

# **REPORT OF THE COUNTY WIDE TRUANCY COMMITTEE**

## **FORT BEND COUNTY TEXAS**

In the 2015 legislative session, the Texas Legislature passed H.B. 2398 to decriminalize truancy, which has been treated as a criminal offense for two decades. In addition to making truancy a civil matter rather than a criminal one, H.B. 2398 requires schools to take steps to address students' truancy problems before referring them to court. The bill revised a school district's duty to impose truancy prevention measures prior to referring a truant student to court, or filing a complaint against the student's parent. Furthermore, a school cannot refer a student to 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. The bill established truancy court procedures for a child who is required to attend school and defined "truant conduct" as failing to attend school on 10 or more days or parts of days within a six-month period in the same school year.

### **Background**

The emphasis that school districts place on regular school attendance is a reflection of the importance our nation places on education, as well as a recognition that being in school on a daily basis is necessary if education is to effectively prepare a child for adulthood. Truancy and chronic absenteeism, which are often steppingstones to dropping-out of school before graduation, have consequences for children, the adults these children will become, and the society in which they live. Programs that promote consistent attendance by addressing the risk factors that lead to truancy can also improve academic achievement while reducing problem behaviors, including substance abuse and delinquency.

Every state requires that children attend school, or be provided with an authorized equivalent such as home schooling. These state mandates are accompanied by regulations on how state education and juvenile justice agencies must respond to truancy; however, the number of days absent and the criteria for categorizing unexcused absences under truancy varies by jurisdiction. The following definitions capture the different categories of behaviors.

### **Common Definitions**

**Truancy** - While there is no nationally accepted definition of truancy, the following definition reflects many state policies: If a student is absent without an excuse by the parent/guardian or if the student leaves school or a class without permission of the teacher or administrator in charge, it will be an unexcused absence and the student shall be considered truant (Seeley, 2006).

**Habitual Truancy** - Habitual truancy is defined as a specific number of consecutive unexcused absences from school or a total number of unexcused absences over a semester or school year. The school is primarily responsible for responding to truancy (often in the form of a call to parents). If school efforts fail, habitually truant students may become involved with the juvenile justice system (Seeley, 2006).

**Chronic Truancy** - In recent years, many school districts have also created a third category, “chronic truant.” This term mainly refers to students who have been disciplined according to procedure after meeting the criteria for habitual truancy, but continue to accumulate unlawful absences despite court or school mandate (Seeley, 2006).

**Chronic Absenteeism** - Younger children are usually referred to as “chronically absent” rather than truant, because it is presumed that they cannot miss school without their parents’ knowledge. Young children (K–3) missing 10 percent or more of school each year are considered chronically absent (Chang & Romero, 2008).

### **Risk Factors and Consequences Related to Truancy**

#### **Risk Factors**

The broad range of risk factors related to truancy has important implications for programs and activities. A literature review commissioned by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) found correlations between truancy and four categories of risk factors:

1. Family factors (lack of supervision; poverty; alcohol or drug abuse; lack of awareness of attendance laws; attitude toward education)
2. School factors (school size; attitudes of students, staff, and teachers; inflexibility toward meeting different learning styles; inconsistent procedures for dealing with chronic truancy)
3. Economic factors (employed students; single parent homes; high mobility; parents with multiple jobs; lack of transportation)
4. Student factors (drug and alcohol abuse; lack of understanding of attendance laws; lack of social competence; mental and physical health problems) (Baker, Sigmon & Nugent, 2001).

Among the many risk factors related to truancy, for young children, family and economic factors have the greatest impact on chronic absenteeism in early elementary school. A national report by the NCCP (Romero & Lee, 2007) indicated that chronic absenteeism was highest among children living in poor families. This study also reported that children living with poor families in low-income communities are more likely to experience family risk factors compared to affluent children. These risk factors may include having a mother with a low education or poor health, a mother who is unemployed, or the experience of food insecurity at home. Children experiencing multiple risk factors were more likely to miss 10 percent or more of the school year than their peers experiencing no such risks.

#### **Consequences of Chronic Absenteeism**

For young children, chronic absenteeism in early elementary school can lead to both short- and long-term consequences. Over 50 percent of those chronically absent in kindergarten were chronically absent in first grade (Romero & Lee, 2007). Early absenteeism affects school achievement in the early years, and this achievement gap has negative long-term effects, particularly for children living in urban, low-

income communities. Absence in early elementary school is associated with a seven percent lower probability of high school graduation (Seeley, 2008).

### **Consequences of Truancy**

Overall, truancy has a number of harmful consequences—not only for students, but also for schools and communities. Truancy affects academic achievement throughout school. A literature review by the National Center for School Engagement (Heilbrunn, 2007) found that, compared to non-truant students, students who are truant:

1. Have lower grades
2. Need to repeat grades more often
3. Have higher rates of expulsion
4. Have lower rates of high school graduation.

The review reported that some schools and districts still expel or otherwise “push out” students who are both truant and low-achieving. While removing these students can raise the school’s overall level of academic achievement (as measured by grades, grade promotion, and graduation rates), it can also lower enrollment, which drives school funding based on attendance. The literature review also concludes that truancy is a risk factor for other problems, including:

1. Substance abuse
2. Delinquency
3. Gang activity
4. Serious criminal behavior (such as car theft and burglary)
5. Suicidal ideation and attempts
6. Early sexual activity
- 7 Dropping out of school

Truancy affects not only youth but also the adults they will become. Adults who were chronically truant from school as children or adolescents are at an elevated risk for a host of problems, including poor physical and mental health, poverty, incarceration, and raising children who exhibit problem behaviors (Baker, Sigmon & Nugent, 2001). Although truancy has a negative influence on students’ academic achievement, behavior, and health, addressing the issue early on has shown that such problems can be prevented by taking a positive approach to the issue. A number of studies demonstrate that effective truancy reduction programs can produce a marked decline in delinquency and crime committed by school-age youth (Heilbrunn, 2007).

## **Traditional Approaches to Truancy Reduction**

### **School Policy**

Traditionally, schools addressed truancy by calling or meeting with parents when students did not provide the proper documentation upon absence. Some schools called parents if a child did not show up at school to make sure the student was not “playing hooky.” Police departments would sometimes question students who were found out of school during school hours, taking them either home or back to school (a practice made more difficult in recent years by open campuses and the amount of serious crime requiring police attention).

New research shows that zero tolerance policies, developed in the 1980s, have not been shown to be as effective as expected. These policies were designed to stop drug use and unruly violent behavior in schools by severely punishing disruptive students regardless of the infraction. Suspending or expelling truants may reward their desire to avoid school, possibly leading them to fall behind in their school work, and does little to encourage more consistent attendance. A report by the American Psychological Association in 2006 found that zero tolerance policies actually increased problem behaviors and led to higher dropout rates. Schools that have adopted such policies are not any safer or more effective in disciplining children. Instead, zero tolerance policies have actually led to an increase in referrals to the juvenile justice system for infractions once handled by schools.

### **Effective Approaches to Truancy Reduction**

In the last two decades, school districts, juvenile and family courts, and police departments have begun to take more sophisticated approaches to truancy. These approaches seek to prevent rather than to punish truancy, question the logic of out-of-school suspensions, and address the four categories of truancy-related risk factors: family, school, economic, and student factors. At every school level, effective truancy reduction programs are comprehensive and respond to the four categories of risk factors shown to be relevant to truancy.

Due to the new findings on chronic absenteeism in early elementary school, poverty, and their impact on truancy and school dropout, prevention efforts have begun to target younger children in disadvantaged populations. More recent approaches have shown a marked shift toward starting truancy prevention before truancy even occurs. By addressing the early signs of chronic absenteeism in early elementary school, truancy may be prevented.

### **Components of Effective Programs**

A literature review by the National Center for School Engagement identified critical components necessary for effective programming (Reimer and Dimock, 2005):

1. Collaboration involves creating abroad-based multidisciplinary partnership between the agencies and organizations whose involvement impacts truancy directly (i.e. schools, juvenile courts, and law enforcement agencies).

2. True family involvement actively engages parents “for their advice, experience, and expertise in the community, as clients of our public systems of care, and as experts in the lives of their children” (NCSE, 2005).
3. A comprehensive approach addresses every factor that affects truancy, including transportation, mental health, family setting, and school climate.
4. Effective programs combine meaningful sanctions for truancy and meaningful incentives for attendance to change the behavior of students. For example, suspending students from school for truancy is not effective and does not promote pro-school attitudes among students.
5. A supportive context includes organizations, community cultures, and policies.
6. Rigorous evaluation and ongoing assessment uses outcome data to develop evidence-based programs

### **Strategies for Truancy Prevention**

Programs and activities designed to improve the overall school environment have proven to be effective in truancy prevention. Children are less likely to avoid school if they feel safe, comfortable, cared for, and engaged in productive and rewarding activities. The Northwest Regional Educational Laboratories (Railsback, 2004) suggests a number of programs and practices for improving school environment:

1. Personalized learning
2. Learning communities within schools (e.g., learning academies focused on particular topics; house plans; or magnet schools)
3. Peer mentoring
4. Student advisory programs
5. Interventions targeted at improving educational effectiveness in the classroom

Beyond improving the school environment, there are also practices specifically designed to prevent truancy. These practices address truancy at the universal, selective, and indicated levels of the student population, to use the Institute of Medicine framework.

**Universal Prevention** – Universal prevention efforts are for all students.

Attendance policies are school and district regulations concerning student attendance requirements, excused and unexcused absences, and the consequences for truancy. A review of the research reveals that the most effective attendance policies are those that promote attendance rather than punish absence (especially through out-of-school expulsion). Students, parents, and staff must understand these policies, and especially the difference between excused absences and truancy (Railsback, 2004).

Some programs also seek to promote a pro-attendance culture in the school by, for example, rewarding students for consistent attendance, and holding events and campaigns that reinforce the importance of attendance. Some of these efforts also reach out to parents and the community through public education campaigns and events to create pro-attendance cultures in the family and community that reinforce that of the school.

**Selective Prevention** - Programs that include targeted supports for students who are at risk of becoming habitual truants. Selective prevention efforts are for some students at elevated risk.

Early intervention programs identify students who have started skipping school and work with these children and their families before they become habitual truants. Early intervention programs might involve calling families after an unexplained absence, discussing the importance of consistent attendance at school, and helping them solve problems that might affect their child's presence in school (e.g., transportation issues).

Alternatives to adjudication for truancy allow students who are truant to avoid formal adjudication. Such alternatives include community truancy boards that negotiate contracts between schools and truant students (and their families). These contracts may include restrictions on student behavior (such as confining the student to the campus during lunch hours), as well as participation by the student and/or the family in specialized services when appropriate.

