keep a copy). If the school district does not receive a note explaining the absence within three days of the absence, the absence can be permanently marked as unlawful.

WHAT IF MY CHILD IS AFRAID TO GO TO SCHOOL?

If your child becomes upset or fearful about attending school, you should ask to meet with school personnel to develop a **school attendance improvement plan**, which may include additional services or supports such as having a mentor or point of contact in school. You may also wish to talk with a mental health professional. In addition, if you are concerned that your child may have an unidentified disability that is affecting your child's learning and ability to attend school, you can ask for a special education evaluation to find out whether your child has a need that is not being addressed at school. See ELC-PA's Right to Special Education in Pennsylvania and ELC-PA's Request for Evaluation to Determine Eligibility for Special Education self-advocacy tool for more information.

Alternatively, your child may need accommodations in school for a qualifying disability such as asthma, depression, or drug addiction. For more information on accommodations in school, see ELC-PA's fact sheet Accommodating Health Needs in School: 504 Plans.

If your child is already receiving special education, you should **request an Individualized Education Program (IEP) team meeting** to discuss the causes of nonattendance and whether your child needs additional help or a modified IEP to address school phobia or school avoidance. See the Request to Convene an IEP Meeting self-advocacy tool.

More information about **school phobia** from the American Academy of Pediatrics and the American Academy of Family Physicians can be found at:

- http://www.aafp.org/afp/2003/1015/p1555.html
- https://www.healthychildren.org/English/health-issues/conditions/emotional-problems/Pages/School-Avoidance.aspx

WHAT IF MY CHILD IS IN DANGER OR BEING HARASSED OR BULLIED AT SCHOOL OR IS UNSAFE?

The Education Law Center-PA receives many calls from parents who fear for their children's safety at school due to harassment or bullying. Despite such real concerns of parents and significant long-lasting negative impacts on children, the law does **not** expressly excuse children from attending school in these situations. However, every school must have harassment and bullying prevention initiatives and responsive policies that permit students and parents to report harassment and bullying, and there are certain additional protections for students with disabilities. If you suspect that your child is being harassed or bullied, **you should immediately notify your child's school in**

writing about your concerns. You should **be as specific as possible** when you report your concerns. You should also ask the school to promptly investigate the allegations. See ELC-PA's Bullying or Harassment Complaint Form Checklist and Request for Bullying/Harassment Investigation self-advocacy tools for more information.

Additionally, if your child is missing school due to harassment or bullying, you should ask the school to have a **school attendance improvement conference** to address this and other barriers to school attendance. At this meeting, you should raise your concerns about harassment or bullying and ask the school what steps it can take to make sure your child is able to learn in a safe school environment. You should also provide a doctor's note if the absence relates to a mental health issue.

If your child has a disability and is being harassed or bullied, federal law requires that your child's school address the harassment or bullying, as well as convene your child's IEP Team or Section 504/Chapter 15 team to discuss the harassment or bullying and whether any changes need to be made to your child's educational program to eliminate the harassment or bullying and its effects on your child's ability to learn, and whether your child was denied a free appropriate public education due to the school's failure to address the harassment or bullying and its effects on educational progress.

If your child attends the School District of Philadelphia, you can call the Bullying & Safety Hotline at 215-400-SAFE (7233) or submit a complaint at www.philasd.org/bullying/programs-and-services/reporting-bullying-and-harassment.

For suggestions about how to handle bullying at school, see our fact sheet, The Right to be Free from Bullying and Harassment.

CAN MY CHILD BE ARRESTED IF THEY ARE NOT ATTENDING SCHOOL?

Yes. An attendance officer, a home and school visitor, or a law enforcement officer may arrest a child who is truant.[121] 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.[122]

PHILADELPHIA'S REGIONAL TRUANCY COURT

IS THERE ANYTHING UNIQUE ABOUT THE TRUANCY PROCESS IN PHILADELPHIA?

