

**ATTENDANCE
ATTENDANCE ENFORCEMENT**

**FED
(LEGAL)**

**DISTRICT COMPLAINT
OR REFERRAL
AGAINST STUDENT** If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, a district shall within ten school days of the student's tenth absence refer the student to a truancy court for truant conduct under Family Code 65.003(a). [See FEA]

AGAINST PARENT The district may file a complaint against the student's parent in a county, justice, or municipal court for an offense under Education Code 25.093 if the district provides evidence of the parent's criminal negligence.

A court shall dismiss a complaint made by a district against a parent that does not comply with Education Code 25.0951; does not allege the elements required for the offense; is not timely filed, unless the district delayed the referral as provided below; or is otherwise substantively defective.

**DELAYING A
REFERRAL** A district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if the district:

1. Is applying truancy prevention measures to the student under Education Code 25.0915; and
2. Determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

Education Code 25.0951

**REFERRAL
PROHIBITED** A district may not refer a student to truancy court if the school determines that the student's truancy is the result of pregnancy, being in the state foster program, homelessness, or being the principal income earner for the student's family. [See TRUANCY PREVENTION MEASURES, below] *Education Code 25.0915(a-3)*

**FILING
REQUIREMENTS** Each referral to truancy court for conduct described by Family Code 65.003(a) must:

1. Be accompanied by a statement from the student's school certifying that the school applied the truancy prevention measures to the student, and the measures failed to meaningfully address the student's school attendance; and
2. Specify whether the student is eligible for or receives special education services under Education Code Chapter 29, Subchapter A.

A truancy court shall dismiss a petition filed by a truant conduct prosecutor under Family Code 65.054, if the court determines that the district's referral:

1. Does not comply with the requirement above;
2. Does not satisfy the elements required for truant conduct;
3. Is not timely filed, unless the school district delayed the referral as provided above [see DELAYING A REFERRAL, above];
or
4. Is otherwise substantively defective.

Education Code 25.0915(b), (c)

EXPUNCTION OF
RECORDS

An individual who was convicted of a truancy offense under former Education Code 25.094 or has had a complaint for a truancy offense dismissed is entitled to have the conviction or complaint and records relating to the conviction or complaint expunged.

Regardless of whether the individual has filed a petition for expunction, the court in which the individual was convicted or a complaint for a truancy offense was filed shall order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a district or law enforcement agency, to be expunged from the individual's record. After entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose.

Code of Crim. Proc. 45.0541

ATTENDANCE
OFFICER

A board may select a school attendance officer. A school attendance officer also may be selected by two or more boards to serve their districts jointly. *Education Code 25.088*

In districts where no attendance officer has been selected, the superintendent and the peace officers in a district shall perform the duties of attendance officer, but no additional compensation shall be paid for the services. *Education Code 25.090* [See PEACE OFFICERS, below]

POWERS AND
DUTIES

An attendance officer employed by a district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;
2. To enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Educa-

tion Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:

- a. Referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); and
 - b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;
3. To monitor school attendance compliance by each student investigated by the officer;
 4. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board, or the Commissioner, to provide a record to the individual or entity requesting the record;
 5. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence; and
 6. At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements.

Education Code 25.091(b)

PEACE OFFICERS

A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;
2. To enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Education Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:
 - a. Referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); or
 - b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;
3. To serve court-ordered legal process;

4. To review school attendance records for compliance by each student investigated by the officer;
5. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board, or the Commissioner, to provide a record to the individual or entity requesting the record; and
6. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required to attend school or of the tenant or owner of the residence except to lawfully serve court-ordered legal process on the parent.

A peace officer who has probable cause to believe that a child is in violation of the compulsory attendance law may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory attendance requirements.

