

# Compulsory School Attendance, Unlawful Absences, and School Attendance Improvement Conferences

24 P.S. §§ 13-1326 – 1354

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24 P.S. §§ 13-1326 – 13-1354: Compulsory School Attendance, Unlawful Absences, and School Attendance Improvement Conferences

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## I. Introduction

A primary goal of education is for every child in the Commonwealth to graduate from high school ready for college or employment regardless of their individual background or circumstance. Truancy is a barrier to the achievement of that goal and is often a precursor to a student’s decision to dropout. The purpose of this Basic Education Circular (BEC) is to provide an overview of the compulsory attendance and truancy laws in Pennsylvania, as amended via Act 138 of 2016 (Act 138) and Act 39 of 2018 (Act 39). This BEC provides school districts, charter schools, cyber charter schools, area vocational-technical schools, and nonpublic schools guidance to implement proven truancy reduction efforts and best practices that support Pennsylvania’s students and their families.

The term “school” as used throughout this BEC refers to school districts, charter schools, cyber charter schools, and area vocational-technical schools. When a certain provision of this BEC applies to a nonpublic school or other school entity, it is specifically noted.

BECs provide guidance and do not establish binding norms or requirements. Please consult the applicable statutes, regulations, or case law for additional information concerning the matters discussed in this BEC.

## II. Compulsory Attendance Requirements

### A. General Requirements

In Pennsylvania, compulsory school age is defined as the period of a child’s life from the time the child enters school, which may be no later than eight years of age, until the age of 17 or graduation from a high school, whichever occurs first.<sup>1</sup>

The term “compulsory attendance” refers to the mandate that all children of compulsory school age having a legal residence in Pennsylvania must attend a day school in which the subjects and activities prescribed by the standards of the State Board of Education are taught in the

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<sup>1</sup> Pennsylvania’s Public School Code also sets forth special compulsory attendance rules that apply to the School District of Philadelphia (SDP) exclusively. For instance, SDP has the right to set the compulsory school age for its students “at no earlier than age six” with the exception of home schooled students who could continue to comply with the compulsory attendance age of eight established for all other public school students in the Commonwealth.

English language, except in the following situations found in sections 1327, 1327.1, and 1330 of Pennsylvania's Public School Code (School Code):

1. Attendance at a private trade school or private business school continuously through the entire term congruent with the school term of the resident school district and that meets the requirements set forth by the State Board of Education or the State Board of Vocational Education when:
  - The child is 15 and has approval from the district superintendent and the Secretary of Education, or
  - The child is 16 and has approval from the district superintendent.
2. Attendance at a school operated by a bona fide church or other religious body which provides a minimum of 180 days of instruction or 900 hours of instruction per year at the elementary level or 990 hours per year of instruction at the secondary level.
3. Privately tutored or home schooled students provided a minimum of 180 days of instruction or 900 hours of instruction per year at the elementary level or 990 hours per year of instruction at the secondary level.
4. Enrollment in a day or boarding school which is accredited by an accrediting association approved by the State Board of Education.
5. Children who are 16 and regularly engaged in useful and lawful employment during the school session with a valid employment certificate. Regularly engaged means 35 or more hours per week of employment.
6. Children who have been examined by an approved psychological professional and identified to be unable to profit from further public school attendance and excused by the school board.
7. Children who are 15 who hold a permit approved by the school district to engage in farm work or domestic service in a private home.
8. Children who are 14 and satisfactorily completed the equivalent of the highest grade of elementary school in their district who hold a permit recommended by the district and approved by the Secretary of Education to engage in farm work or domestic service in a private home.

#### **B. Commonwealth v. Kerstetter, 94 A.3d 991 (Pa. 2014)**

In *Kerstetter*, the Supreme Court of Pennsylvania held that the Commonwealth's compulsory school attendance laws applied to children under the age of eight whose parents enrolled them in public kindergarten programs made available by school districts. Subsequently, the State Board of Education amended its regulations to comply with the ruling.

*Kerstetter* also raised the issue of whether a parent can withdraw his or her child from kindergarten without being subject to truancy charges. Notably, the court acknowledged but did not offer an opinion on this issue. The State Board of Education recommends that parents or guardians who formally withdraw their child from kindergarten prior to reaching the age of eight not be subject to compulsory attendance requirements. The Pennsylvania Department of Education (PDE) adopted and supports the State Board of Education's recommendation.