Yes. In Philadelphia, the School District of Philadelphia (School District), the Family Court of Philadelphia, and the City of Philadelphia's Department of Human Services (DHS), have partnered to create a collaborative truancy court, called Regional Truancy Court, to decrease the flow of truancy cases through the courts and to eliminate truancy at its earliest stages. These courts are located at School District properties in North Philadelphia, Southwest Philadelphia, Northeast Philadelphia, and Northwest Philadelphia. If your child goes to a school within the School District and is unlawfully absent for **10 days** during the school year or more, the School District will cite you for truancy.[123]

The District should provide this notice to you through the mail.

Once referred to Regional Truancy Court, families are required to appear for a hearing and comply with the truancy court order. In addition, DHS, which is overseen by the Office of Children and Families within the City of Philadelphia, has contracted with truancy providers that will contact the family to arrange a meeting. The truancy provider will attempt to engage with the families and

extend services to support students to help alleviate any identified barrier(s) that are contributing to the truancy. The provider will work with the family until the case is discharged from truancy court. Each case is handled on an individual basis.[124]

At this hearing, the School District will present evidence showing your child has at least six unexcused absences in the current school year and will confirm that a school attendance improvement conference took place. You should also be given the chance to respond and present evidence. The hearing officer will issue a truancy court order based on the outcome of the hearing. Usually, the hearing officer will order you to appear in Regional Truancy Court again to make sure your child is attending school.

Generally, if attendance barriers have not been eliminated by the third listing or hearing in the Regional Truancy Court, the hearing officer will refer the case to DHS, and the City of Philadelphia to file a petition in Family Court, alleging that your child may need to be a dependent child under the Juvenile Act. Once a dependent petition is filed, you will have to appear in Family Court. The Family Court judge has the authority to adjudicate the student dependent and assign the case to the Department of Human Services for more intensive services in your home, or a judge may order that your child be removed from your home and placed into foster care, which may include placement with a foster family, a kinship care provider/family member, or in a group home or residential setting. *Note*: A child may not be placed in a highly restrictive environment like a residential placement except as a last resort.[125]

CHARTER SCHOOLS IN PHILADELPHIA: If your child attends a charter school in Philadelphia, their school may or may not participate in the Regional Truancy Court collaborative. Some charter schools participate in the Regional Truancy Courts, and others rely on the District Attorney's Project Go program to enforce truancy rules. In any event, charter schools are subject to the same laws explained throughout this fact sheet.

The Education Law Center-PA (ELC-PA) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC-PA advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, multilingual learners, LGBTQ+ youth, children experiencing homelessness, and children at the intersection of multiple underserved identities.

ELC-PA's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC-PA's Helpline for information and advice — visit www.elc-pa.org/contact or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) — or contact another attorney of your choice.

