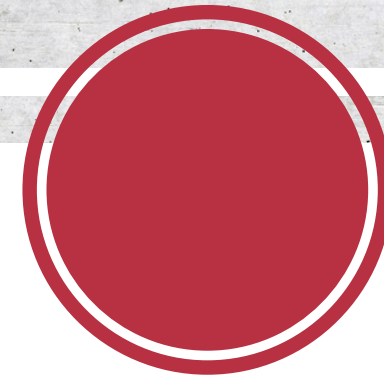


Addressing Attendance Barriers



Margie Wakelin, Education Law Center

In collaboration with PEAL Center, PA Parent and Family Alliance, HUME and Families to the Max Network

WHO WE ARE

Education Law Center (ELC)

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PEAL Center

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info@pealcenter.org

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HUNE

www.huneinc.org

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Pa Parent and Family Alliance

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1-888-273-2361



FAMILIES TO THE MAX

F2MAX@pattan.net; 215-595-5866 (español)

Contact PEAL, HUNE, or PaTTAN





WHEN DO STUDENT'S HAVE TO GO TO SCHOOL IN PA?

COMPULSORY SCHOOL AGE

- Compulsory School Age: Time when a student is legally required to enroll into and attend school
- Beginning this school year, all students in Pennsylvania must attend school from age 6 until they turn 18 or graduate (whichever, comes sooner)
 - There is no exemption for students who turned 17 last year and withdrew from school, as was permitted under the old law
 - If a child younger than age 6 is enrolled, and her parent then changes her mind, the child must then be withdrawn by her parent. Parents cannot simply stop sending a young child to school
- Severe legal consequences including fines and jail time can be imposed for violating compulsory school attendance laws

PURPOSES OF ACT 138

- History: Mother died while serving a 48-hour jail sentence for children's truancy due to inability to pay \$2,000 fine in 2014. This sparked a debate in Harrisburg re truancy laws.
 - Key Aims of Act 138
 - "Improve school attendance"
 - "Deter truancy"
 - "Consistently identify and address attendance issues as early as possible"
 - In doing so, the Act aims to
 - "Preserve the unity of the family whenever possible"
 - "Avoid loss of housing and the possible entry of a child to foster care"
 - "Avoid unattended consequences" that could disrupt the family unit.
- 24 P.S. §§ 13-1325(1)-(3)



ACT 138 AND ACT 39

- Key Provisions of Act 138, 2016
 - Prohibits schools from imposing out-of-school suspensions, transfer, disciplinary reassignment, or expulsion for truancy
 - Includes charter schools and cyber charter schools
 - Requires a School Attendance Improvement Conference **before** legal action can be taken
 - Looks at absences in the current school year
- Key Provisions of Act 39, 2018
 - Amends the School Code in ways unrelated to truancy
 - Addresses obligations of “non-public” schools re. truancy
 - Clarifies the rules for charter schools



SCHOOL ABSENCES

- When a child misses school, the absence is either excused or unexcused.
- **Excused**
 - Includes being absent for physical or mental health reasons or for a family emergency
 - **Policy must be provided to parents, explain what is excused and how it should be documented. Policy should be flexible and “reasonable allowance” should be made for parents to provide documentation.**
 - **Policy must comply with IDEA and Section 504, be understandable and be provided in a language a parent can understand.**
 - Schools will need to diverge from general policies to accommodate children with disabilities who are entitled to a free, appropriate, public education.
- **Unexcused**
 - Absence for an unexcused reason
 - Absence for an excused reason without a timely excuse note or improperly submitted excuse note
 - Some schools call an unexcused absence an “illegal absence”



KEY TRUANCY DEFINITIONS

- "Truant" means having incurred "three (3) or more school days of unexcused absences during the current school year."
- "Habitually truant" means unexcused absences for more than three (3) school days or their equivalent following the first notice of truancy given under section 1354. A person may be habitually truant after such notice.
- Absences do not need to be in a row to count