**Indicated Prevention** - Programs that address students who exhibit persistent challenges and who are not responsive to interventions at the universal or selective levels. Indicated prevention efforts are for a few students.

Court-based truancy reduction programs are based in juvenile or family courts, but attempt to provide services to truants and their families as an alternative to adjudication (while acknowledging the possibility of adjudication as motivation to become involved with these services).

Alternative education programs are designed specifically for students whose truancy results from a divergence between the school's educational practices and students' individual learning styles. These might include occupational or career educational programs or advanced courses at local community colleges, depending on student interest and ability.

### **Collaborative Efforts Across the Nation**

Collaborative efforts across the nation have been effective utilizing the approaches outlined above to prevent and reduce truancy. A common thread throughout all these examples is the community-based comprehensive approach. The various community partners must collaborate on the most effective approach to satisfy the particular needs of their community. Each example illustrates how community members can become involved in the effort to create a community that supports the school attendance and learning engagement of students.

### **Kern County, CA - 2008**

Kern County in California focused their truancy intervention around the school resource officers (SRO) and school attendance review board (SARB). The school district not only empowered SROs to target habitual truants, but it also gave SROs the responsibility to run SARB Sessions. The SARB is a problem-solving group that addresses truancy and behavior problems that interfere with educational progress of students. The SARB brings together school staff, parents, law enforcement, child-serving agency representatives, as well as agency and collaborative partners. Together, these partners can provide services to children and families who need support. Services may include: requiring students to attend school every day; directing the student and/or family to counseling; arranging parenting classes for parents; arranging tutoring when needed; requesting assistance from other county agencies and programs when needed. As the leader of the SARB, the SRO is responsible for following up with habitual truants, contacting parents, running SARB meetings, and focusing on targeted goals for truancy reduction. As a result of this comprehensive approach, several improvements were made around truancy reduction in Kern County: between 2009 and 2011, the percentage of students in the district that were seen for attendance concerns increased from 41 percent to 58 percent; the Beardsley school district reduced its number of students with ten or more absences from 595 to 451 students; Beardsley also reduced its average number of unexcused absences from 9.4 percent to 7.7 percent.

### **Oneida Herkimer Madison BOCES, NY - 2009**

Oneida Herkimer Madison BOCES in New York instituted the Initial Response Team Model (IRT) built upon a tradition of work on truancy in Utica, NY and Rome, NY. The IRT model uses the evidence-based practice of Family Group Conferencing to divert potential persons in need of supervision and juvenile delinquency (PINS/JD) petitions in family court. The IRT model uses a community approach to truancy by developing an intervention plan outside of the courtroom and agreed upon by all parties involved. The site employs two SS/HS specialists and two full-time Oneida County probation officers. This team meets regularly to apply principles of a wraparound service plan that is developed in concert with youth, parent, and school staff. The IRT model includes behavior contracts signed by all and regular check-ins on site at the school. This model continues to be successful in Utica and Rome, and now the OHM BOCES grant offers the program to three of their component districts and Alternative Education sites which have higher rates of truancy and incorrigibility.

### **Hillsboro, OR - 2005**

The Hillsboro, Oregon site formed the Hillsboro Together Attendance Improvement Model based on Joe Christy's conceptual framework and Scott Perry's Model for Attendance Improvement at the Linn Benton Educational Services District. The Hillsboro School District created a pro-attendance culture by reframing the truancy issue as an Attendance Improvement Project, and used a social marketing initiative called Every Day on Time to communicate with the community about attendance improvement. They addressed the problem at the universal, selective, and indicated levels of intervention by developing teams, such as the Attendance Improvement and Violence Prevention Team

at a system level, and the CARE team at the building level. These teams meet on a weekly basis to review attendance and assign students of concern to school staff for follow-up. The overall success of Hillsboro's model rests upon their multi-faceted approach to the attendance support systems; they utilize universal supports, parent communication systems, consequence systems, individual assessment and support, community supports and legal consequences. Early intervention is central to this comprehensive approach, and regular communication between the schools, community partners and school counselors allows for consistent improvements in attendance data and overall crime reduction.

"Personal approaches with students and families are key elements in truancy prevention efforts. The success we have seen has relied heavily on personal contact— involving students and families in ways that go beyond letters and phone calls—even going so far as home visits and engagement in community activities. This personal approach needs to extend to provide learning opportunities tailored to individual learning styles and needs."-Dr. Joseph Christy, Former Director, Washington County Juvenile Department, Hillsboro OR

### **COLLABORATIVE EFFORTS IN FORT BEND COUNTY**

The lack of adequate and consistent supervision by the family and the community is a major contributing factor to delinquency and anti-social behavior among Fort Bend County's youth. Poorly supervised children are exposed to danger and risk, and are more likely to engage in anti-social, high risk behavior. This includes chronic truant conduct, dropouts and runaways as well as children who lack after-school supervision and programs. These behaviors have been clearly identified as one of the early warning signs of students headed for potential delinquent activity, social isolation or educational failure due to suspension, expulsion or dropping out. In response to these issues Fort Bend County through its Juvenile Probation Department in collaboration with school districts, charitable organizations and foundations, and in some instance truancy courts, has developed numerous programs to address these anti-social behaviors including:

#### **Saved By The Bell**

"Saved By The Bell" is a program that began in 2008 funded with a Texas Criminal Justice Division grant. The program started with four schools within Fort Bend Independent School District and all Katy Independent Schools within Fort Bend County. The program expanded in late 2011 to include all junior high and high schools in Fort Bend County. The goal of this innovative program is to apply pro-active casework management strategies together with appropriate court involvement in order to address chronic truancy issues and ultimately reduce delinquency. Case Managers work on campus with school personnel and community resources in offering prevention and intervention services to youth through counseling, mentoring, presentations and referral to additional resources. In connection with these services the Juvenile Probation Department has partnered with Fort Bend Regional Council (for life and substance abuse services), Strides Youth Services (for psycho-educational services), and Fort Bend Partnership for Youth (for financial assistance to families in need).



### ***2008-2015 Special Points of Interest:***

- ***The success rate for the program was 85%***
- ***Economically Disadvantaged families serviced 40%***
- ***School attendance increased 81%***
- ***Grades increased 59%***
- ***School discipline referrals decreased 81%***

The collaboration between Truancy Courts, Fort Bend County Juvenile Probation Department and Independent School Districts allows for a consistent and timely response to truancy issues. The Courts utilize various intervention methods and have several dispositional alternatives available to address truancy conduct. Parents may be ordered to participate in parenting classes. The courts may place the student on remedial orders and into the Saved by the Bell program. Case Managers in the Saved by the Bell program are assigned to school campuses to help students through prevention and intervention services. The Case Manager meets with assigned students each day; checks attendance, discipline records, and grades; speaks to school personnel; and of course, meets with parents. The remedial period is typically six months and requires attendance, mentoring and may include individual or group counseling for the student. The Case Manager can recommend resources that will assist with other issues that hinder attendance. Case Managers are responsible for making referrals to drug and alcohol programs, parenting classes, family and/or individual therapy, school ARDs and community resources. An important goal of the Saved by the Bell Program is to help students and parents learn and appreciate the school environment. Students are encouraged to develop their intellectual curiosity; experience success and build on those successes; learn how to deal with mistakes and failures; and learn how to respect themselves and others. Students are encouraged to participate in and to contribute to their school, home and community as educated, self-sufficient students who will become educated, self-sufficient adults.

Fort Bend County's Saved By the Bell program was described as a "model program" by Sen. John Whitmire during the Senate Committee on Criminal Justice hearing of HB 2398.

### **Truancy Diversion Program**

Fort Bend ISD offers the Truancy Diversion Program (TDP) to students and parents who are experiencing truancy issues. The program is presented by the Office of Student Affairs in collaboration with the FBISD social workers from Student Support Services. The TDP is an information-based program offered for parents and students as a preventative measure to provide: 1) an alternative to a court referral, and 2) to educate parents or guardians and students who are experiencing truancy problems and the consequences associated with unexcused absences. In addition, the program identifies available and

appropriate resources for families who are experiencing issues that may be contributing to a student's truancy. The TDP is offered to students and parents with truancy issues once during each school year.

### **Crisis Intervention Program**

The Crisis Intervention program at the Fort Bend County Juvenile Probation Department receives referrals from parents, schools and law enforcement agencies requesting emergency intervention for juveniles and children experiencing mental health crisis. Included in this program are counseling, explanation of the laws regarding delinquent youth and possible consequences and information on referral sources for psychological and/or substance abuse counseling. In the 12 years since the program first began, 1,699 children and juveniles have been counseled. Only 154 or 9% of those were subsequently referred to the juvenile probation department for conduct indicating a need for supervision (CINS) or delinquent conduct.

### **The Parent Project**

The Parent Project is a nationally acclaimed program, implemented locally by the Fort Bend County Juvenile Probation Department, was created specifically for parents with difficult or seemingly out-of-control adolescents. Parents learn and practice specific prevention and intervention strategies for destructive behaviors – truancy conduct, alcohol and other drug use, gangs and other criminal behavior, running away, violence and suicide. Parents are court-ordered into the classes, which are presented for 3 hours a week for 10 weeks.

Since its beginning in 2008, The Parent Project has served over 600 families and maintained success rate of 80%. In 2014, a total of 87 families entered the program and 79 of those families successfully completed the program, which comes to just over 3,000 hours of parenting classes.

### **Partners in Parenting Program**

In late 2014, the Fort Bend County Juvenile Probation Department was awarded a 3 year grant by Houston Endowment for the Partners in Parenting Program at (3) Elementary and (2) Six Grade at-risk campus' in Lamar Consolidated ISD. The program utilizes the Parent Project/Loving Solutions Programs, in English and Spanish, to provide parenting assistance to parents who have received Parent Contributing to Non-attendance referrals. The program coordinator frequently meets and counsels with parents and visits youth at the targeted schools. The coordinator works with the family, parent facilitator, school officials, and community partners to assist with counseling, education, housing, transportation, and other resources to promote school attendance.

