

MDJ TRUANCY COMPLIANCE CHECKLIST

August 2026

The purpose of [Act 138](#), as **enacted in 2016**, was to improve attendance and deter truancy by consistently identifying and addressing attendance issues as early as possible with credible intervention techniques in order to preserve the unity of the family, avoid the loss of housing or entry of a child into foster care, or disruption of an intact family unit.¹ The law also sought to ensure that the person in parental relation to a child who is considered habitually truant would only be subject to imprisonment as a last resort and only for the minimum amount of time.²

Act 47 of 2025, **amended in 2026**, further revised truancy laws to prohibit students who are habitually truant from transferring to a cyber charter school during the school year unless the student obtains a determination from a judge that it is in the student's educational best interest to transfer.³ This law also clarifies the scope of a Magisterial District Judge's jurisdiction over truancy matters and delineates a judge's obligations to proactively determine whether a child may transfer to a cyber charter school in cases where a student is convicted of truancy.

The Education Law Center-PA has created [A Judge's Guide to Truancy and Addressing Attendance Barriers](#), which comprehensively addresses a wide range of issues, and a [screening tool for use by MDJs](#) to address truancy referrals in real time. This checklist identifies common issues that arise for MDJs who adjudicate truancy matters to clarify the following legal requirements:

- Schools must provide the court with **written verification that they held a school attendance improvement conference**. The conference must result in a written attendance improvement plan that identifies and addresses the cause of attendance issues.⁴
- Schools **may cite either the child (15 or older) or the parent; not both**. This was clarified under Act 138, and MDJs should reject any duplicative citations.⁵
- A student or parent may **only be fined for *each citation*** filed by a school (defined as each "offense") and cannot be fined for each day of unexcused absence.⁶
- **Schools may not file citations** in a magisterial district court against a child or person in parental relation if (1) a prior citation is pending before a magisterial court, (2) the school referred the child to CYS, the CYS case is still open, and the school has not consulted with CYS prior to filing the petition, or (3) a petition for dependency has already been filed due to habitual truancy and the case remains under jurisdiction of a dependency or delinquency judge or hearing officer.⁷

- Before entering a decision, a judge should allow the person in parental relation or the child to present information to assist the judge in making an informed decision.⁸
- **MDJs should consider a child's disability or suspected disability and its relation to attendance** when considering justification of an absence. If a child's absences are caused by or related to a child's disability or unidentified need for special education services or accommodations, the child's absences should be excused.⁹
- **Parents and students cannot be jailed for inability to pay fines.** MDJs should undertake an inability to pay determination before imposing fines.¹⁰
- The imposition of fines, jail time, or other allowable **penalties under the law is discretionary, not mandatory.**¹¹ Such sanctions should only be imposed as a last resort and only after an inability to pay determination has been conducted.
- **Schools must prove "beyond a reasonable doubt"** that the student was habitually truant while subject to compulsory school attendance laws and that the absences were without justification. It is an affirmative defense to a citation if the person in parental relation took every reasonable step to ensure attendance of the child at school.¹²
- MDJs can order or direct that a child's **improper unexcused absences be expunged** from their education records.¹³
- A student who is habitually truant (six or more unexcused absences) may not transfer to a cyber charter school during the school year **unless a judge determines that the transfer is in the educational best interest of the student.**¹⁴
- An MDJ **must make an educational best interest determination on whether the child may transfer to a cyber charter school during the school year** upon request from a parent or student or when an MDJ convicts a child aged 15 or older of truancy.¹⁵
- In making this determination, **MDJs must 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."¹⁶

- MDJs must ensure that the educational best interest determination hearing is held within 10 days of receipt of a hearing request by the parent or the child aged 15 or older or within 10 days of issuance of a truancy citation against the child.¹⁷

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 See 24 P.S. § 13-1325.

² *Id.*

³ 24 P.S. § 13-1333(c.1).

⁴ 24 P.S. § 13-1333(b)(3); 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>.

⁵ 24 P.S. § 13-1333.1(b)(2).

⁶ 24 P.S. § 13-1326.

⁷ 24 P.S. § 13-1333.3(d).

⁸ 24 P.S. § 13-1333.2(c)-(h).

⁹ See *In re C.M.T.*, 861 A.2d 348, 355 (Pa. Super. Ct. 2004) (hearing court erred by failing to consider evidence that child's disabilities may have been responsible for poor school attendance or that school failed to meet her special education needs).

¹⁰ See PA. R. CRIM. P. 456; 42 PA. CONS. STAT. § 9730(b).

¹¹ 24 P.S. § 13-1333.3(a).

¹² 24 P.S. § 13-1333.2(c).

¹³ 20 U.S.C. § 1232g; 34 CFR § 99.20.

¹⁴ 24 P.S. § 13-1333(c.1).

¹⁵ 24 P.S. § 13-1333(c.1)(2).

¹⁶ 24 P.S. § 13-1333(c.1)(3).

¹⁷ 24 P.S. § 13-1333(c.1)(2).