### **C. Attendance Policies**

Each school must adopt a written attendance policy that must be distributed to parents annually. The policy must comply with compulsory attendance laws and must allow the school to determine when a student who is enrolled has an unexcused absence. The policy must also comply with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA).

Each nonpublic school must establish an attendance policy designed to accurately determine when a child who is enrolled in the nonpublic school has an unexcused absence. A nonpublic school's attendance policy may differ from the policy of the school district in which the child resides, but must comply with compulsory attendance laws. However, a nonpublic school's attendance policy may contain additional criteria for determining when a student is determined to be deemed truant or habitually truant. A nonpublic school's attendance policy must also detail the actions the nonpublic school may take when a child is determined to be truant or habitually truant, which may include expulsion of the child.

Copies of the attendance policy should be provided to parents at the beginning of each year and to all new enrollees upon enrollment in the school or nonpublic school. The attendance policy should also be posted on the school's or nonpublic school's publicly accessible website, if available. The attendance policy should be written in a way that is easily understood by all parents and translated when there are large populations of non-English speaking parents/families. To ensure that parents have dedicated the time necessary to understand the attendance policies, schools and nonpublic schools should have parents sign a form acknowledging their understanding of the attendance policy.

Each school's and nonpublic school's attendance policy must address the maximum number of lawful absences verified by parental notification that will be accepted in one school term. For all absences beyond the maximum amount, each school and nonpublic school should state whether it will require an excuse from a physician in order for an absence to be considered lawful.

Schools and nonpublic school must determine whether there is a possibility that a child is truant or chronically absent due to a disability or a medical condition and should consider whether to address this topic in their attendance policies. A student who is truant or chronically absent for health-related reasons may be eligible for protections under IDEA or Section 504. If a student with a disability is truant or chronically absent, the school should convene the student's IEP team to determine whether revisions to the student's IEP are necessary or appropriate. In those instances, the administrator responsible for handling truancy-related matters should be a participating member of the IEP team process. A student with a disability who is truant or chronically absent for health-related reasons must still produce a valid excuse for any absence, which may include a written excuse from a physician. However, schools must recognize that students' disabilities may present unique circumstances that might require consideration of other statutory or regulatory provisions or attendance policies. That is, students' federal and state law rights, such as those provided under IDEA, Section 504, or the ADA, may require the school to otherwise diverge from its general attendance policy in order to ensure that all students with a disability are provided a free and appropriate public education (FAPE).

#### **D. Categorizing Absences: What is a Lawful Absence?**

Schools and nonpublic schools are responsible for monitoring and maintaining accurate records of the attendance of all enrolled students. For a student enrolled in a nonpublic school, the student's school district of residence remains responsible for complying with the authorities and obligations related to enforcing compulsory attendance laws. Because nonpublic school employees are not authorized to exercise the "police powers" available to school district employees, including law enforcement powers for filing citations, making arrests, and inspecting places of employment, nonpublic schools must coordinate with and report students' unexcused absences to the relevant resident school district(s) throughout the school year.

All absences should be treated as unlawful until the school or nonpublic school receives a written excuse explaining the reason(s) for an absence. Pursuant to the school's or nonpublic school's attendance policy, parents and students should submit the written explanation within the defined time period delineated in the attendance policy. Schools and nonpublic schools should immediately inform parents in writing upon each incident of unlawful absence. Parents should further be informed that if a written excuse is not provided within the defined time, the absence will be permanently counted as unlawful. If a parent is neglectful in providing a written excuse for an absence or fails to provide the notification in a timely fashion, reasonable allowance should be made to accept the parent's explanation for the child's absence prior to the initiation of any compulsory attendance proceeding.

Pennsylvania law broadly defines absences as excused when a student is prevented from attendance for mental, physical, or other urgent reasons. An absence is lawful when a student is dismissed during school hours by a certified school nurse, registered nurse, licensed practical nurse or a school administrator or designee or if the student is absent to obtain professional health care or therapy care service rendered by a licensed practitioner in the healing arts. Additionally, schools and nonpublic schools should consider illness, family emergency, death of a family member, medical or dental appointments, authorized school activities, and educational travel with prior approval as lawful absences. 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.

#### **E. Cumulative, Consecutive Lawful Absences**

Students who are absent from a school for 10 consecutive school days shall be dropped from the active membership roll unless the school is provided with evidence the absence is legal or compulsory attendance prosecution is being pursued.