### **2015 Special Points of Interest**

- ***The success rate for the program was 100%***
- ***Economically Disadvantaged families serviced 75%***
- ***School Attendance increased 100%***
- ***Grades increased 63%***

## **HB 2398: TEXAS LEGISLATIVE RESPONSE AND LOCAL IMPACT**

### **IMPLEMENTATION OF HB 2398 ON SCHOOLS**

HB 2398 requires school districts to notify a student's parent and request a conference between school officials and the parent to discuss the absences when a student fails to attend school without excuse on 3 or more (days or parts of days) within a 4 week period. The bill further requires the implementation of truancy prevention measures including at least one or more of the following:

1. Impose:
  - (A) A behavior improvement plan that includes:
    - (i) A specific description of the behavior that is required or prohibited by the student;
    - (ii) The period for which the plan will be effective ,not to exceed 45 school days after the date the contract becomes effective: or
    - (iii) The penalties for the additional absences, including additional disciplinary action or the referral of the student to a truancy court; or
  - (B) School- based community service;
2. Refer the student to counseling, mediation, a teen court program, community –based services, or other in-school or out of school services aimed at addressing the students truancy.

If a student fails to attend school on 10 or more days (or parts of days) within a 6 month period in the same school year a school district must refer the student to a truancy court. However, a school district 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 earner for the student's family.

A school district may delay a referral of a student for truant conduct if the school district:

- (1) Is applying truancy prevention measures to the student; and
- (2) Determines that the truancy preventions are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

**See attached Exhibit 1 - Flowchart for school Responsibilities regarding Truancy and Step-by-Step Commentary Accompanying Flowchart for School Responsibilities Regarding Truancy** promulgated by the Office of Court Administration for additional information.

**Attached as Exhibits 2, 3 ,4 and 5** respectively are documentation from Fort Bend ISD, Needville ISD ,Lamar CISD and Stafford MSD evidencing their attendance and truancy policies, prevention measures and processes.

## **IMPLEMENTATION OF HB 2398 ON TRUANCY COURTS**

Upon the filing of a referral to a truancy court by a school district alleging truant conduct by a student the court is required to forward the referral to the Truancy Court prosecutor. The truancy court prosecutor is required to promptly review the referral and determine if the referral complies with the applicable statute (Texas Education Code Section 25.0915).

The decision to file a petition alleging truant conduct lies entirely with the prosecutor and is a matter of prosecutorial discretion. The Truancy Court, after issuance of the appropriate summons, will schedule an adjudication hearing. Although the child (student) must be present at the adjudication hearing, the Court is without authority to issue a warrant or writ of attachment to compel the child's attendance at the hearing. The court may only issue a writ of attachment to the parent after having been ordered to bring the child to the hearing. After the petition is filed the child may answer, orally or in writing, the petition at or before the commencement of the hearing. The child can "admit" (plead true) or "deny" (plead not true) the allegations in the petition.

At a contested hearing, either to the Court or to a jury, the State has the burden to show that the child engaged in truant conduct beyond a reasonable doubt. If the Court or jury finds that the child did not engage in truant conduct, the Court shall dismiss the case with prejudice. If the Court or jury finds that the child did engage in truant conduct the Court shall issue a remedial order requiring the child to attend school without unexcused absences as well as attend nonprofit, community based programs that the Court determines to be in the best interest of the child.

If a child fails to obey a remedial order of the Truancy Court, the court after providing notice and an opportunity to be heard, may hold the child in contempt of court. A child found in contempt of court may be ordered to pay a fine of up to \$100 or order the Department of Public Safety (DPS) to suspend or deny the issuance of a driver's license or permit.

**See attached Exhibit 6 Flowchart for Truancy Court Procedures and Step-by-Step Commentary Accompanying Flowchart for Truancy Court Procedures promulgated by the Office of Court Administration for additional information.**

## CONCLUSION

The Committee believes that at the school level, effective truancy reduction programs should involve personal interaction between school administrators, students and parents (i.e. parent and student conferences, behavior plans and home visits), be comprehensive in nature (addressing all four categories of truancy related risk factors, family, school, economic and student) and combine meaningful sanctions for truancy with meaningful incentives for attendance. The committee believes any indicators of chronic absenteeism in elementary school students should be addressed at the earliest opportunity to ensure the parents understand the attendance policies and the importance of regular attendance. The Committee further believes that habitual and chronic truancy issues can best be addressed by creating broad-based multidisciplinary partnerships between the agencies and organizations whose involvement impacts truancy directly (i.e. schools, truancy courts, and law enforcement agencies).

The Committee members believe that the changes made in the truancy law as a result of the enactment of HB 2398, while well intended, fail to:

1. Provide a meaningful remedy to the Court to compel the appearance of students who ignore a court's summons to appear;
2. Provide meaningful sanctions for habitual and/or chronic truants who are found to have engaged in truant conduct and who fail to comply with the Truancy Court's remedial order (i.e. sanctions for contempt of court limited to \$100 fine or referral to Department of Public Safety); and
3. Provide the Court with little flexibility to fashion a remedial order to the individual's needs and/or issues (i.e. Court is limited to those remedies specified in the statute rather than those to which the Court believes may be in the best interest of the child).

The Committee would like to acknowledge the National Center Brief (2012) *Truancy Prevention Efforts in School- Community Partnerships* as its primary research source in addition to the cited resources as well as information provided by Fort Bend ISD, Lamar CISD, Needville ISD , Stafford MSD and the Fort Bend County Juvenile Probation Department.

The committee would like to thank Michelle Rangel of the Fort Bend County Attorney's Office for her counsel and guidance in this process and also thank Sugar Land Mayor James Thompson and Fort Bend County Judge Robert Hebert for the opportunity to serve on the committee.

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ADOPTED THIS \_\_\_\_\_ DAY OF FEBRUARY, 2016

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Hon. Kenneth S. Cannata  
Justice of the Peace Pct. 3  
Fort Bend County, Texas  
Chairman of the Committee

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Dr. Thomas Randle  
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In the 2015 legislative session, the Texas Legislature passed H.B. 2398 to decriminalize truancy, which has been treated as a criminal offense for two decades. In addition to making truancy a civil matter rather than a criminal one, H.B. 2398 requires schools to take steps to address students' truancy problems before referring them to court. The bill revised a school district's duty to impose truancy prevention measures prior to referring a truant student to court, or filing a complaint against the student's parent. Furthermore, a school cannot refer a student to 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. The bill established truancy court procedures for a child who is required to attend school and defined "truant conduct" as failing to attend school on 10 or more days or parts of days within a six-month period in the same school year.

### **Background**

The emphasis that school districts place on regular school attendance is a reflection of the importance our nation places on education, as well as a recognition that being in school on a daily basis is necessary if education is to effectively prepare a child for adulthood. Truancy and chronic absenteeism, which are often steppingstones to dropping-out of school before graduation, have consequences for children, the adults these children will become, and the society in which they live. Programs that promote consistent attendance by addressing the risk factors that lead to truancy can also improve academic achievement while reducing problem behaviors, including substance abuse and delinquency.

Every state requires that children attend school, or be provided with an authorized equivalent such as home schooling. These state mandates are accompanied by regulations on how state education and juvenile justice agencies must respond to truancy; however, the number of days absent and the criteria for categorizing unexcused absences under truancy varies by jurisdiction. The following definitions capture the different categories of behaviors.

### **Common Definitions**

**Truancy** - While there is no nationally accepted definition of truancy, the following definition reflects many state policies: If a student is absent without an excuse by the parent/guardian or if the student leaves school or a class without permission of the teacher or administrator in charge, it will be an unexcused absence and the student shall be considered truant (Seeley, 2006).

**Habitual Truancy** - Habitual truancy is defined as a specific number of consecutive unexcused absences from school or a total number of unexcused absences over a semester or school year. The school is primarily responsible for responding to truancy (often in the form of a call to parents). If school efforts fail, habitually truant students may become involved with the juvenile justice system (Seeley, 2006).



**Chronic Truancy** - In recent years, many school districts have also created a third category, "chronic truant." This term mainly refers to students who have been disciplined according to procedure after meeting the criteria for habitual truancy, but continue to accumulate unlawful absences despite court or school mandate (Seeley, 2006).

**Chronic Absenteeism** - Younger children are usually referred to as "chronically absent" rather than truant, because it is presumed that they cannot miss school without their parents' knowledge. Young children (K–3) missing 10 percent or more of school each year are considered chronically absent (Chang & Romero, 2008).

### **Risk Factors and Consequences Related to Truancy**

#### **Risk Factors**

The broad range of risk factors related to truancy has important implications for programs and activities. A literature review commissioned by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) found correlations between truancy and four categories of risk factors:

1. Family factors (lack of supervision; poverty; alcohol or drug abuse; lack of awareness of attendance laws; attitude toward education)
2. School factors (school size; attitudes of students, staff, and teachers; inflexibility toward meeting different learning styles; inconsistent procedures for dealing with chronic truancy)
3. Economic factors (employed students; single parent homes; high mobility; parents with multiple jobs; lack of transportation)
4. Student factors (drug and alcohol abuse; lack of understanding of attendance laws; lack of social competence; mental and physical health problems) (Baker, Sigmon & Nugent, 2001).

Among the many risk factors related to truancy, for young children, family and economic factors have the greatest impact on chronic absenteeism in early elementary school. A national report by the NCCP (Romero & Lee, 2007) indicated that chronic absenteeism was highest among children living in poor families. This study also reported that children living with poor families in low-income communities are more likely to experience family risk factors compared to affluent children. These risk factors may include having a mother with a low education or poor health, a mother who is unemployed, or the experience of food insecurity at home. Children experiencing multiple risk factors were more likely to miss 10 percent or more of the school year than their peers experiencing no such risks.

#### **Consequences of Chronic Absenteeism**

For young children, chronic absenteeism in early elementary school can lead to both short- and long-term consequences. Over 50 percent of those chronically absent in kindergarten were chronically absent in first grade (Romero & Lee, 2007). Early absenteeism affects school achievement in the early years, and this achievement gap has negative long-term effects, particularly for children living in urban, low-

income communities. Absence in early elementary school is associated with a seven percent lower probability of high school graduation (Seeley, 2008).

### **Consequences of Truancy**

Overall, truancy has a number of harmful consequences—not only for students, but also for schools and communities. Truancy affects academic achievement throughout school. A literature review by the National Center for School Engagement (Heilbrunn, 2007) found that, compared to non-truant students, students who are truant:

1. Have lower grades
2. Need to repeat grades more often
3. Have higher rates of expulsion
4. Have lower rates of high school graduation.