[1] 24 P.S. § 13-1326.
[2] *Id.*; *see also* PA. DEP'T OF EDUC., *Compulsory School Attendance, Unlawful Absences, and School Attendance Improvement Conferences* (Jan. 2024), https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-becs/purdons-statutes/compulsory-school-attendance-unlawful-absences-and-school-attendance-improvement-conferences.
[3] 24 P.S. § 13-1326.
[4] *Id.*; *see also* Commonwealth v. Kerstetter, 62 A.3d 1065 (Pa. Commw. Ct. 2013).
[5] PENNSYLVANIA DEPARTMENT OF EDUCATION, *Compulsory School Attendance, Unlawful Absences, and School Attendance Improvement Conferences* (Jan. 2024), https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-becs/purdons-statutes/compulsory-school-attendance-unlawful-absences-and-school-attendance-improvement-conferences.
[6] *See generally* 24 P.S. § 13-1327.
[7] *Id.* § 13-1330(1).
[8] 43 P.S. § 40.2 (defining "issuing officer" to mean "a district superintendent or supervising principal of a public school district or, if a public school district does not have a district superintendent or supervising principal, the secretary of the board of school directors of the district").
[9] *Id.* § 40.8-9.
[10] 24 P.S. § 13-1326 (defining "person in parental relation").
[11] *Id.*
[12] *Id.*
[13] 24 P.S. § 13-1327.2(a.1)(1).
[14] 24 P.S. § 13-1327.2(a.1)(1)-(3).
[15] 24 P.S. § 13-1327.2(a.1)(3).
[16] 24 P.S. § 13-1333.1(c).
[17] *Id.* § 13-1333.3.
[18] PA. DEP'T OF EDUC., *Pennsylvania's Family Engagement Birth through College, Career, Community Ready Framework: A Companion Guide for Families* (Dec. 2019), https://www.pa.gov/content/dam/copapwp-pagov/en/education/documents/instruction/early-learning/family%20engagement%20framework%20-%20companion%20guide%20for%20families%20final.pdf.
[19] *Id.* § 13-1329.
[20] PA. DEP'T OF EDUC., *Compulsory School Attendance, Unlawful Absences, and School Attendance Improvement Conferences* (Jan. 2024), https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-becs/purdons-statutes/compulsory-school-attendance-unlawful-absences-and-school-attendance-improvement-conferences.
[21] Sarah Mervosh & Francesca Paris, *Why School Absences have 'Exploded' Almost Everywhere*, N.Y. TIMES, Mar. 29, 2024, https://www.nytimes.com/interactive/2024/03/29/us/chronic-absences.html (explaining the crisis of chronic absenteeism, missing at least 10% of school days, in the United States); Attendance Works, *State Trend Chart 2017-2022*, https://docs.google.com/spreadsheets/d/15yNTUUNwHzhFjQRCYgY5o7KE5pGoVFtk/edit?gid=1137911798#gid=1137911798 (last visited July 10, 2024).
[22] JOINT STATE GOV'T COMM'N OF THE GEN. ASSEMBLY OF PA, THE TRUANCY PROCESS: THE CHALLENGE OF IMPROVING ATTENDANCE IN PENNSYLVANIA SCHOOLS (2024), http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2024-04-09%20(Act138)%20Truancy%20Web%204.9.24%20930am.pdf.
[23] *Id.* at 11-12.
[24] *Id.* at 20.
[25] *Id.* at 11.
[26] Thomas S. Dee, *Higher Chronic Absenteeism Threatens Academic Recovery from the COVID-19 Pandemic* 2 (Aug. 10, 2023), https://osf.io/preprints/osf/bfg3p.
[27] JOINT STATE GOV'T COMM'N OF THE GEN. ASSEMBLY OF PA, *supra* note 20, at 15.
[28] *Dee*, supra note 25, at 5.
[29] JOINT STATE GOV'T COMM'N OF THE GEN. ASSEMBLY OF PA, *supra* note 20, at 19.
[30] *Id.* at 134.
[31] *Id.* (stating that "absences caused by homelessness must not be counted as unexcused absences").
[32] 42 U.S.C. § 11431(1) (requiring that McKinney-Vento eligible students have "equal access to the same free, appropriate public education ... as provided to other children"); *id.* 42 U.S.C. § 11433(d)(16) (requiring schools to remove barriers to make sure that eligible students can "attend school and participate fully in school activities").

