

TRUANCY AND SCHOOL ATTENDANCE 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 or an attorney of your choice.

WHO MUST ATTEND SCHOOL IN PENNSYLVANIA

In Pennsylvania, all children of “**compulsory school age**” – i.e., children between the ages of **eight (8) and seventeen (17)** – must attend school. In Philadelphia, the School District of Philadelphia requires students to begin attending school at age six (6). Once a child enrolls in kindergarten, the child must continue to attend even if she or he has not yet reached age eight (8). If a child has graduated from high school, she is no longer required to attend school.

“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. There are several exceptions, including an exception for *certain working students*:

Students who are sixteen (16) or older AND who hold full-time jobs during school hours do not have to attend school. Local school districts determine the minimum number of required hours of work needed to meet this exception. The student must get an “employment certificate” (often called “working papers”) from his or her school district. There are several other limited exceptions.

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. Students are also obligated to attend school and can be held accountable under the law. The Pennsylvania Department of Education (PDE) also recommends that school districts take certain steps, including the creation of a Truancy Elimination Plan (TEP), to ensure that students attend school and avoid truancy.

WHAT IS TRUANCY?

Pennsylvania law does not specifically define truancy. However, the Pennsylvania Department of Education (PDE) states 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 enrolled in the school who has had **three (3) unexcused absences in a school year**.

WHEN AND HOW DO THE COURTS GET INVOLVED WHEN A CHILD IS TRUANT?

Under the law, if a principal or teacher reports to the superintendent or attendance officer that a child has had **three (3) unexcused absences**, the superintendent or attendance officer **MUST** serve the child's parent or guardian with **WRITTEN NOTICE** of the child's unexcused absences. Once a parent or guardian is served with such notice, she or he has **three (3) days** to ensure his or her child's compliance with the compulsory school law – i.e., attendance in school. If, after **three (3) days** of receiving notice, the child fails to attend school, the school district **MUST** proceed with enforcement of the compulsory school law. In this circumstance, the school district files a **truancy petition** with the local magisterial district justice. A truancy hearing is then scheduled before the magisterial district justice.

TIP: 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. The Pennsylvania Department of Education (PDE) recommends school districts take steps to address truancy after **each** unexcused absence to avoid continued truancy and court involvement. Contacting the school, and working with it, may help prevent these legal proceedings.

CHARTER SCHOOLS: The Pennsylvania Department of Education (PDE) recommends that charter schools report student absences to the school district of residence. It is then the responsibility of the school district of residence to take steps to prevent truancy by enforcing the attendance law.

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 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). Most school districts require a doctor's note to support a lawful absence. If the school district does not receive a note explaining the absence within three (3) days of the absence, the absence can be permanently marked as unlawful.

WHO MUST APPEAR AT TRUANCY HEARINGS AND WHAT HAPPENS IN COURT?

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 on their own behalf. If you have any doctors' notes or other written information that shows your child should have been legally excused from school, you should bring it to the hearing. It is important to present all relevant information to the court to support your defense.

MAY THE PARENT BRING AN ATTORNEY TO THE TRUANCY 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. If you are in Philadelphia or its surrounding counties and wish to speak with an attorney, call the Education Law Center at 215-238-6970. If you are elsewhere in Pennsylvania, 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 MY CHILD IS TRUANT, WHAT CAN HAPPEN?

If a magisterial district justice determines that a child is unlawfully truant, the parent and/or the child may be convicted of a summary offense. Upon conviction of a summary offense for truancy, the parent and/or child may be sanctioned under the law. The chart below provides an overview of the available sanctions provided by law:

| Parents/Guardians | Children Under 13 | Children 13 or Older |
|---|--|---|
| <p>Summary Conviction →</p> <ul style="list-style-type: none"> - \$300 fine per offense; - Parenting education program; - 6 months' community service. <p>Failure to Comply With Above Punishment →</p> <p>RISK: 5 days' incarceration in the county jail.</p> | <p>Failure to Comply With Compulsory Attendance Law AND "Habitually Truant"* →</p> <p>Referred by school district to the local Children and Youth Services (CYS) agency for possible disposition as a dependent child under § 6302 of the Juvenile Act.</p> <p><i>*"Habitually truant" means an absence for more than three (3) school days AFTER the school district provides the first notice of truancy.</i></p> | <p>Summary Conviction →</p> <ul style="list-style-type: none"> - \$300 fine per offense; - Adjudication alternative program; - Suspension of driver's license. <p>Failure to Comply With Above Punishment →</p> <p>RISK: The managerial district justice may allege the child to be a dependent child under § 6302 of the Juvenile Act.</p> <p>Failure to Comply With Compulsory Attendance Law AND "Habitually Truant"* →</p> <p>RISK: Referred by school district to the local Children and Youth Services (CYS) agency for possible disposition as a dependent child under § 6302 of the Juvenile Act.</p> |

DETAILED OUTLINE OF TRUANCY SANCTIONS:

PARENT/GUARDIAN:

If convicted of a summary offense, a parent may be:

- Fined up to \$300 for the conviction and each subsequent violation of the compulsory school law;
- Required to complete a “parenting education program”; **or**
- Ordered to complete up to six (6) months of community service.