The review reported that some schools and districts still expel or otherwise “push out” students who are both truant and low-achieving. While removing these students can raise the school’s overall level of academic achievement (as measured by grades, grade promotion, and graduation rates), it can also lower enrollment, which drives school funding based on attendance. The literature review also concludes that truancy is a risk factor for other problems, including:

1. Substance abuse
2. Delinquency
3. Gang activity
4. Serious criminal behavior (such as car theft and burglary)
5. Suicidal ideation and attempts
6. Early sexual activity
- 7 Dropping out of school

Truancy affects not only youth but also the adults they will become. Adults who were chronically truant from school as children or adolescents are at an elevated risk for a host of problems, including poor physical and mental health, poverty, incarceration, and raising children who exhibit problem behaviors (Baker, Sigmon & Nugent, 2001). Although truancy has a negative influence on students’ academic achievement, behavior, and health, addressing the issue early on has shown that such problems can be prevented by taking a positive approach to the issue. A number of studies demonstrate that effective truancy reduction programs can produce a marked decline in delinquency and crime committed by school-age youth (Heilbrunn, 2007).

## **Traditional Approaches to Truancy Reduction**

### **School Policy**

Traditionally, schools addressed truancy by calling or meeting with parents when students did not provide the proper documentation upon absence. Some schools called parents if a child did not show up at school to make sure the student was not “playing hooky.” Police departments would sometimes question students who were found out of school during school hours, taking them either home or back to school (a practice made more difficult in recent years by open campuses and the amount of serious crime requiring police attention).

New research shows that zero tolerance policies, developed in the 1980s, have not been shown to be as effective as expected. These policies were designed to stop drug use and unruly violent behavior in schools by severely punishing disruptive students regardless of the infraction. Suspending or expelling truants may reward their desire to avoid school, possibly leading them to fall behind in their school work, and does little to encourage more consistent attendance. A report by the American Psychological Association in 2006 found that zero tolerance policies actually increased problem behaviors and led to higher dropout rates. Schools that have adopted such policies are not any safer or more effective in disciplining children. Instead, zero tolerance policies have actually led to an increase in referrals to the juvenile justice system for infractions once handled by schools.

### **Effective Approaches to Truancy Reduction**

In the last two decades, school districts, juvenile and family courts, and police departments have begun to take more sophisticated approaches to truancy. These approaches seek to prevent rather than to punish truancy, question the logic of out-of-school suspensions, and address the four categories of truancy-related risk factors: family, school, economic, and student factors. At every school level, effective truancy reduction programs are comprehensive and respond to the four categories of risk factors shown to be relevant to truancy.

Due to the new findings on chronic absenteeism in early elementary school, poverty, and their impact on truancy and school dropout, prevention efforts have begun to target younger children in disadvantaged populations. More recent approaches have shown a marked shift toward starting truancy prevention before truancy even occurs. By addressing the early signs of chronic absenteeism in early elementary school, truancy may be prevented.

### **Components of Effective Programs**

A literature review by the National Center for School Engagement identified critical components necessary for effective programming (Reimer and Dimock, 2005):

1. Collaboration involves creating a broad-based multidisciplinary partnership between the agencies and organizations whose involvement impacts truancy directly (i.e. schools, juvenile courts, and law enforcement agencies).

2. True family involvement actively engages parents “for their advice, experience, and expertise in the community, as clients of our public systems of care, and as experts in the lives of their children” (NCSE, 2005).
3. A comprehensive approach addresses every factor that affects truancy, including transportation, mental health, family setting, and school climate.
4. Effective programs combine meaningful sanctions for truancy and meaningful incentives for attendance to change the behavior of students. For example, suspending students from school for truancy is not effective and does not promote pro-school attitudes among students.
5. A supportive context includes organizations, community cultures, and policies.
6. Rigorous evaluation and ongoing assessment uses outcome data to develop evidence-based programs

### **Strategies for Truancy Prevention**

Programs and activities designed to improve the overall school environment have proven to be effective in truancy prevention. Children are less likely to avoid school if they feel safe, comfortable, cared for, and engaged in productive and rewarding activities. The Northwest Regional Educational Laboratories (Railsback, 2004) suggests a number of programs and practices for improving school environment:

1. Personalized learning
2. Learning communities within schools (e.g., learning academies focused on particular topics; house plans; or magnet schools)
3. Peer mentoring
4. Student advisory programs
5. Interventions targeted at improving educational effectiveness in the classroom

Beyond improving the school environment, there are also practices specifically designed to prevent truancy. These practices address truancy at the universal, selective, and indicated levels of the student population, to use the Institute of Medicine framework.

**Universal Prevention** – Universal prevention efforts are for all students.

Attendance policies are school and district regulations concerning student attendance requirements, excused and unexcused absences, and the consequences for truancy. A review of the research reveals that the most effective attendance policies are those that promote attendance rather than punish absence (especially through out-of-school expulsion). Students, parents, and staff must understand these policies, and especially the difference between excused absences and truancy (Railsback, 2004).

Some programs also seek to promote a pro-attendance culture in the school by, for example, rewarding students for consistent attendance, and holding events and campaigns that reinforce the importance of attendance. Some of these efforts also reach out to parents and the community through public education campaigns and events to create pro-attendance cultures in the family and community that reinforce that of the school.

**Selective Prevention** - Programs that include targeted supports for students who are at risk of becoming habitual truants. Selective prevention efforts are for some students at elevated risk.

Early intervention programs identify students who have started skipping school and work with these children and their families before they become habitual truants. Early intervention programs might involve calling families after an unexplained absence, discussing the importance of consistent attendance at school, and helping them solve problems that might affect their child's presence in school (e.g., transportation issues).

Alternatives to adjudication for truancy allow students who are truant to avoid formal adjudication. Such alternatives include community truancy boards that negotiate contracts between schools and truant students (and their families). These contracts may include restrictions on student behavior (such as confining the student to the campus during lunch hours), as well as participation by the student and/or the family in specialized services when appropriate.

**Indicated Prevention** - Programs that address students who exhibit persistent challenges and who are not responsive to interventions at the universal or selective levels. Indicated prevention efforts are for a few students.

Court-based truancy reduction programs are based in juvenile or family courts, but attempt to provide services to truants and their families as an alternative to adjudication (while acknowledging the possibility of adjudication as motivation to become involved with these services).

Alternative education programs are designed specifically for students whose truancy results from a divergence between the school's educational practices and students' individual learning styles. These might include occupational or career educational programs or advanced courses at local community colleges, depending on student interest and ability.

### **Collaborative Efforts Across the Nation**

Collaborative efforts across the nation have been effective utilizing the approaches outlined above to prevent and reduce truancy. A common thread throughout all these examples is the community-based comprehensive approach. The various community partners must collaborate on the most effective approach to satisfy the particular needs of their community. Each example illustrates how community members can become involved in the effort to create a community that supports the school attendance and learning engagement of students.

### **Kern County, CA - 2008**

Kern County in California focused their truancy intervention around the school resource officers (SRO) and school attendance review board (SARB). The school district not only empowered SROs to target habitual truants, but it also gave SROs the responsibility to run SARB Sessions. The SARB is a problem-solving group that addresses truancy and behavior problems that interfere with educational progress of students. The SARB brings together school staff, parents, law enforcement, child-serving agency representatives, as well as agency and collaborative partners. Together, these partners can provide services to children and families who need support. Services may include: requiring students to attend school every day; directing the student and/or family to counseling; arranging parenting classes for parents; arranging tutoring when needed; requesting assistance from other county agencies and programs when needed. As the leader of the SARB, the SRO is responsible for following up with habitual truants, contacting parents, running SARB meetings, and focusing on targeted goals for truancy reduction. As a result of this comprehensive approach, several improvements were made around truancy reduction in Kern County: between 2009 and 2011, the percentage of students in the district that were seen for attendance concerns increased from 41 percent to 58 percent; the Beardsley school district reduced its number of students with ten or more absences from 595 to 451 students; Beardsley also reduced its average number of unexcused absences from 9.4 percent to 7.7 percent.

### **Oneida Herkimer Madison BOCES, NY - 2009**

Oneida Herkimer Madison BOCES in New York instituted the Initial Response Team Model (IRT) built upon a tradition of work on truancy in Utica, NY and Rome, NY. The IRT model uses the evidence-based practice of Family Group Conferencing to divert potential persons in need of supervision and juvenile delinquency (PINS/JD) petitions in family court. The IRT model uses a community approach to truancy by developing an intervention plan outside of the courtroom and agreed upon by all parties involved. The site employs two SS/HS specialists and two full-time Oneida County probation officers. This team meets regularly to apply principles of a wraparound service plan that is developed in concert with youth, parent, and school staff. The IRT model includes behavior contracts signed by all and regular check-ins on site at the school. This model continues to be successful in Utica and Rome, and now the OHM BOCES grant offers the program to three of their component districts and Alternative Education sites which have higher rates of truancy and incorrigibility.

### **Hillsboro, OR - 2005**

The Hillsboro, Oregon site formed the Hillsboro Together Attendance Improvement Model based on Joe Christy's conceptual framework and Scott Perry's Model for Attendance Improvement at the Linn Benton Educational Services District. The Hillsboro School District created a pro-attendance culture by reframing the truancy issue as an Attendance Improvement Project, and used a social marketing initiative called Every Day on Time to communicate with the community about attendance improvement. They addressed the problem at the universal, selective, and indicated levels of intervention by developing teams, such as the Attendance Improvement and Violence Prevention Team

at a system level, and the CARE team at the building level. These teams meet on a weekly basis to review attendance and assign students of concern to school staff for follow-up. The overall success of Hillsboro's model rests upon their multi-faceted approach to the attendance support systems; they utilize universal supports, parent communication systems, consequence systems, individual assessment and support, community supports and legal consequences. Early intervention is central to this comprehensive approach, and regular communication between the schools, community partners and school counselors allows for consistent improvements in attendance data and overall crime reduction.

"Personal approaches with students and families are key elements in truancy prevention efforts. The success we have seen has relied heavily on personal contact— involving students and families in ways that go beyond letters and phone calls—even going so far as home visits and engagement in community activities. This personal approach needs to extend to provide learning opportunities tailored to individual learning styles and needs."-Dr. Joseph Christy, Former Director, Washington County Juvenile Department, Hillsboro OR

### **COLLABORATIVE EFFORTS IN FORT BEND COUNTY**

The lack of adequate and consistent supervision by the family and the community is a major contributing factor to delinquency and anti-social behavior among Fort Bend County's youth. Poorly supervised children are exposed to danger and risk, and are more likely to engage in anti-social, high risk behavior. This includes chronic truant conduct, dropouts and runaways as well as children who lack after-school supervision and programs. These behaviors have been clearly identified as one of the early warning signs of students headed for potential delinquent activity, social isolation or educational failure due to suspension, expulsion or dropping out. In response to these issues Fort Bend County through its Juvenile Probation Department in collaboration with school districts, charitable organizations and foundations, and in some instance truancy courts, has developed numerous programs to address these anti-social behaviors including:

#### **Saved By The Bell**

"Saved By The Bell" is a program that began in 2008 funded with a Texas Criminal Justice Division grant. The program started with four schools within Fort Bend Independent School District and all Katy Independent Schools within Fort Bend County. The program expanded in late 2011 to include all junior high and high schools in Fort Bend County. The goal of this innovative program is to apply pro-active casework management strategies together with appropriate court involvement in order to address chronic truancy issues and ultimately reduce delinquency. Case Managers work on campus with school personnel and community resources in offering prevention and intervention services to youth through counseling, mentoring, presentations and referral to additional resources. In connection with these services the Juvenile Probation Department has partnered with Fort Bend Regional Council (for life and substance abuse services), Strides Youth Services (for psycho-educational services), and Fort Bend Partnership for Youth (for financial assistance to families in need).