FAMILIES HAVE PROTECTIONS

- Families have protections if a child experiences attendance barriers
- A few key protections are:
 - Written notice in the preferred language of the family within 10 days of the student's third unexcused absence
 - A School Attendance Improvement Conference to identify and address barriers to school attendance, no later than the 6th unexcused absence
 - A school cannot take further legal action against a family, unless it has held a School Attendance Improvement Conference
 - Absences can't be used to punish students.
 - For example, schools cannot suspend, expel or transfer students due to absences
- See ELC's updated Factsheet on [Truancy and School Attendance](#) to learn more about your rights

SCHOOL ATTENDANCE IMPROVEMENT CONFERENCE

- A conference MUST happen “no later than the 6th absence”
- Goals of the conference:
 - Identify barriers to attendance
 - Create a plan to improve attendance
 - This is the outcome of the meeting
- The school must always provide the court with written verification that a school attendance improvement conference took place
- **NO CONFERENCE = NO FURTHER LEGAL ACTION!**



WHO COMES TO AN ATTENDANCE IMPROVEMENT CONFERENCE?

- Student and “person in parental relation” **MUST** be invited to the conference
 - Written notice in preferred language to the parent
 - At least 2 attempts to communicate by phone in preferred language
 - School MUST document all attempts to contact parent
 - **If they do not attend after such attempts, the conference proceeds**
- Attendance designee
 - person in charge of attendance at a school
- Other folks who could be helpful
 - example: family member or advocate
- IEP or 504 Team members, if the student qualifies for special education
- Recommended service providers
 - examples: case manager, behavioral health provider, or probation officer



ATTENDANCE IMPROVEMENT CONFERENCES MUST BE...

- Comprehensive and address the root causes of the problem
- This means:
 - All barriers to attendance must be considered: mental health, bullying, transportation, homelessness, unidentified disabilities
 - Failure of the school to accept correct and timely excuse notes cannot be arbitrary and capricious
 - Excuse notes & time to provide them must be reasonable
 - No attendance improvement conference = No referral



STUDENTS UNDER 15 WHO ARE “HABITUALLY TRUANT” (6+)

- In addition to the attendance improvement conference
- For students under 15 the school...
 - MUST make a referral to a
 - school or community-based attendance improvement program
 - **OR**
 - Local Children and Youth County and Youth Services (CYS) (DHS)
 - *May* file a citation against the person acting as the student's parent
 - CYS then may then file a petition to adjudicate the child as a “dependent of the State,” which means the child could be subject to supervision, removed from her home, or placed in care or a group home



STUDENTS 15+ WHO ARE HABITUALLY TRUANT (6+)

In addition, to a School Attendance Improvement Conference:

- For students 15+ the school...
 - MUST make make a referral to a school or community-based attendance improvement program
 - OR
 - File a citation against the student OR parent in magisterial district court
- IF a student is referred to a school based or community based program and
 - does NOT attend the program
 - OR
 - has MORE unexcused absences
- The School *May* refer the student to CYS
 - CYS then may then file a petition to adjudicate the child as a “dependent of the State,” which means the child could be subject to supervision, removed from her home, or placed in care or a group home



TOP TIPS

- Get a copy of the school's attendance policy for each child
 - Pay special attention to the excuse note policy
 - These policies must follow the state law, but can differ by school
- Get in contact with the school's attendance designee to create an open line of communication
- Ensure the school has updated contact information (phone, email, and address)
- Proactively communicate with the school about any attendance barriers, including access barriers and resource needs
- Review a student's record daily to make sure absences are tracked correctly
- Know Your Rights! Trust your gut, and seek support if something feels off

RESOURCES

- Truancy and Attendance Fact Sheet-ELC
 - Asistencia y ausentismo escolares
- Stepping Stones-Attendance & Truancy
 - Primeros pasos-Asistencia y absentismo escolar
- PDE's 2020-2021 Attendance Guidance
- Attendance Playbook: Smart Solutions for Reducing Chronic Absenteeism in the COVID Era
- School Attendance Improvement Plan Form
- Basic Education Circular (BEC) - Compulsory School Attendance, Unlawful Absences, and School Attendance Improvement Conferences