[33] PA. DEP'T OF EDUC., *Compulsory School Attendance, Unlawful Absences, and School Attendance Improvement Conferences* (Jan. 2024), https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-becs/purdons-statutes/compulsory-school-attendance-unlawful-absences-and-school-attendance-improvement-conferences ("An absence that requires a student to leave school for the purposes of attending court hearings related to their involvement with a county children and youth agency or juvenile probation may not be categorized as unlawful.").
[34] Truancy Advisory Comm'n, Joint State Gov't Comm'n, Truancy and School Dropout Prevention 35 (2015), http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2015-10-27%202015%20TAC%20Final%20Report%2010-27-15%203pm.pdf.
[35] FUND OUR SCHOOLS PA, SUMMARY OF EXPERT REPORT BY DR. MATTHEW KELLY (2021), https://www.pubintlaw.org/wp-content/uploads/2021/02/20.10.27-Kelly-report-handout-pubintlaw.pdf (finding that "[s]tudents of color are concentrated in deeply underfunded districts and are disproportionately impacted by Pennsylvania's irrational and inequitable funding system" and that "[s]tatewide, Black and Latinx students are also concentrated in the lowest wealth (and therefore most underfunded) districts — 50% of PA's Black students are in the lowest quintile wealth districts."); JUSTIS FREEMAN & DAVID BAMAT, RSCH. FOR ACTION, PERSISTENT UNEQUAL ACCESS TO EDUCATIONAL OPPORTUNITY IN PENNSYLVANIA (2022), https://www.researchforaction.org/research-resources/persistent-unequal-access-to-educational-opportunity-in-pennsylvania-for-k-12-students/ ("Black and Hispanic students are disproportionately enrolled in high-poverty schools and those schools provide less access to educational opportunity. Only 4% of enrolled students in low-poverty schools are Black and 5% of enrolled students in low-poverty schools are Hispanic. In contrast, White students are disproportionately enrolled in low-poverty schools, which provide higher access to opportunity.").
[36] FREEMAN ET AL., *supra* note 34, at 2, 5.
[37] *Id.* at 5.
[38] *Id.*
[39] *Id.*
[40] Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; 34 C.F.R. §§ 100.3(a)(b)(1)(i)-(vi), (b)(2).
[41] 24 P.S. § 13-1326.
[42] *Id.* (defining "habitually truant").
[43] ELC-PA uses the term "experiencing attendance barriers," rather than "truant," to describe when a student has three or more absences in the current school year. Here, we are using the language of the law, because "truant" is the term for the legal status reference in the law. We disagree with this legal status being used as a term to describe children.
[44] 24 P.S. § 13-1333(a)(2.1).
[45] 24 P.S. § 13-1333(a)(2.2)-(5). This notice to request an educational best interest hearing will be developed by the Administrative Office of Pennsylvania Courts and the Pennsylvania Department of Education. *Id.*
[46] 24 P.S. § 13-1333(a)(2.2).
[47] 24 P.S. § 13-1326 (defining "habitual truancy" as six or more absences in the current school year).
[48] ELC-PA uses the term "experiencing attendance barriers," rather than "habitually truant," to describe when a student has six or more absences in the current school year. Here, we are using the language of the law because "habitually truant" is the term for the legal status referenced in the law. We disagree with this legal status being used as a term to describe children.
[49] 24 P.S. § 13-1333(b).
[50] *Id.* § 13-1333(b)(1).
[51] *Id.* § 13-1333(a)(2).
[52] *Id.* § 13-1333.1(a)(ii) (describing referral procedure for students under 15 for CYS).
[53] 24 P.S. § 1723-A(A.1)(3).
[54] This tool helps families self-identify attendance barriers to their child's school and seek support to address them.
[55] This tool helps schools proactively identify attendance barriers through a series of questions for families. It also provides action steps for schools to take after a barrier is identified.
[56] This tool helps magisterial district court judges (MDJs) make sure that all attendance barriers have been identified, helps local education agencies (LEAs) confirm that they have complied with their duties under Pennsylvania Truancy Laws, and provides action steps for when LEAs fall short of these legal obligations.
[57] 24 P.S. § 13-1326.
[58] 24 P.S. § 13-1333(b)(1).
[59] *Id.* § 13-1333(b)(3) ("Further legal action may not be taken by the school to address unexcused absences by the child until after the date for the scheduled school attendance improvement conference has passed").