Charter schools or cyber charter schools that drop students from their membership rolls must immediately inform the student's school district of residence.

Standard disenrollment procedures do not apply when a student with an IEP has been absent for 10 consecutive days. Instead, schools must comply with the procedures required by IDEA and 22 Pa Code Chapter 14 when disenrolling a student with an IEP.

#### **F. Reports of Attendance in Schools and Nonpublic Schools**

Every principal or teacher in a public or nonpublic school, including a charter school or cyber charter school, and every private tutor is required to report at once to the superintendent, attendance officer, home and school visitor, or secretary of the board of school directors of the child's district of residence cases when a child of compulsory school age withdraws from school

or has been absent three days, or their equivalent, without a lawful excuse, if the student is of compulsory school age.

### **G. Mandatory Employees – Attendance Officer or Home and School Visitor**

First, second, and third class school districts are required to employ at least one person holding the title of attendance officer or home and school visitor whose duties it shall be to enforce compulsory attendance requirements. School districts of the fourth class may employ attendance officers or home and school visitors and any school district may be a party to cooperative agreements to employ an attendance officer.

A Home School and Visitor Certification, issued by the Pennsylvania Department of Education (PDE), is required for all individuals employed as home and school visitors. Individuals employed as attendance officers may also hold this certification, but it is not mandatory. Home and school visitors and attendance officers have police powers and may arrest or apprehend any child who fails to attend school in violation of compulsory attendance laws. Many schools have personnel with the title of school resource officer or security officer; however, these individuals are not empowered to arrest students who violate compulsory attendance laws.

In cases where students are arrested or apprehended, the apprehending or arresting officer is required to promptly notify the parents, guardian, or person in parental relation, and to place the child in the public school in which the child is, or should be, enrolled unless the parent, guardian, or person in parental relation requests placement in a school other than a public school.

Whenever an attendance officer or home and school visitor discovers that any child of compulsory school age is unable to attend school because they lack the necessary clothing or food, the case must be reported to any suitable relief agency operating within the school district. If a proper relief agency does not operate within the school district, the matter should be referred to the proper county agency.

## **III. Truant and Habitually Truant Students**

### **A. Definitions**

A child is “truant” if the child is subject to compulsory school laws and has incurred three or more school days of unexcused absences during the current school year. A child is “habitually truant” if the child is subject to compulsory school laws and has incurred six or more school days of unexcused absences during the current school year.

Every principal or teacher in a public or nonpublic school and every private tutor is required to timely report unexcused absences of three days or their equivalent (*i.e.*, when a student is truant) to the appropriate person(s) (superintendent, attendance officer, home and school visitor, or secretary of the board of school directors of the student’s district of residence) in a timely manner. Because nonpublic school employees are not authorized to exercise police powers, including law enforcement powers for filing citations, making arrests, and inspecting places of employment, nonpublic schools must coordinate with and report students’ unexcused absences to the student’s relevant resident school district(s) throughout the school year so that the district may properly enforce the attendance and truancy requirements.

This reporting practice is intended to alert and actively engage all stakeholders involved with the child about the child's unlawful absences and to create an appropriate and early response to this problem.

## **B. Implementation in Nonpublic Schools**

For a student enrolled in a nonpublic school, the student's school district of residence remains responsible for complying with the authorities and obligations related to enforcing compulsory attendance laws. However, nonpublic schools do retain certain responsibilities for ensuring that students and parents/guardians comply with compulsory attendance laws, and that truancy prevention and elimination efforts required by those laws are implemented. For example, nonpublic schools must develop an attendance policy that addresses: monitoring student attendance and accurately tracking and reporting excused and unexcused absences; providing timely and clear notification to the person in parental relation to the student concerning accumulated unexcused absences; convening the School Attendance Improvement Conference; and working with the student's resident school district for referral of the student to a school-based or community-based attendance improvement program or county child and youth agency for the filing a truancy citation.

Although a nonpublic school's attendance policy may differ from that of the student's resident school district, the nonpublic school's policy must provide for timely and accurate communication and collaboration with a student's resident school district so that powers and responsibilities are properly exercised under the authority granted to the district by the General Assembly.