Education Code 25.091(a), (b-1)

TRUANCY
PREVENTION
MEASURES

A district shall adopt truancy prevention measures designed to address student conduct related to truancy in the school setting before the student engages in conduct described by Family Code 65.003, and minimize the need for referrals to truancy court for conduct described by Family Code 65.003(a). *Education Code 25.0915(a)*

A district shall take one or more of the following actions as a truancy prevention measure:

1. Impose:
 - a. A behavior improvement plan on the student that must be signed by an employee of the school, that the district has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:
 - (1) A specific description of the behavior that is required or prohibited for the student;
 - (2) The period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or

- (3) The penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or
 - b. School-based community service; or
2. Refer the student to counseling, mediation, mentoring, a teen court program, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy. A referral may include participation by the child's parent or guardian if necessary.

A school district shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

1. Pregnancy;
2. Being in the state foster program;
3. Homelessness; or
4. Being the principal income earner for the student's family.

If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Education Code 25.0951(a), the district shall initiate truancy prevention measures on the student.

Education Code 25.0915

TRUANCY
PREVENTION
FACILITATOR OR
JUVENILE CASE
MANAGER

A district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention measures required by Education Code 25.0915 and any other effective truancy prevention measures as determined by the district or campus. At least annually, the truancy prevention facilitator shall meet to discuss effective truancy prevention measures with a case manager or other individual designated by a truancy court to provide services to students of the district in truancy cases.

Instead of employing a truancy prevention facilitator, a school district may designate an existing district employee or juvenile case manager to implement the truancy prevention measures and any other effective truancy prevention measures as determined by the district or campus.

Education Code 25.0915(d), (e)

On approval of the board, a district may employ or agree in accordance with Government Code Chapter 791, with any appropri-

ate governmental entity to jointly employ or to jointly contribute to the costs of another entity employing:

1. A case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; or
2. One or more juvenile case managers who shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases, and may provide prevention services to a child considered at risk of entering the juvenile justice system, and intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses.

FUNDING

A district may apply to the criminal justice division of the governor's office for reimbursements of the costs of employing a juvenile case manager. Pursuant to Code of Criminal Procedure 102.0174, the district may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager from the juvenile case manager fund.

RULES

The board of a district that employs a juvenile case manager shall adopt and implement reasonable rules for juvenile case managers that provide a code of ethics, and for the enforcement of the code of ethics; appropriate educational preservice and in-service training standards for juvenile case managers; and training in:

1. The role of the juvenile case manager;
2. Case planning and management;
3. Applicable procedural and substantive law;
4. Courtroom proceedings and presentation;
5. Services to at-risk youth under Family Code Chapter 264, Subchapter D;
6. Local programs and services for juveniles and methods by which juveniles may access those programs and services; and
7. Detecting and preventing abuse, exploitation, and neglect of juveniles.

Code of Criminal Procedure 45.056

Item SC

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FED
(EXHIBIT)

Note: For additional resources regarding truancy, review the following:

TASB Legal Services' article, *Snapshot Truancy Guide for the 2015-2016 School Year*, explains how the truancy laws were revised in the 84th Legislative Session. It is available on e-Source at https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/snapshot_truancy_guide_oct15.pdf.

The Texas Office of Court Administration has published a flowchart showing school district responsibilities regarding truancy following the 84th Legislative Session. It is available at: <http://tjca.org/wp/wp-content/uploads/2015/07/School-flowchart-for-truancy-copy.pdf>. A commentary explaining the steps in the flowchart is available at: <http://tjca.org/wp/wp-content/uploads/2015/07/Commentary-School-Responsibilities-Regarding-Truancy-Flowchart-copy.pdf>.

[This checklist will assist District administrators in complying with legal requirements and necessary documentation to make a successful truancy referral.]

TRUANCY PREVENTION MEASURES CHECKLIST

[Counties with two or more courts hearing truancy cases and two or more school districts are required to develop uniform truancy policies addressing procedures for truancy cases. If your District is located within one of these counties, coordinate the information below with the uniform procedures in your county.]

Truancy Prevention Facilitator:

For questions about completing the checklist or implementation of truancy prevention measures, please contact the District's truancy prevention facilitator listed below:

Name: _____

Position: _____

Phone number: _____

E-mail: _____

Student Information:

Name: _____

Student's age: _____ (See provision below for students age 19 or older.)