**2008-2015 Special Points of Interest:**

- ***The success rate for the program was 85%***
- ***Economically Disadvantaged families serviced 40%***
- ***School attendance increased 81%***
- ***Grades increased 59%***
- ***School discipline referrals decreased 81%***

The collaboration between Truancy Courts, Fort Bend County Juvenile Probation Department and Independent School Districts allows for a consistent and timely response to truancy issues. The Courts utilize various intervention methods and have several dispositional alternatives available to address truancy conduct. Parents may be ordered to participate in parenting classes. The courts may place the student on remedial orders and into the Saved by the Bell program. Case Managers in the Saved by the Bell program are assigned to school campuses to help students through prevention and intervention services. The Case Manager meets with assigned students each day; checks attendance, discipline records, and grades; speaks to school personnel; and of course, meets with parents. The remedial period is typically six months and requires attendance, mentoring and may include individual or group counseling for the student. The Case Manager can recommend resources that will assist with other issues that hinder attendance. Case Managers are responsible for making referrals to drug and alcohol programs, parenting classes, family and/or individual therapy, school ARDs and community resources. An important goal of the Saved by the Bell Program is to help students and parents learn and appreciate the school environment. Students are encouraged to develop their intellectual curiosity; experience success and build on those successes; learn how to deal with mistakes and failures; and learn how to respect themselves and others. Students are encouraged to participate in and to contribute to their school, home and community as educated, self-sufficient students who will become educated, self-sufficient adults.

Fort Bend County's Saved By the Bell program was described as a "model program" by Sen. John Whitmire during the Senate Committee on Criminal Justice hearing of HB 2398.

**Truancy Diversion Program**

Fort Bend ISD offers the Truancy Diversion Program (TDP) to students and parents who are experiencing truancy issues. The program is presented by the Office of Student Affairs in collaboration with the FBISD social workers from Student Support Services. The TDP is an information-based program offered for parents and students as a preventative measure to provide: 1) an alternative to a court referral, and 2) to educate parents or guardians and students who are experiencing truancy problems and the consequences associated with unexcused absences. In addition, the program identifies available and



appropriate resources for families who are experiencing issues that may be contributing to a student's truancy. The TDP is offered to students and parents with truancy issues once during each school year.

### **Crisis Intervention Program**

The Crisis Intervention program at the Fort Bend County Juvenile Probation Department receives referrals from parents, schools and law enforcement agencies requesting emergency intervention for juveniles and children experiencing mental health crisis. Included in this program are counseling, explanation of the laws regarding delinquent youth and possible consequences and information on referral sources for psychological and/or substance abuse counseling. In the 12 years since the program first began, 1,699 children and juveniles have been counseled. Only 154 or 9% of those were subsequently referred to the juvenile probation department for conduct indicating a need for supervision (CINS) or delinquent conduct.

### **The Parent Project**

The Parent Project is a nationally acclaimed program, implemented locally by the Fort Bend County Juvenile Probation Department, was created specifically for parents with difficult or seemingly out-of-control adolescents. Parents learn and practice specific prevention and intervention strategies for destructive behaviors – truancy conduct, alcohol and other drug use, gangs and other criminal behavior, running away, violence and suicide. Parents are court-ordered into the classes, which are presented for 3 hours a week for 10 weeks.

Since its beginning in 2008, The Parent Project has served over 600 families and maintained success rate of 80%. In 2014, a total of 87 families entered the program and 79 of those families successfully completed the program, which comes to just over 3,000 hours of parenting classes.

### **Partners in Parenting Program**

In late 2014, the Fort Bend County Juvenile Probation Department was awarded a 3 year grant by Houston Endowment for the Partners in Parenting Program at (3) Elementary and (2) Six Grade at-risk campus' in Lamar Consolidated ISD. The program utilizes the Parent Project/Loving Solutions Programs, in English and Spanish, to provide parenting assistance to parents who have received Parent Contributing to Non-attendance referrals. The program coordinator frequently meets and counsels with parents and visits youth at the targeted schools. The coordinator works with the family, parent facilitator, school officials, and community partners to assist with counseling, education, housing, transportation, and other resources to promote school attendance.

### **2015 Special Points of Interest**

- ***The success rate for the program was 100%***
- ***Economically Disadvantaged families serviced 75%***
- ***School Attendance increased 100%***
- ***Grades increased 63%***

## **HB 2398: TEXAS LEGISLATIVE RESPONSE AND LOCAL IMPACT**

### **IMPLEMENTATION OF HB 2398 ON SCHOOLS**

HB 2398 requires school districts to notify a student's parent and request a conference between school officials and the parent to discuss the absences when a student fails to attend school without excuse on 3 or more (days or parts of days) within a 4 week period. The bill further requires the implementation of truancy prevention measures including at least one or more of the following:

1. Impose:
  - (A) A behavior improvement plan that includes:
    - (i) A specific description of the behavior that is required or prohibited by the student;
    - (ii) The period for which the plan will be effective ,not to exceed 45 school days after the date the contract becomes effective: or
    - (iii) The penalties for the additional absences, including additional disciplinary action or the referral of the student to a truancy court; or
  - (B) School- based community service;
2. Refer the student to counseling, mediation, a teen court program, community –based services, or other in-school or out of school services aimed at addressing the students truancy.

If a student fails to attend school on 10 or more days (or parts of days) within a 6 month period in the same school year a school district must refer the student to a truancy court. However, a school district 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 earner for the student's family.

A school district may delay a referral of a student for truant conduct if the school district:

- (1) Is applying truancy prevention measures to the student; and
- (2) Determines that the truancy preventions are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

**See attached Exhibit 1 - Flowchart for school Responsibilities regarding Truancy and Step-by-Step Commentary Accompanying Flowchart for School Responsibilities Regarding Truancy** promulgated by the Office of Court Administration for additional information.

**Attached as Exhibits 2, 3 ,4 and 5** respectively are documentation from Fort Bend ISD, Needville ISD ,Lamar CISD and Stafford MSD evidencing their attendance and truancy policies, prevention measures and processes.

## **IMPLEMENTATION OF HB 2398 ON TRUANCY COURTS**

Upon the filing of a referral to a truancy court by a school district alleging truant conduct by a student the court is required to forward the referral to the Truancy Court prosecutor. The truancy court prosecutor is required to promptly review the referral and determine if the referral complies with the applicable statute (Texas Education Code Section 25.0915).

The decision to file a petition alleging truant conduct lies entirely with the prosecutor and is a matter of prosecutorial discretion. The Truancy Court, after issuance of the appropriate summons, will schedule an adjudication hearing. Although the child (student) must be present at the adjudication hearing, the Court is without authority to issue a warrant or writ of attachment to compel the child's attendance at the hearing. The court may only issue a writ of attachment to the parent after having been ordered to bring the child to the hearing. After the petition is filed the child may answer, orally or in writing, the petition at or before the commencement of the hearing. The child can "admit" (plead true) or "deny" (plead not true) the allegations in the petition.

At a contested hearing, either to the Court or to a jury, the State has the burden to show that the child engaged in truant conduct beyond a reasonable doubt. If the Court or jury finds that the child did not engage in truant conduct, the Court shall dismiss the case with prejudice. If the Court or jury finds that the child did engage in truant conduct the Court shall issue a remedial order requiring the child to attend school without unexcused absences as well as attend nonprofit, community based programs that the Court determines to be in the best interest of the child.

If a child fails to obey a remedial order of the Truancy Court, the court after providing notice and an opportunity to be heard, may hold the child in contempt of court. A child found in contempt of court may be ordered to pay a fine of up to \$100 or order the Department of Public Safety (DPS) to suspend or deny the issuance of a driver's license or permit.

**See attached Exhibit 6 Flowchart for Truancy Court Procedures and Step-by-Step Commentary Accompanying Flowchart for Truancy Court Procedures promulgated by the Office of Court Administration for additional information.**

## CONCLUSION

The Committee believes that at the school level, effective truancy reduction programs should involve personal interaction between school administrators, students and parents (i.e. parent and student conferences, behavior plans and home visits), be comprehensive in nature (addressing all four categories of truancy related risk factors, family, school, economic and student) and combine meaningful sanctions for truancy with meaningful incentives for attendance. The committee believes any indicators of chronic absenteeism in elementary school students should be addressed at the earliest opportunity to ensure the parents understand the attendance policies and the importance of regular attendance. The Committee further believes that habitual and chronic truancy issues can best be addressed by creating broad-based multidisciplinary partnerships between the agencies and organizations whose involvement impacts truancy directly (i.e. schools, truancy courts, and law enforcement agencies).

The Committee members believe that the changes made in the truancy law as a result of the enactment of HB 2398, while well intended, fail to:

1. Provide a meaningful remedy to the Court to compel the appearance of students who ignore a court's summons to appear;
2. Provide meaningful sanctions for habitual and/or chronic truants who are found to have engaged in truant conduct and who fail to comply with the Truancy Court's remedial order (i.e. sanctions for contempt of court limited to \$100 fine or referral to Department of Public Safety); and
3. Provide the Court with little flexibility to fashion a remedial order to the individual's needs and/or issues (i.e. Court is limited to those remedies specified in the statute rather than those to which the Court believes may be in the best interest of the child).

The Committee would like to acknowledge the National Center Brief (2012) *Truancy Prevention Efforts in School- Community Partnerships* as its primary research source in addition to the cited resources as well as information provided by Fort Bend ISD, Lamar CISD, Needville ISD , Stafford MSD and the Fort Bend County Juvenile Probation Department.

The committee would like to thank Michelle Rangel of the Fort Bend County Attorney's Office for her counsel and guidance in this process and also thank Sugar Land Mayor James Thompson and Fort Bend County Judge Robert Hebert for the opportunity to serve on the committee.