To assist with development of policies and procedures that will comply with the School Code and to provide a means for collaborative exercise of the respective responsibilities, PDE has developed recommendations on how nonpublic schools and school districts should collaborate to ensure efficient and effective implementation of compulsory attendance and truancy requirements; these recommendations can be found in the relevant sections below. Final determinations concerning these responsibilities should be made between the nonpublic school and school district. However, nonpublic school employees are not authorized to exercise the "police powers" available to school district employees, including law enforcement powers for filing citations, making arrests, and inspecting places of employment.

## **C. Responding to Unlawful Absences**

Habitual truancy negatively impacts a child's school performance and increases the likelihood of juvenile delinquency. An intensive and timely response to truancy is critical. Schools and nonpublic schools should not wait until a child has missed an excessive number of days before initiating a response. However, in revising Pennsylvania's compulsory attendance and truancy laws through Act 138 of 2016, the General Assembly clearly announced a policy that traditional truancy prosecutions are disfavored and should be used only when other less punitive measures have proven unsuccessful. Accordingly, schools and nonpublic schools should exercise caution and reason when utilizing punitive measures and initiating compulsory attendance proceedings.

Schools are responsible for enforcing compulsory attendance laws. For a student enrolled in a nonpublic school, the student's school district of residence remains responsible for complying with the authorities and obligations related to enforcing compulsory attendance laws and nonpublic schools must continually report unexcused absences to resident school districts

throughout the school year to allow districts to properly enforce attendance and truancy requirements.

Although schools and nonpublic schools should notify the person in parental relation to a child<sup>2</sup> after each unexcused absence, schools and nonpublic schools must notify, in writing, the person in parental relation to the child within 10 school days of the child's third unexcused absence. The parental notice must contain a description of the consequences that will follow if the child becomes habitually truant, must be in the parent's preferred language, and may include the offer of a School Attendance Improvement Conference (SAIC). When this notice is sent to an individual who is not the child's biological or adoptive parent, the school or nonpublic must also provide the notice to the child's biological or adoptive parent if the address is on file with the school and that person is not precluded by a court order from receiving the information.

If the child continues to incur additional unexcused absences after the school or nonpublic school has issued the notice, the school or nonpublic must, if not already offered, offer the student and parent a SAIC.

For a student enrolled in a nonpublic school, the student's school district of residence remains responsible for complying with the authorities and obligations related to enforcing compulsory attendance laws; however, nonpublic schools must cooperate with students' school district of residence by providing necessary documentation for the truancy filings, and attending the hearings to provide testimony, if necessary. A nonpublic school may participate in a proceeding in person, by phone conferencing, by video conferencing, or another other electronic means. PDE's recommendations for how nonpublic schools and school districts should collaborate for efficient and effective implementation of compulsory attendance and truancy requirements are as follows:

NONPUBLIC SCHOOL	SCHOOL DISTRICT
Accurate monitoring and tracking of excused and unexcused absences. 24 P.S. § 13-1327.3 <b>Primary responsibility.</b>	Accurate monitoring and tracking of excused and unexcused absences. 22 Pa. Code § 11.41 <b>Defer to nonpublic school.</b>
Written notification to person in parental relation of violation of compulsory attendance at the 3 <sup>rd</sup> unexcused absence. 24 P.S. § 13-1333(a) <b>Collaborative responsibility with school district, i.e. should send notification with copy to the school district.</b>	Written notification to person in parental relation of violation of compulsory attendance at the 3 <sup>rd</sup> unexcused absence. 24 P.S. § 13-1333(a) <b>Collaborative responsibility with nonpublic school, i.e. may consider notification sent by nonpublic school as sufficient.</b>

<sup>2</sup> A "person in parental relation" is a (1) custodial biological or adoptive parent, (2) noncustodial biological or adoptive parent, (3) guardian of the person of a child, or (4) person with whom a child lives and who is acting in a parental role of a child; but, it does not include any county agency or person acting as an agent of the county agency in the jurisdiction of a dependent child.