If a parent/guardian fails to comply (i.e., *defaults*) with a sentence imposed by the magisterial district justice (examples: a fine, parenting education program, or community service), she or he may be incarcerated in the county jail for up to five (5) days.

CHILDREN YOUNGER THAN 13:

If the child is under the age of thirteen (13) and is found to have violated the compulsory attendance law **AND** is “habitually truant,” the school district **MUST** refer the child to the county Children and Youth Services (CYS) agency for services or possible disposition as a dependent child. “**Habitually truant**” means absence for more than three (3) school days **AFTER** the school district provides the **first notice** of truancy. Therefore, if the child is absent for more than three (3) days after the school district provides the first truancy notice, the school district must refer the child to CYS if she or her is under thirteen (13) years of age. NOTE: these absences *need not be consecutive* for this provision to apply – 3 days of *cumulative* absence after the first truancy notice is provided (**6 days total**) is sufficient to trigger a referral to CYS.

CHILDREN 13 OR OLDER:

If the child is thirteen (13) or older **AND** his or her parent(s) can demonstrate to the court that she or he took every reasonable step to ensure the child’s attendance at school, the justice may convict **the child** of a summary offense and the child may be:

- Fined up to \$300 for the conviction and each subsequent violation of the compulsory attendance law; **or**
- Assigned to an “adjudication alternative program.”

If the child fails to pay the fine or to comply with the adjudication alternative program (i.e. *defaults*), the district justice *may* also allege the child to be dependent under the Juvenile Act.

If a child thirteen (13) or older is convicted of truancy, the Pennsylvania Department of Transportation **MUST** suspend the child’s driver’s license for a period of **ninety (90) days** (for the *first* truancy conviction) and an **additional six (6) months** for any *subsequent* truancy conviction. If the child does not have a driver’s license, the privilege to apply for one will be suspended for ninety (90) days for the first truancy offense and six (6) months for additional offenses.

In lieu of summary conviction, if the child is thirteen (13) or older, has violated the compulsory attendance law **AND** is “habitually truant” (i.e. absent for more than three (3) days after the first truancy citation), the court may order the school district to refer the child to CYS for services or possible disposition as a dependent child under the Juvenile Act.

WHAT IF I HAVE TRIED TO GET THE CHILD TO ATTEND SCHOOL AND THE CHILD STILL DOES NOT GO?

If the parent can convince the court that he or she 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. As a parent, you should work with your child’s school to identify barriers to attendance and implement solutions, including special education services, where appropriate, in order to avoid further consequences to your family, including the removal of your child from the home.

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 magisterial 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 CONTINUOUSLY OR HABITUALLY TRUANT?

If a child is absent for **ten (10) days in a row** the school district **MUST** drop the child from the active school rolls, *unless* the school district receives evidence explaining the absence *or* the school district is prosecuting the parent and/or child for truancy. School districts should investigate a child’s absence from school before dropping the student from the rolls.

A child who is habitually truant may be referred for possible disposition as a dependent child under the Juvenile Act. **An adjudication of dependency 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, as a parent, you should take action as soon as you receive the first truancy notice.**

As explained above, “**habitually truant**” means absence for more than three (3) school days **AFTER** the school district provides the *first notice* of truancy, which it must do after three unlawful absences. If a student is habitually truant, she or he may be referred to the local Children and Youth Services (CYS) agency for services or possible disposition as a dependent child, depending on the student’s age. For children **under thirteen (13)** who fail to comply with the compulsory school law **and** are habitually truant, the *school district must* refer the child for services or possible disposition as a dependent child under the Juvenile Act. For children **thirteen (13) or older**, the *district justice may* allege the child to be a dependent child under the Juvenile Act if she or he defaults on a penalty

imposed under this law. Alternatively, in lieu of prosecution for truancy under the compulsory school law, the *school district* **may** refer a child thirteen (13) or older who fails to comply with the compulsory school law **and** is habitually truant for services or possible disposition as a dependent child under the Juvenile Act.

IS THE SCHOOL REQUIRED TO HELP FAMILIES ADDRESS THEIR CHILD'S ATTENDANCE PROBLEMS?