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ADOPTED THIS \_\_\_\_\_ DAY OF FEBRUARY, 2016

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Hon. Kenneth S. Cannata  
Justice of the Peace Pct. 3  
Fort Bend County, Texas  
Chairman of the Committee

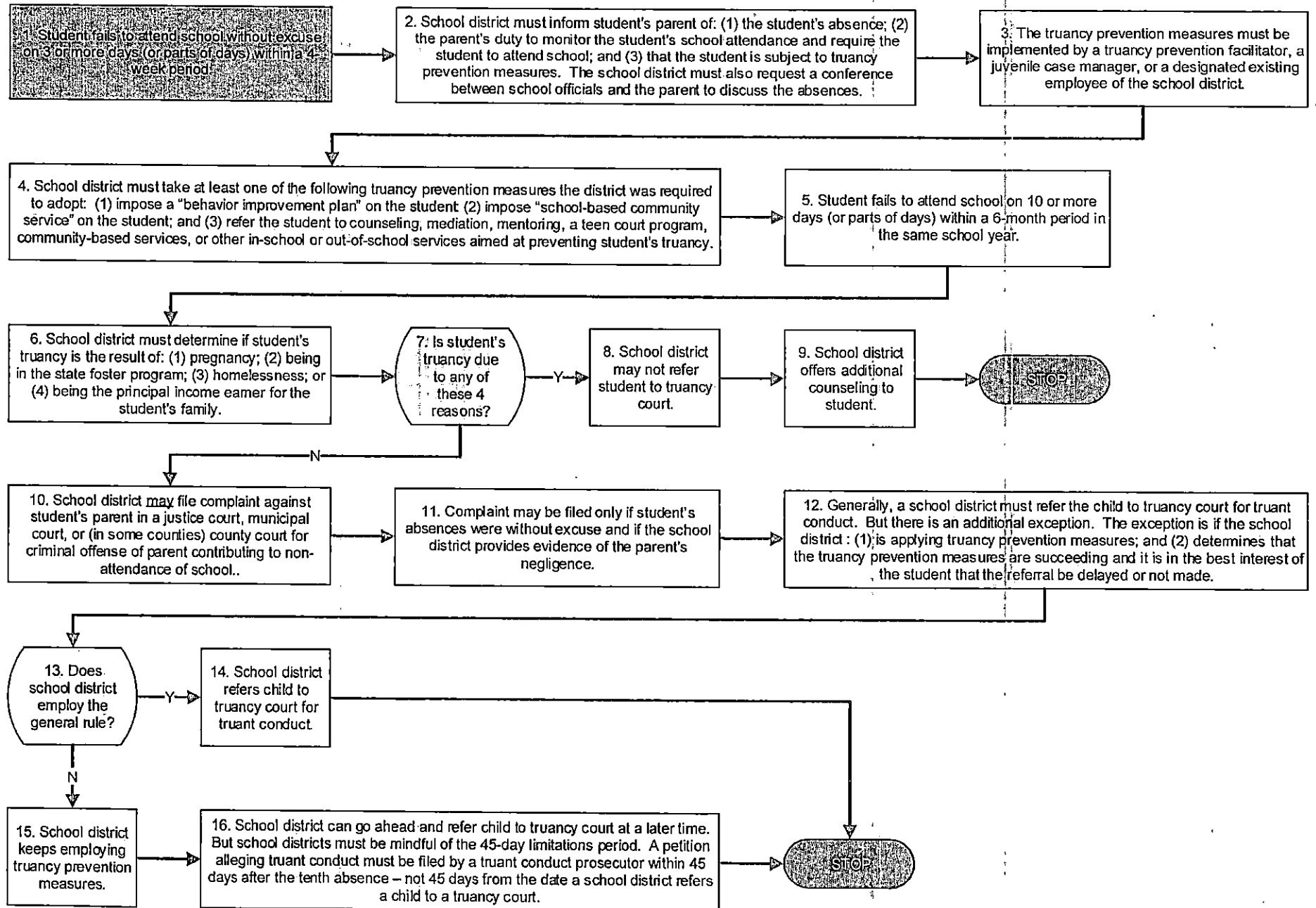
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Superintendent of Schools  
Lamar CISD  
Vice-Chairman of the Committee

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## School Responsibilities Regarding Truancy



# **Step-by-Step Commentary Accompanying Flowchart for School Responsibilities Regarding Truancy**

July 2015

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**Box 1. Student fails to attend school without excuse on 3 or more days (or parts of days) within a 4-week period.**

This is the event that moves a school district into action in regard to a student who is missing school.

**Move to Box 2.**

**Box 2. School district must inform student's parent of: (1) the student's absence; (2) the parent's duty to monitor the student's school attendance and require the student to attend school; and (3) that the student is subject to truancy prevention measures. The school district must also request a conference between school officials and the parent to discuss the absences.**

"A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

(1) inform the parent that:

(A) it is the parent's duty to monitor the student's school attendance and require the student to attend school; and

(B) The student is subject to truancy prevention measures under Section 25.0915; and

(2) request a conference between school officials and the parent to discuss the absences."

Education Code § 25.095(b).

**Go to Box 3.**

**Box 3. The truancy prevention measures must be implemented by a truancy prevention facilitator, a juvenile case manager, or a designated existing employee of the school district.**

"(d) Except as provided by Subsection (e), a school district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention measures required by this section and any other effective truancy prevention

measures as determined by the school 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 school district in truancy cases.

(e) 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 required by this section and any other effective truancy prevention measures as determined by the school district or campus."

Education Code § 25.0915(d), (e).

Go to Box 4.

**Box 4. School district must take at least one of the following truancy prevention measures the district was required to adopt: (1) impose a "behavior improvement plan" on the student; (2) impose "school-based community service" on the student; and (3) 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 preventing student's truancy.**

"As a truancy prevention measure under Subsection (a), a school district shall take one or more of the following actions:

(1) impose:

(A) a behavior improvement plan on the student that must be signed by an employee of the school, that the school district has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:

- (i) a specific description of the behavior that is required or prohibited for the student;
- (ii) the period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or
- (iii) ~~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."

Education Code § 25.0915(a-1).

Advance to Box 5.

**Box 5. Student fails to attend school on 10 or more days (or parts of days) within a 6-month period in the same school year.**

The hope is that the truancy prevention measures keep children in school and serve to reduce multiple absences from school. The idea of the new truancy reforms is to reduce the number of students that ever accrue the ten absences that make them eligible for court action. But, there will still be many cases in which a student will be absent from school on ten different days. When this happens, school districts are required to take action.

"If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a school district shall within 10 school days of the student's 10<sup>th</sup> absence refer the student to a truancy court for truant conduct under Section 65.003(a), Family Code."  
Education Code § 5.0951(a).

The foregoing is a general rule. There are some exceptions as the succeeding boxes on the flowchart will demonstrate.

Go to Box 6.

**Box 6. School district must determine if 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.**

As mentioned above, there are some exceptions to the general rule that a school district must refer a student to a truancy court upon the student's tenth absence. A main exception (involving four situations) is set out in Education Code, Section 25.0915(a-3) which reads as follows:

"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.

Go to Box 7.

**Box 7. Is student's truancy due to any of these 4 reasons?**

If yes, then go to Box 8. If no, then move to Box 10.

**Box 8. School district may not refer student to truancy court.**

See commentary in connection with Box 6.

Go to Box 9.

**Box 9. School district offers additional counseling to student.**

See commentary in connection with Box 6.

**Stop.**

**Box 10. School district may file complaint against student's parent in a justice court, municipal court, or (in some counties) county court for criminal offense of parent contributing to non-attendance of school.**

"If a student fails to attend school without excuse as specified by Subsection (a), [10 absences] a school district may file a complaint against the student's parent in a county, justice, or municipal court for an offense under Section 25.093 if the school district provides evidence of the parent's criminal negligence."

Education Code § 25.0951(b).

**Go to Box 11.**

**Box 11. Complaint may be filed only if student's absences were without excuse and if the school district provides evidence of the parent's negligence.**

See statute set out in connection with Box 10 above.

Go to Box 12.

**Box 12. Generally, a school district must refer the child to truancy court for truant conduct. But there is an additional exception. The exception is if the school district : (1) is applying truancy prevention measures; and (2) determines that the truancy prevention measures are succeeding and it is in the best interest of the student that the referral be delayed or not made.**

"Notwithstanding Subsection (a) [general requirement for school district to refer case to truancy court], a school district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if the school district:

- (1) is applying truancy prevention measures to the student under Section 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(d).

Go to Box 13.

**Box 13. Does school district employ the general rule?**

If yes, then go to Box 14. If no, then go to Box 15.

**Box 14. School district refers child to truancy court for truant conduct.**

Stop.

**Box 15. School district keeps employing truancy prevention measures.**

Go to Box 16.

**Box 16. School district can go ahead and refer child to truancy court at a later time. But school districts must be mindful of the 45-day limitations period.- A petition alleging truant conduct must be filed by a truant conduct prosecutor within 45 days after the tenth absence – not 45 days from the date a school district refers a child to a truancy court.**

The relevant statute on the 45-day limitations issue is Section 65.055 which reads as follows:

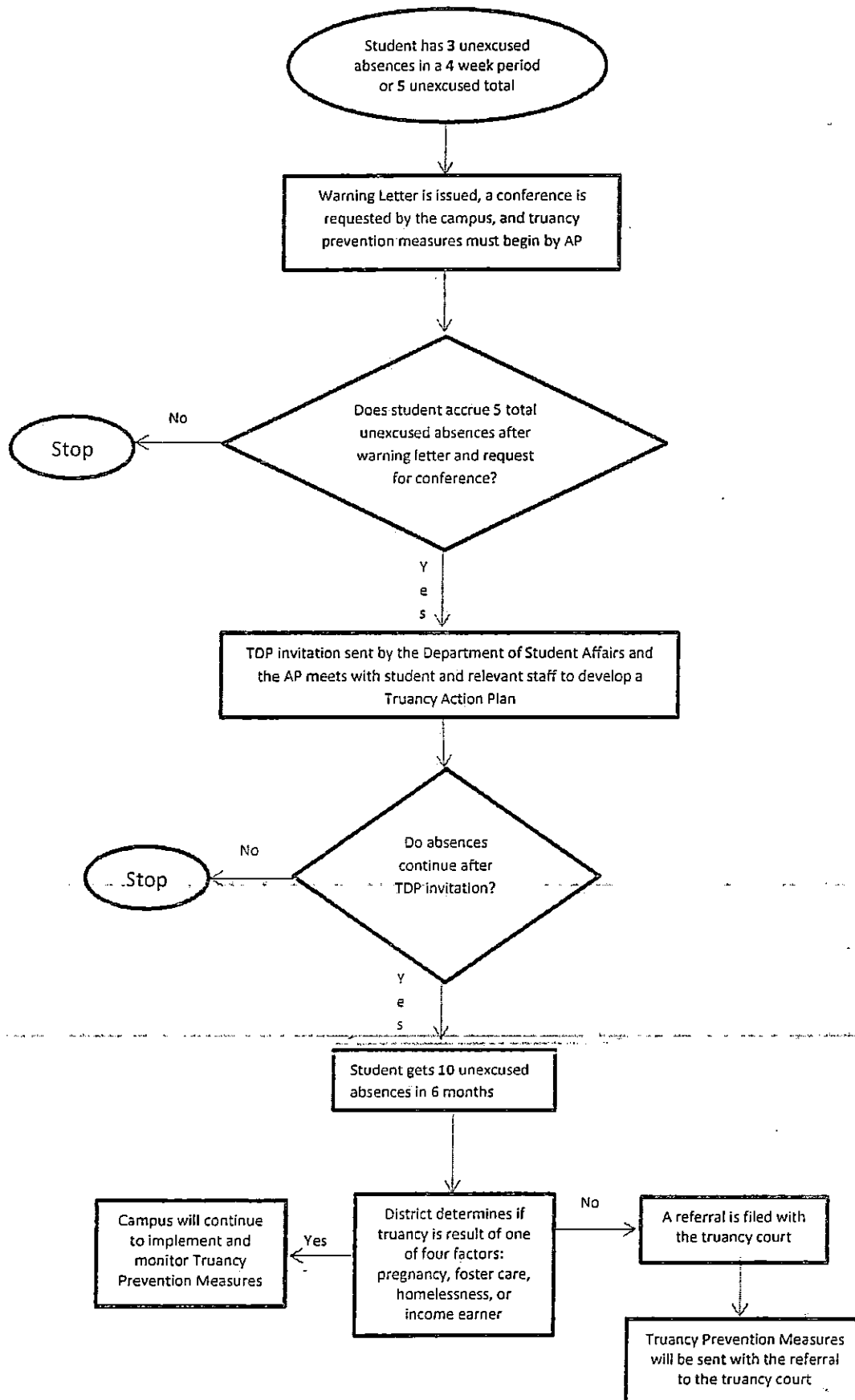
"A petition may not be filed after the 45<sup>th</sup> day after the date of the last absence giving rise to the act of truant conduct."

**Stop.**

**Attendance Procedures**  
**2015-2016**

1. Upon any student absence, an automated phone call will go to the parent/guardian the same day.
2. Upon the student's return, he or she will have five school days to provide a note of excuse for any absence to the school's attendance clerk. (See handbook for a list of approved absences.)
3. Upon the third unexcused absence in a four week period or the fifth total unexcused absence, a Truancy Warning and Request for Conference Letter will be mailed to the parent at the home address on record with the school, and Truancy Prevention Measures will be implemented by Campus Assistant Principal.
4. Upon the fifth total unexcused absence, a Truancy Diversion Program (TDP) Letter will be sent to the parent/guardian. In addition, an automated phone call will go to the parent/guardian the week prior to the scheduled TDP. During the TDP, parents and students will sign a Student Attendance Contract.
5. Following an invitation to TDP, the parent/guardian and student will meet with the campus assistant principal and any relevant staff to develop a Truancy Action Plan.
6. If a student accrues ten unexcused absences in a six-month period, whether the student/parent has attended TDP or not, a truancy referral will be sent to the appropriate authority, unless the student is eligible for one of the four exceptions under the law.

## Attendance and Truancy Process Fort Bend ISD







## Truancy Action Plan

### Student Information – PLEASE PRINT

First Name \_\_\_\_\_ Last Name \_\_\_\_\_  
Birthdate \_\_\_\_\_ Student ID \_\_\_\_\_  
School/Campus \_\_\_\_\_ Date \_\_\_\_\_

*At FBISD, we are committed to ensuring that each student acquires the knowledge, skills and character necessary to become a productive adult, but in order to achieve that goal, you must attend school regularly. Regular school attendance is essential for you to make the most of your education; therefore, you should make every effort to avoid unnecessary absences.*

Summary of discussion: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reason for truancy: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1) Action: \_\_\_\_\_  
\_\_\_\_\_

Person responsible? \_\_\_\_\_

2) Action: \_\_\_\_\_  
\_\_\_\_\_

Person responsible? \_\_\_\_\_

3) Action: \_\_\_\_\_  
\_\_\_\_\_

Person responsible? \_\_\_\_\_

\_\_\_\_\_  
Student

\_\_\_\_\_  
Counselor

\_\_\_\_\_  
Parent

\_\_\_\_\_  
Social Worker

\_\_\_\_\_  
Assistant Principal

\_\_\_\_\_  
Other

\_\_\_\_\_  
Other

\_\_\_\_\_  
Other



## Truancy Prevention Measures by Student Attendance Specialists

CAMPUS \_\_\_\_\_ STUDENT NAME \_\_\_\_\_ DOB \_\_\_\_\_ STUDENT ID \_\_\_\_\_

Date(s) of Absences \_\_\_\_\_

### Truancy Prevention Measures (check all that apply)

- ☐ Automated call out to parent/guardian – on each date of absence as specified above
- ☐ Warning Letter sent, along with request for a conference Date: \_\_\_\_\_
- ☐ Truancy Diversion Program (“TDP”) Letter sent Date: \_\_\_\_\_
- ☐ Phone contact with parent (include summary) \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_
- ☐ Phone contact with student (include summary) \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_
- ☐ Referral to campus support/resources  
(Counselor, Social Worker, Drop-Out Prevention Specialist, etc.) Date: \_\_\_\_\_
- ☐ In person meeting with parent or student \_\_\_\_\_ Date: \_\_\_\_\_
- ☐ Home visit (include summary) \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_
- ☐ Unable to contact parent/guardian(s) (include summary of attempts) \_\_\_\_\_  
\_\_\_\_\_ Date #1: \_\_\_\_\_  
\_\_\_\_\_ Date #2: \_\_\_\_\_
- ☐ Other \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_

### FOR CENTRAL ADMINISTRATION OFFICE USE ONLY

As noted above, the student was invited to the District's TDP held on \_\_\_\_\_ and/or \_\_\_\_\_. The student ☐ ATTENDED  
☐ FAILED TO ATTEND the TDP. The student's parent/guardian ☐ ATTENDED ☐ FAILED TO ATTEND the TDP with the student.

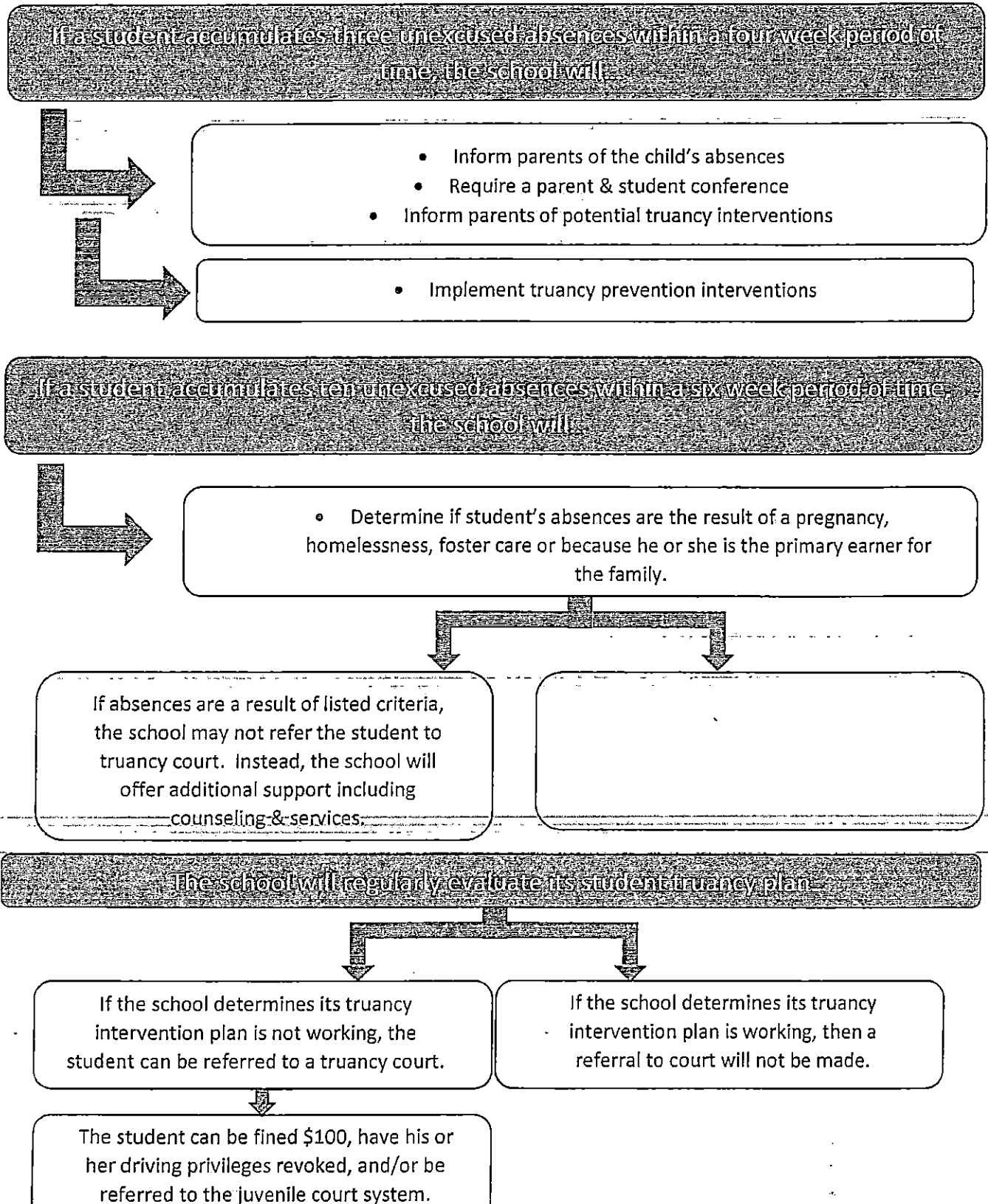
The student and parent ☐ COMPLETED ☐ FAILED TO COMPLETE a Student Attendance Contract while at TDP.