Student's grade level: _____

School attended: _____

TRUANCY PREVENTION MEASURES PRIOR TO THIRD ABSENCE

[If the District has implemented any truancy prevention measures for the student prior to the third absence (days or parts of days) without excuse within a four-week period, describe them here along with any effect on attendance.]

On _____ (date) after the student's _____
(e.g., first or second) absence within a four-week period, the District implemented the following truancy prevention measure: _____

Following application of this truancy prevention measure, the student:

Had continued absences on _____ (dates)

REQUIRED ACTIONS AFTER THIRD ABSENCE

The following required actions were taken after the above named student failed to attend school without excuse on three or more days or parts of days within a four-week period:

The student has failed to attend school without an excuse on three or more days or parts of days within a four-week period.

[Attach attendance report.]

The four-week period during which the three absences occurred: _____
(starting date) to _____ (ending date).

The dates of the three absences within the four-week period were:

Absence 1: _____

Absence 2: _____

Absence 3: _____

The student's parent or guardian was informed in writing of the student's absences and the parent's or guardian's duty to monitor school attendance and require the student to attend school.

• Date the notice was sent: _____

• Name of the parent or guardian to whom notice was sent:

• Address to which notice was sent:

A meeting was scheduled with school officials and the parent or guardian to discuss the absences.

- Date of the meeting: _____
- Individuals in attendance:

SPECIAL PROVISIONS FOR STUDENTS AGE 19 OR OLDER

If a student who is voluntarily attending school at age 19 or older has failed to attend school without excuse for three or more days or parts of days within a four-week period, the District must send a warning letter stating that the student's enrollment may be revoked if the student has more than five unexcused absences in one semester. The District cannot revoke the enrollment of a student age 19 or older on a day that the student is physically present in school.

[Complete the following information if the student is age 19 or older.]

Date warning letter was sent to the student: _____

Address to which the notice was sent: _____

As an alternative to revoking enrollment after five unexcused absences, the District may create a behavior improvement plan for the student. See below for behavior improvement plan elements.

TRUANCY PREVENTION MEASURES

Note: As required by law, following the third absence (days or parts of days) without excuse within a four-week period, the District must impose a behavior improvement plan, impose school-based community service, or make a written referral for services. The following truancy prevention measures were implemented:

TRUANCY PREVENTION MEASURES: BEHAVIORAL IMPROVEMENT PLAN

The District created a behavior improvement plan for the student signed:

By the parent or guardian on _____ (date)

- By the student on _____ (date)
- By _____ (name and position title)
on _____ (date)

The plan included the following elements:
[Check all that apply.]

- A specific description of the behavior with which the student is required to comply or which is prohibited
- The effective dates of the plan, which began on _____ (date) and ended on _____ (date—no later than 45 days after the beginning date)
- A description of the penalties for additional absences, including additional disciplinary action or referral to truancy court

[Texas Education Code section 25.0915 requires that at least one of the above elements be included in a behavior improvement plan. Ideally a behavior improvement plan would include all three elements.]

The plan also included the following truancy prevention measures to improve attendance:
[Check all that apply.]

- Measurable goals to improve attendance as appropriate based on the student's age and factors contributing to nonattendance (e.g., using an alarm clock, going to bed earlier, arriving at the bus stop on time)
- A requirement for regular check-ins with a District employee
- A description of any restrictions until the student meets specific attendance goals (e.g., restriction of off-campus lunch privileges)
- Other: _____

Following application of the behavior improvement plan, the student:

- Had continued absences on _____ (dates)
- Did not have additional absences for _____ (days/weeks)
- Had improved attendance as evidenced by _____

[Attach a written behavior improvement plan.]

TRUANCY PREVENTION MEASURES: SCHOOL-BASED COMMUNITY SERVICE

The District implemented a school-based community service plan for the student.

Description of service required:

Date on which the student was scheduled to complete the school-based community service:

[Check one of the following.]

- The student completed the school-based community service on _____ (date).
- The student did not complete the school-based community service.