[60] *Id.* § 13-1326 (defining school attendance improvement conference and who should be invited).
[61] JOINT STATE GOV'T COMM'N OF THE GEN. ASSEMBLY OF PA, THE TRUANCY PROCESS: THE CHALLENGE OF IMPROVING ATTENDANCE IN PENNSYLVANIA SCHOOLS 15 (2024), http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2024-04-09%20(Act138)%20Truancy%20Web%204.9.24%20930am.pdf.
[62] *Id.* at 151.
[63] *Id.* § 13-1333(b)(3) ("Further legal action may not be taken by the school to address unexcused absences by the child until after the date for the scheduled school attendance improvement conference has passed").
[64] *Id.* § 13-1333.1(d).
[65] *Id.* § 13-1333.1(d) ("When referring a habitually truant child to the county children and youth agency or filing a citation with the court because a child has been habitually truant, the school shall provide verification that a school attendance improvement conference was held.").
[66] *Id.* § 13-1333(b)(3).
[67] *Id.* § 13-1326 (defining invitees to school attendance improvement conference as "appropriate school personnel"); in re C.M.T., 861 A.2d 348, 356 (2004).
[68] *Id.*
[69] 24 P.S. § 13-1333.1(a)(1).
[70] *Id.* § 13.1333.1(a)(2).
[71] *Id.* § 13.1333.1(b)(2).
[72] *Id.* § 13-1333.1(c).
[73] *Id.*
[74] *Id.* § 13-1333(a)(2).
[75] *Id.* § 13-1333.2(b)(2).
[76] *Id.* § 13-1333.2(a).
[77] *Id.* § 13-1327.2(b).
[78] 24 P.S. § 1333(c.2)(2).
[79] *Id.*
[80] *Id.* § 13-1333.2(c). Note that while the burden of proof on the Commonwealth under the Juvenile Act is "clear and convincing evidence," the burden of proof under Act 138 for truancy is "beyond a reasonable doubt."
[81] *Id.* § 13-1333.2(d) (outlining affirmative defense for parents who took every reasonable step to ensure attendance).
[82] ELC-PA disagrees with the use of the term "conviction" but is using this language here to reflect the language used in the law.
[83] 24 P.S. § 13-1333.1(b)(2).
[84] *Id.*
[85] *Id.* § 13-1333.3(a).
[86] 24 P.S. § 13-1333.3(i).
[87] 24 P.S. § 13-1333(c.1).
[88] 24 P.S. § 13-1333(C.2)(3).
[89] *Id.* § 13-1326 ("'Offense' shall mean each citation filed under section 1333.1[] for a violation of the requirement for compulsory school attendance").
[90] *Id.*
[91] 24 P.S. § 13-1333.3(b).
[92] *Id.* § 13-1333.3(g)(1).
[93] *Id.*
[94] *Id.* § 13-1333.3(g)(2).
[95] *Id.*
[96] *Id.* § 13-1333.3(g)(4).
[97] *Id.* § 13-1333.3(h).
[98] *Id.* § 13-1333.3(h)(2).
[99] *Id.* § 13-1333.1(b)(2).
[100] *Id.* § 13-1333.3(a).
[101] *Id.*
[102] 24 P.S. § 13-1326 ("'Offense' shall mean each citation filed under section 1333.1[] for a violation of the requirement for compulsory school attendance").
[103] *Id.* § 13-1333.3(b).
[104] *Id.* § 13-1333.3(f).
[105] *Id.*
[106] *Id.* § 13-1333.3(c).

[107] *Id.*
[108] PA. R. CRIM. P. 462; *see also* 24 P.S. § 13-1333.3(c).
[109] PA. R. CRIM. P. 461(E).
[110] 24 P.S. § 13-1333(c) ("Schools shall not expel or impose out-of-school suspension, disciplinary reassignment or transfer for truant behavior.").
[111] 24 P.S. § 13-1333(b); P.L. 241, No. 39, § 425(d).
[112] 24 P.S. § 13-1327.2(b).
[113] *Id.*
[114] Pa. Dep't. Of Educ., *Act 47 of 2025 FAQs*.
[115] 24 P.S. § 13-1329(a).
[116] 22 PA. CODE § 11.21(b).
[117] *Id.*
[118] *Id.* § 11.22(a).
[119] 24 P.S. § 13-1329(c)-(d); 22 PA. CODE § 11.25(a).
[120] 24 P.S. § 13-1329(a.11).
[121] *Id.* § 1341(a).
[122] *Id.* § 1343.
[123] *Id.* § 13-1333(a).
[124] THE SCHOOL DISTRICT OF PHILADELPHIA, District's Response to Truancy Protocol (last revised July 16, 2024), available at https://drive.google.com/file/d/17DYNYr95mCQlpdTxR6SwCePDvA3Indj8/view. See also School District of Philadelphia Code of Conduct 2026-27 at p. 6-9, https://drive.google.com/file/d/10GzaP-wER9OZ6DUapQ5xWuGWRGmyYQcn/view.
[125] *See* 55 Pa. Code § 3130.67(b)(7)(i)) (a child's placement should be the most family-like setting available for the child, consistent with the best interests and needs of each child); Pennsylvania Dependency Benchbook (2019), available at https://ocfcpacourts.us/wp-content/uploads/2020/05/2019-Pennsylvania-Dependency-Benchbook-3rd-Edition-Interactive-002427.pdf.