NONPUBLIC SCHOOL	SCHOOL DISTRICT
<p>Offer and convene School Attendance Improvement Conference. 24 P.S. § 13-1333(b) <b><i>Collaborative responsibility with school district, i.e. should send notification with copy to the school district; convene conference with school district as optional participant.</i></b></p>	<p>Offer and convene School Attendance Improvement Conference. 24 P.S. § 13-1333(b) <b><i>Collaborative responsibility with nonpublic school, i.e. may defer to notification sent and conference convened by nonpublic school, and participant at its option.</i></b></p>
<p>Refer child to (a) school-based or community based attendance improvement program or (b) county children and youth agency for possible disputation as a dependent child. 24 P.S. § 13-1333.1(a)(1). <b><i>Collaborate with school district regarding attendance improvement programs. Nonpublic school must cooperate and participate to the extent requested by the school district. Juvenile dependency referrals should be coordinated through the school district.</i></b></p>	<p>Refer child to (a) school-based or community based attendance improvement program or (b) county children and youth agency for possible disposition as a dependent child. 24 P.S. § 13-1333.1(a)(1). <b><i>Primary responsibility for attendance improvement program and juvenile dependency referrals. Nonpublic school must cooperate and participate to the extent requested by the school district.</i></b></p>
<p>File truancy citation with appropriate MDJ. 24 P.S. § 13-1333.1(a)(2), (b). <b><i>Refer to school district. Nonpublic school must cooperate and participate in the truancy citation proceeding to the extent requested by the school district.</i></b></p>	<p>File truancy citation with appropriate MDJ. 24 P.S. §§ 13-1333.1(a)(2), (b); 24 P.S. § 13-1341. <b><i>Primary responsibility. Nonpublic school must cooperate and participate in the truancy citation proceeding to the extent requested by the school district.</i></b></p>
<p>Following school-based or community based attendance improvement program, refer child to county children and youth agency for possible disposition as a dependent child. 24 P.S. § 13-1333.1(c). <b><i>Refer to school district. Nonpublic school must cooperate and participate to the extent requested by the school district.</i></b></p>	<p>Following school-based or community based attendance improvement program, refer child to county children and youth agency for possible disposition as a dependent child. 24 P.S. § 13-1333.1(c). <b><i>Primary responsibility. Nonpublic school must cooperate and participate to the extent requested by the school district.</i></b></p>

### 1. School Attendance Improvement Conference (SAIC)

A SAIC is a conference where the child's absences and reasons for the absences are examined in order to improve attendance, with or without additional services. All of the following individuals must be invited to the conference:

- (1) The child
- (2) The child's person in parental relation
- (3) Other individuals identified by the person in parental relation who may be a resource
- (4) Appropriate school personnel
- (5) Recommended service providers

There is no legal requirement for either the child or person in parental relation to attend a SAIC. However, schools and nonpublic schools should make every attempt to conduct the SAIC with the person in parental relationship present. The school or nonpublic school must hold the SAIC



conference even if the person in parental relation declines to participate or fails to attend after the school or nonpublic school provides advance written notice and makes attempts to communicate with the individual via telephone. Additionally, the school or nonpublic school must invite recommend service providers to the SAIC. However, the SAIC shall not be delayed pending a response from the service provider(s).

The school or nonpublic school must document the outcome of any SAIC in a written school attendance improvement plan (SAIP). The SAIP should include accessing academic and social/health supports from the school and community organizations, an outline of family/parent and student responsibilities, and levels of performance monitoring that include rewards and consequences. School and nonpublic schools must use the [School Attendance Improvement Plan Form](#) created by PDE or a similar form to document the SAIP.

Schools may not expel or suspend (out-of-school) a student, or reassign or transfer a student to an alternative education for disruptive youth (AEDY) program, for truant behavior and these actions may not be included in a SAIP. An in-school suspension is not considered a disciplinary reassignment. Additionally, schools may not initiate truancy proceedings (e.g., the filing of a truancy citation) until after a SAIC is held.

Nonpublic schools may expel a student for truant or habitually truant behavior if expulsion is included in the nonpublic school's attendance policy as a potential consequence in response to a determination that the student is truant or habitually truant.

## **2. Subsequent Unlawful Absences**

When the SAIP is in place, if a child is subsequently, unlawfully absent, at any point within the school year, an official notice of the unexcused absence should be sent to person in parental relation. The purpose of this correspondence is to inform the person in parental relation that the SAIP has been violated and that further action will be initiated. To ensure the person in parental relation receives the notice, such notice should be sent through certified mail.

## **3. Children Under 15 Years of Age**

If a habitually truant child is under age 15, the school must refer the child to either (1) a school-based or community-based attendance improvement program or (2) the county children and youth agency for services or possible disposition as a dependent child. A school-based or community-based attendance program is a program designed to improve school attendance by seeking to identify and address the underlying reasons for a child's absences. A school-based or community-based attendance program may include an educational assignment in an alternative education program, but may not include an assignment in an AEDY program.