Following application of the school-based community service plan, the student:

- Had continued absences on _____ (dates)
- Did not have additional absences for _____ (days/weeks)
- Had improved attendance as evidenced by _____

[Attach a school-based community service plan.]

TRUANCY PREVENTION MEASURES: WRITTEN REFERRAL

The District provided a written referral requiring the student to participate in:

[Check the box next to the appropriate referral type.]

- Counseling consisting of _____. Date of written referral: _____
- Mediation consisting of _____. Date of written referral: _____
- Mentoring consisting of _____. Date of written referral: _____
- Teen court consisting of _____. Date of written referral: _____
- Community-based service(s) consisting of _____
Date of written referral: _____
- Other in-school or out-of-school services consisting of _____
Date of written referral: _____

The student's parent or guardian _____ (was/was not) invited to participate in the program to which the student was referred.

Following the application of the above referral measure, the student:

- Had continued absences on _____ (dates)
- Did not have additional absences for _____ (days/weeks)
- Had improved attendance as evidenced by _____

[Attach a written referral.]

If the student is pregnant, in the state foster program, homeless, or the principal income earner for the student's family, the District must offer counseling to the student.

- The District has determined that the student's truancy is the result of _____
_____ (list circumstances).

A referral for counseling was made on _____ (date) and consisted of _____.

[Attach a written referral to counseling.]

OTHER TRUANCY PREVENTION MEASURES

In addition to the truancy prevention measures required by law, the following truancy prevention measures were implemented: *(describe truancy prevention measures):*

Following application of the above truancy prevention measures, the student:

- Had continued absences on _____ (dates)
- Did not have additional absences for _____ (days/weeks)
- Had improved attendance as evidenced by _____

[See the TASB Legal Services truancy materials for additional suggestions regarding school-based programs that can be implemented, available on e-Source at https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/snapshot_truancy_guide_oct15.pdf.]

[Consider referral to truancy court after student has failed to attend school without excuse for ten or more days or parts of days within a six-month period.]

REFERRAL TO TRUANCY COURT

Note: The District may not make a referral to truancy court if the student's absences are the result of pregnancy, being in the state foster program, homelessness, or being the principal income earner for the student's family. The District shall offer additional counseling to the student.

In accordance with law, the District may make a referral to truancy court if a student has failed to attend school without excuse for ten or more days or parts of days within a six-month period in the same school year.

A referral to truancy court must be made within ten days of the student's tenth absence.

[Attach attendance report.]

The six-month period during which the absences occurred: _____ (starting date) to _____ (ending date).

Dates of the ten absences within the six-month period:

Absence 1:	Absence 6:
Absence 2:	Absence 7:
Absence 3:	Absence 8:
Absence 4:	Absence 9:
Absence 5:	Absence 10:

- The student is between 12 and 18 years old. **[Referral to truancy court for excessive absences may not be filed on a student voluntarily attending school after his or her 19th birthday.]**
- The District has prepared and submitted a statement certifying:
 - That the school applied truancy prevention measures (*provide specific information about the truancy prevention measures used*);
 - That the truancy prevention measures failed to meaningfully address the student's school attendance (*provide timeline showing continued absences after implementation of truancy prevention measures*); and
 - That the student is not eligible for or receiving special education services.
- Truancy documentation reviewed by the District's truancy prevention facilitator:

- Name: _____
- Position title: _____
- Signature: _____
- Date: _____

Date truancy referral was submitted to the court: _____

OR

- The District has determined that (1) the truancy prevention measures are succeeding, and (2) it is in the best interest of the student not to make, or to delay making, a referral to truancy court.*
- The student's absences will be reevaluated on _____ (date—suggest reevaluation within ten days from student's tenth absence).
 - During this period, the District will continue to apply the following truancy prevention measures:

[Attach a copy of truancy prevention measures.]

*In this circumstance, the District can decide to refer the student to truancy court at a later time. However, a prosecutor must file a truancy petition with the truancy court within 45 days of the student's tenth absence, regardless of whether the District makes a later referral. Any period that the District delays the referral is subtracted from the prosecutor's 45-day timeline, thus shortening the time available for the prosecutor to file a petition.