No, but it should. The Pennsylvania Department of Education (PDE) has stated that if a child has had **three (3) unexcused absences** in a school year, the school **should** hold a student attendance improvement conference where the parents/guardians meet with the child's teachers to figure out what might be keeping the child from attending school. The team should create a "**Truancy Elimination Plan**" or similar tool that can be used to resolve the truancy. Truancy Elimination Plans generally identify the academic, social/emotional, and environmental factors contributing to a student's truancy, and introduce methods to resolve these issues. To view a sample Truancy Elimination Plan see: <http://www.portal.state.pa.us/portal/server.pt?open=18&objID=353655&mode=2>.

Truancy can also indicate an unidentified disability and the need for a special education evaluation. School districts have an ongoing obligation to identify, locate, and evaluate all children with disabilities. If a child is having an attendance problem, the school district should explore whether the attendance problem is caused by or related to a disability. If you suspect that your child has a disability, you can request that your school evaluate your child. For more details, see our fact sheet *Getting a Special Education Evaluation for Your Child* at www.elc-pa.org.

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 discuss the problem and develop a plan to deal with it. (See above 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 need that is not 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 or a modified IEP to address school phobia.

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>
- <http://www.healthychildren.org/English/health-issues/conditions/emotional-problems/Pages/School-Avoidance.aspx>

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

The Education Law Center receives many calls from parents who fear for their children's safety at school. Despite such real concerns of parents, the law does not excuse children from attending school in these situations. **You should meet with the school principal and your child's teachers 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.

Many school districts have internal bullying policy and procedures designed to identify instances of bullying and assist students, parents, and schools to resolve bullying in schools. 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 <http://webgui.phila.k12.pa.us/offices/s/safety/bullying--safety-hotline-concerns/>.

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. Absences due to court hearings or meetings related to a child's involvement with the county Children and Youth Services (CYS) agency or juvenile probation office may not be considered unlawful absences.

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.

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 **thirty-six (36) hours** in a single school year. Also, following each absence, the parent must provide the superintendent with a written statement confirming that the child did in fact attend the instruction, as well as the date and time of the instruction.

CAN A CHILD BE ARRESTED IF HE OR SHE 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.

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, visit: <http://www.patruancytoolkit.info/>.

For the Pennsylvania Department of Education's (PDE) Basic Education Circular (BEC) on "Compulsory Attendance and Truancy Elimination Plan," visit: 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.

IS THERE ANYTHING UNIQUE ABOUT THE TRUANCY PROCESS IN PHILADELPHIA COUNTY?

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 as well as to eliminate truancy at its earliest stages. These courts are located at school district properties in North Philadelphia, South Philadelphia, Northeast Philadelphia, and West Philadelphia. If your child goes to a school within the School District and is unlawfully absent for **ten (10) days** (cumulative, not consecutive) or more, the School District will cite you for truancy. The District will provide this notice to you through the mail.

If your child is **under thirteen (13)**, the School District will automatically refer the case to DHS, who will visit your home and offer services designed to reduce your child's truancy. If you accept services, DHS will open a case and provide services in your home to help eliminate your child's truancy.

If your child is **thirteen (13) or older**, you will receive a notice in the mail to attend a truancy hearing at one of the four Regional Truancy Courts. You will be assigned a court based on where your child attends school. A judicial officer, called a Master or Hearing Officer, presides over the hearing. Each Master is appointed by the Administrative Judge of Family Court. You and your child are required to appear.

At this hearing, the school district will present evidence of your child's truancy. You should also be given the chance to respond, including the presentation of evidence. Finally, the School District, in collaboration with you, your child, the Master, and a representative from DHS, should create an individualized Truancy Elimination Plan that will help your child engage with school and comply with the compulsory attendance law.

If, after this hearing, your child is truant again, the school district may file another citation against you and your child. You will be required to appear before the Regional Truancy Court for a

second hearing. Generally, if the truancy is not eliminated by the third listing or hearing in the Regional Truancy Court, the Master will refer the case to DHS and the City of Philadelphia will file a dependent petition in Family Court, alleging your child 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 may order services in your home or may order the child removed from your home.

CHARTER SCHOOLS: If your child attends a **charter school**, his or her school may or may not participate in the Regional Truancy Court collaborative. Some charter schools participate in the Regional Truancy Courts. Others rely on the District Attorney's Office to enforce truancy. And some others handle truancy on their own. In any event, charter schools are still subject to the same laws explained throughout this fact sheet.

I HAVE A TRUANCY MATTER PENDING IN THE PHILADELPHIA AREA, CAN I CALL THE EDUCATION LAW CENTER?

Yes. If you are seeking assistance with a truancy matter in Philadelphia or its surrounding counties, please call the Education Law Center at 215-238-6970. Our staff are available to provide information about the truancy process. If you are located elsewhere in Pennsylvania, 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.

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