Additionally, the school may, but is not required to, file a truancy citation against the person in parental relation to the child.

When referring a habitually truant child of any age to the county children and youth agency or filing a citation, the school must provide verification that a SAIC was held.

## **4. Children 15 Years of Age and Older**

If a habitually truant child is 15 or older, the school must either (1) refer the child to a school-based or community-based attendance improvement program or (2) file a citation against the student or person in parental relation to the child. If a habitually truant child 15 or older incurs

additional absences after a school refers the child to a school or community based improvement program or the child refuses to participate in an attendance improvement program, the school may refer the child to the county children and youth agency for possible disposition as a dependent child.

When referring a habitually truant child of any age to the county children and youth agency or filing a citation, the school must provide verification that a SAIC was held.

### **5. Filing a Truancy Citation: Proceedings and Penalties for Violation of Compulsory Attendance Requirements**

Generally, a truancy citation is filed with the magisterial district judge (MDJ) where the child attends school or would attend school in the child's school district of residence. For children attending cyber charter schools, the cyber charter school must file truancy citations with the MDJ where the child resides. For children attending nonpublic schools, the child's school district of residence must file truancy citations with the MDJ where the nonpublic school student resides.

When a citation is filed against a child or person in parental relation to a child, the judge shall: (1) provide written notice of the hearing to the school, parent, child, and county children and youth agency and (2) provide notice to the child or person in parental relation as to the availability of a pre-conviction diversionary program. At the hearing, the burden is on the school to prove beyond a reasonable doubt that the child was subject to compulsory attendance law, and was without justification, habitually truant. However, a person in parental relation to the child may demonstrate, by a preponderance of the evidence, that they took every reasonable step to ensure the attendance of the child at school. And, before entering a sentence, the judge shall permit the school, person in parental relation to the child, or child to present relevant information to assist the judge in making an informed decision regarding an appropriate sentence. For example, evidence of the child's attendance after the filing of the citation may be presented to and considered by the judge.

A person convicted of a violation of compulsory attendance laws may be: (1) sentenced to pay a fine for the benefit of the school, (2) sentenced to perform community service, or (3) required to complete an appropriate course or program designed to improve school attendance. The judge imposing the sentence has discretion to make an informed decision regarding the appropriate sentence. However, if, within a three-year period, a child or parent is convicted of a second or subsequent offense, the court must refer the child for services or possible disposition as a dependent child under the Juvenile Act.

A citation for a subsequent violation of compulsory school attendance may not be filed if: (1) a proceeding is already pending under a prior citation and a judgment in the first proceeding has not been entered, unless a warrant has been issued for failure to appear and the warrant as not been served; (2) a referral for services has been made to the county children and youth agency and the case has not been closed, unless the school consulted with the agency; or (3) a petition has been filed alleging the child is dependent due to being habitually truant and the case remains under the jurisdiction of the juvenile court.

For the first offense, the fine may not exceed \$300, together with court costs. For the second offense, a person in parental relation may not be fined more than \$500, together with court costs. For a third and any subsequent offense, a person in parental relation may not be fined more than \$750, together with court costs.

If a person in parental relation does comply with the penalties imposed, that person may be sentenced to jail for up to three days, but only if the court determines that the person had reasonable ability to comply with the penalty and that noncompliance was willful. If a child fails to satisfy the penalties imposed, it shall not be considered a delinquent act, but may result in a dependency determination under the Juvenile Act. Additionally, if a child is convicted and fails to comply with the penalty imposed, the judge may send the record of conviction to the Pennsylvania Department of Transportation (PennDOT). If PennDOT receives such record, PennDOT is required to take action against the child's operating privileges. For example, for a first offense, PennDOT must suspend the child's operating privileges for 90 days; for a second or subsequent conviction, PennDOT must suspend the child's operating privileges for six months. For a child who does not have a driver's license, the child will be ineligible to apply for a driver's license for 90 days or six months, depending on the offense. The period of ineligibility will begin to run when the child turns 16.

Where a child's license has been suspended, he or she may seek to have his or her operating privileges restored by providing PennDOT with a form that indicates that the child (1) has attended school for a period of at least two months after the first conviction or four months after the second conviction without an unexcused absence or tardy, (2) is subject to exception to the compulsory school attendance law, or (3) has graduated, withdrawn from school, has received a GED, or enlists in the military. Additionally, a child whose operating privileges have been revoked remains eligible for an occupational limited license.

A child who has been convicted of compulsory attendance laws may apply for an expungement. The court must grant a child's application if (1) the child has earned a high school diploma, a Commonwealth secondary diploma, or another PDE-approved equivalent, or is subject to an exception to compulsory school attendance and (2) the child has satisfied any sentence imposed by the court with respect to the conviction, including payment of fines and costs. If such an expungement is granted, the court must order PennDOT to expunge all administrative records related to the convictions.

## **6. Homeless Students**

The McKinney-Vento Homeless Assistance Act requires states and schools to work to remove barriers to the education of homeless children and youth, including barriers to enrollment and retention due to absences. Compulsory attendance laws can be such barriers, particularly when they result in court involvement. Frequently, students in homeless situations will miss school due to their living situations. However, absences caused by homelessness must not be counted as unexcused absences, as this would create a barrier to enrollment and retention in school.

As part of a SAIC, schools and nonpublic schools should work to identify the root cause of students' absenteeism and the SAIP should address those issues, which may include homelessness and lack of transportation to and from school.

If a student is a homeless student, the school should clarify which entity (school of origin, school of residence, etc.) is responsible for complying with the compulsory attendance laws.

In addition, schools should consider whether it is appropriate to file citations against a person that may merely be "acting as a parent" or hosting an unaccompanied youth. These individuals often agree to provide a temporary place for a youth to sleep and may not have control over whether the child is attending school. Instead, the school could contact the county children and youth agency and attempt to eliminate barriers to attendance through that route.

## 7. Creating Partnerships to Keep Children in School

Every school and nonpublic school should have truancy reduction partners (e.g., magisterial district judges, juvenile probation departments, and county children and youth agencies) and should develop with those partners comprehensive policies regarding attendance, absenteeism, and truancy reduction. Additionally, family involvement is essential to keeping children in school. Establishing positive and proactive contact with families from the time the school year begins is critical to developing a working partnership.

Teachers often serve as the first line of defense against habitual absenteeism and are an integral part of the process to improve student attendance. Teachers and school-level administrators typically create and maintain the primary relationship with the person in parental relation. Schools and nonpublic schools should require teachers to take an active role by meeting with students individually and contacting the parent or guardian to encourage better attendance. In addition, Student Assistant Program (SAP) teams should be made aware of all instances of unlawful absences. Often, truancy is a symptom of a larger underlying problem. Issues of bullying, family health, substance abuse, homelessness or mental health problems are causes of non-attendance and should be addressed.

School personnel designated to inform parents of truancy should do so with the primary goal of improving the child's attendance. Although information must be shared with parents about the consequences and penalties associated with violation of state law and school board attendance requirements, school attendance improvement should be the overarching theme of communication with a person in parental relation. Non-attendance information should be shared in a factual, non-threatening manner. Schools and nonpublic schools should document and maintain a record of all communications, including emails, telephone calls, written correspondence, and any other documents used.

### References:

#### Federal Statutes

Individuals with Disabilities Education Act, 20 U.S.C.S. § 1400 *et seq.*  
Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701 *et seq.*  
Americans with Disabilities Act, 42 U.S.C.S. § 12101 *et seq.*  
McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11301 *et seq.*

#### Purdon's Statutes

24 P.S. § 13-1326  
24 P.S. § 13-1327  
24 P.S. § 13-1327.1  
24 P.S. § 13-1327.2  
24 P.S. § 13-1327.3  
24 P.S. § 13-1329  
24 P.S. § 13-1330  
24 P.S. § 13-1332  
24 P.S. § 13-1333  
24 P.S. § 13-1333.1  
24 P.S. § 13-1333.2  
24 P.S. § 13-1333.3  
24 P.S. § 13-1334  
24 P.S. § 13-1339

24 P.S. § 13-1341  
24 P.S. § 13-1343  
24 P.S. § 13-1354  
24 P.S. § 21-2103(8)  
The Juvenile Act (42 Pa.C.S. § 6301 *et seq.*)

### **State Board of Education Regulations**

22 Pa. Code § 11.24  
22 Pa. Code § 11.34  
22 Pa. Code § 11.41

### **Cases**

*Commonwealth v. Kerstetter*, 94 A.3d 991 (Pa. 2014)

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