Attendance Specialist/Attendance Officer

Signature

Date

Targeting Truancy



## **Lamar Consolidated ISD Truancy Interventions & Attendance Incentives**

### **Campus Attendance Incentives**

- Semester Final Exam Exemptions (3 absences or less)
- Academic & Attendance Pep Rallies
- Attendance Rewards (acknowledgments, certificates, stickers, pens)
- Campus staff positive encouragement for good attendance

### **Truancy Interventions**

- House Bill 2398 Truancy notification letter to parents & students
- District warning notices mailed at 3, 6 & 9 absence intervals
- Lost Credit Restoration Plan implemented at (10) absences
  1. No additional unexcused absences
  2. Required tutorial sessions to support mastery of course work
  3. Successful completion & mastery of course work
  4. Successful master of final exams
  5. Reinstatement of credit per the Attendance Review Committee
- Campus interventions
  1. Parent conference
  2. Home visits
  3. After-School Tutorials
  4. Credit Recovery Classes
  5. Extended School Day (Friday Night Lights, Saturday Class,)

### **District Attendance Data:**

Lamar CISD	Lamar CISD
Fall 2014 (Prior to HB)	Fall 2016 (Current Year)
96.4%	96.6%

### **LCISD Court Referral Data**

- 2014-2015: 382 court cases filed
- 2015-2016: 116 court cases filed through January 2016

## Campus Attendance & Truancy Prevention Measures

### CAMPUS/STUDENT INFORMATION

CAMPUS \_\_\_\_\_

STUDENT NAME \_\_\_\_\_ DOB \_\_\_\_\_ STUDENT ID \_\_\_\_\_

Date(s) of Absences \_\_\_\_\_

### Truancy Prevention Measures.

(Check all that apply)

- |   |             |
|---|-------------|
| <input type="checkbox"/> Automated call out to parent/guardian  | Date: _____ |
| <input type="checkbox"/> Warning Letter sent, along with a request for a conference   | Date: _____ |
| <input type="checkbox"/> Phone contact with parent  | Date: _____ |
| <input type="checkbox"/> Administrator conference with student  | Date: _____ |
| <input type="checkbox"/> Administrator conference with parent   | Date: _____ |
| <input type="checkbox"/> Behavior Plan  | Date: _____ |
| <input type="checkbox"/> After-School Detention   | Date: _____ |
| <input type="checkbox"/> Home Visit   | Date: _____ |
| <input type="checkbox"/> Referral to campus/district resources<br>(Counselor, Social Worker, Truancy/Dropout Prevention, etc)       | Date: _____ |
| <input type="checkbox"/> Conference: if referred for one of the four factors:<br>Pregnancy, Foster Care, Homeless, or Income Earner | Date: _____ |
| <input type="checkbox"/> Unable to contact parent/guardian  | Date: _____ |
| <input type="checkbox"/> Other  | Date: _____ |
| _____   | Date: _____ |
| _____   | Date: _____ |
| _____   | Date: _____ |

### Mandatory for cases referred to court (TEC.25.0915)

This statement certifies that the school applied the truancy prevention measures listed above to the student; and the prevention measures failed to meaningfully address the student's school attendance

The student receives Special Education Services \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_\_\_  
Campus Administrator

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## Needville ISD Truancy Process by Campus

As we prepare this I am including the flowchart describing the school responsibilities and truancy court responsibilities. Attempting to put this into normal language as a process is difficult due to the many variances and decisions made getting to that point. One thing we always include in the process is to base decisions on the "benefit of the child" so if the child really does have extenuating circumstances and truly is dedicated to helping him/herself, we will do everything in our power to help them catch-up academically so they are successful without filing through the truancy courts. When students miss, they are way behind on their academic work so our ultimate goal is to move them forward. If they show no remorse or care about their academic success, including the law, we will move toward truancy.

Another thing to remember is that age/campus level has variables. Needville Elementary (PK-4) is self-contained all day in one classroom so they take attendance one time per day and it is more of a parent issue than a student issue at this point. Middle School (grades 5-6) takes attendance 4 times per day due to class changes. Junior High (grades 7-8) takes attendance 7 times per day. High school takes attendance 8 times per day. Thus in high school, a student can be counted present for ADA purposes (2<sup>nd</sup> period) and be truant in 8<sup>th</sup> because they skip that last class because they are in a course they feel doesn't matter. You can see the many variables that can result in tracking this issue.

Here is an explanation but in reality we follow the flow-chart for the school responsibilities provided by the state.

### NHS Truancy Process (2015-16)

1. Automated system calls home on each absence.
2. Monitor attendance thru attendance reports to AP (assistant principal)
3. Attendance Clerk letters- (sent to parents)
  - a. 5 Days Excused absences
  - b. 3 Days Unexcused absences (1 week to turn in note or correct the unexcused absence or classify as extenuating circumstances)
4. CARC Director -AP (Compulsory Attendance Review Committee) meets with students and guardian in danger of truancy or loss of credit. The committee is made of 3 teachers, nurse and administrator.
  - a. 9 absences (non-medical) a CARC committee meets to determine intervention.
5. Credit Letter
  - a. Students sign contract after exceeding 9 absences (non-medical) to make up hours for credit
  - b. Parent conference to discuss attendance make up, grades, and possible truancy implications
  - a. Campus Behavior Intervention if absences continue including detentions afterschool, Saturday, ISS, or even in-district alternative school.
6. Truancy filed if other interventions not successful.

#### NJHS and Middle School Process:

- \* Automated Phone call per absence
- \* After 2nd unexcused absences- truancy warning letter goes home
- \* After 5 parent notes for excused absences - warning letter goes home informing parents their student has reached their 5th parent notes and to notify them unless they bring doctor notes, all absences after that point will be unexcused for remainder of semester.

If student continues to miss school and fails to bring a doctor note, we begin intervention:

- \* Phone Contact with Parent

If absences persist:

- \* Administrator meets with student

Next absence:

- \* Administrator calls parent

Once the student has more than 9 absences:

- \* CARC committee meets and is informed of students situation with absences
- \* Administrator will meet with the student to inform them that they now will have to make up the missed hours.

Student is given the chance to make up the hours, but if he fails to make up hours and continues to miss, truancy charges are then filed.

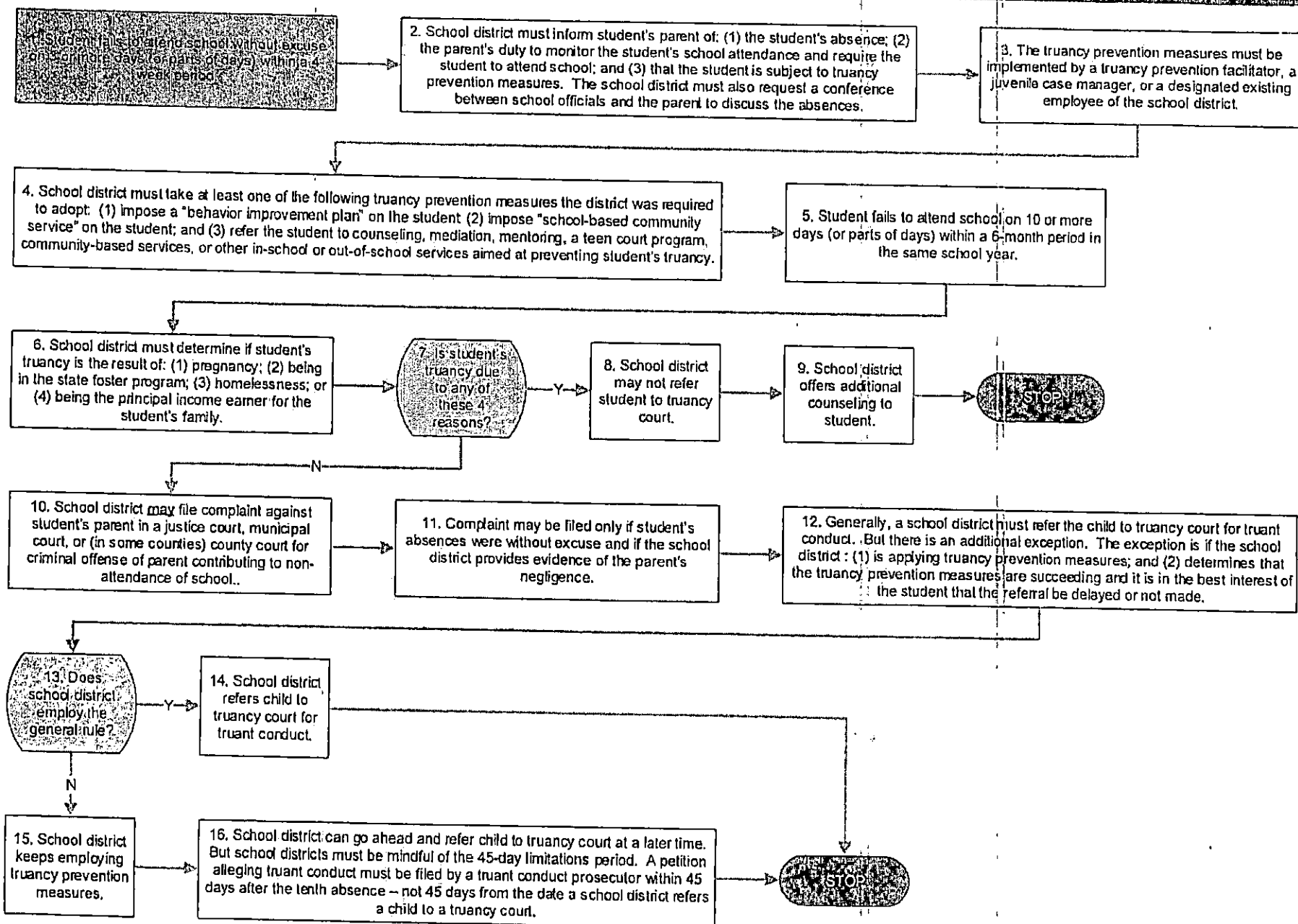
#### Needville Elementary School

(Automated calling system on each absence)

1. When students reach 5 absences in a semester (excused or unexcused) a letter is sent home to the parents just for their information.
2. If students have 10 unexcused absences in a 6 month period or 3 unexcused absences in a four week period, we send home warning letter. This letter is to be sign and returned. If attendance issues are not corrected, we would follow the flowchart (Have not had to do this since it was put place)
3. All students exceeding 9 absences in a semester are referred to the CARC committee. The committee looks at the absences and determines whether the student is granted credit for the class, denied credit, or given opportunity to make up time by attending Saturday school.

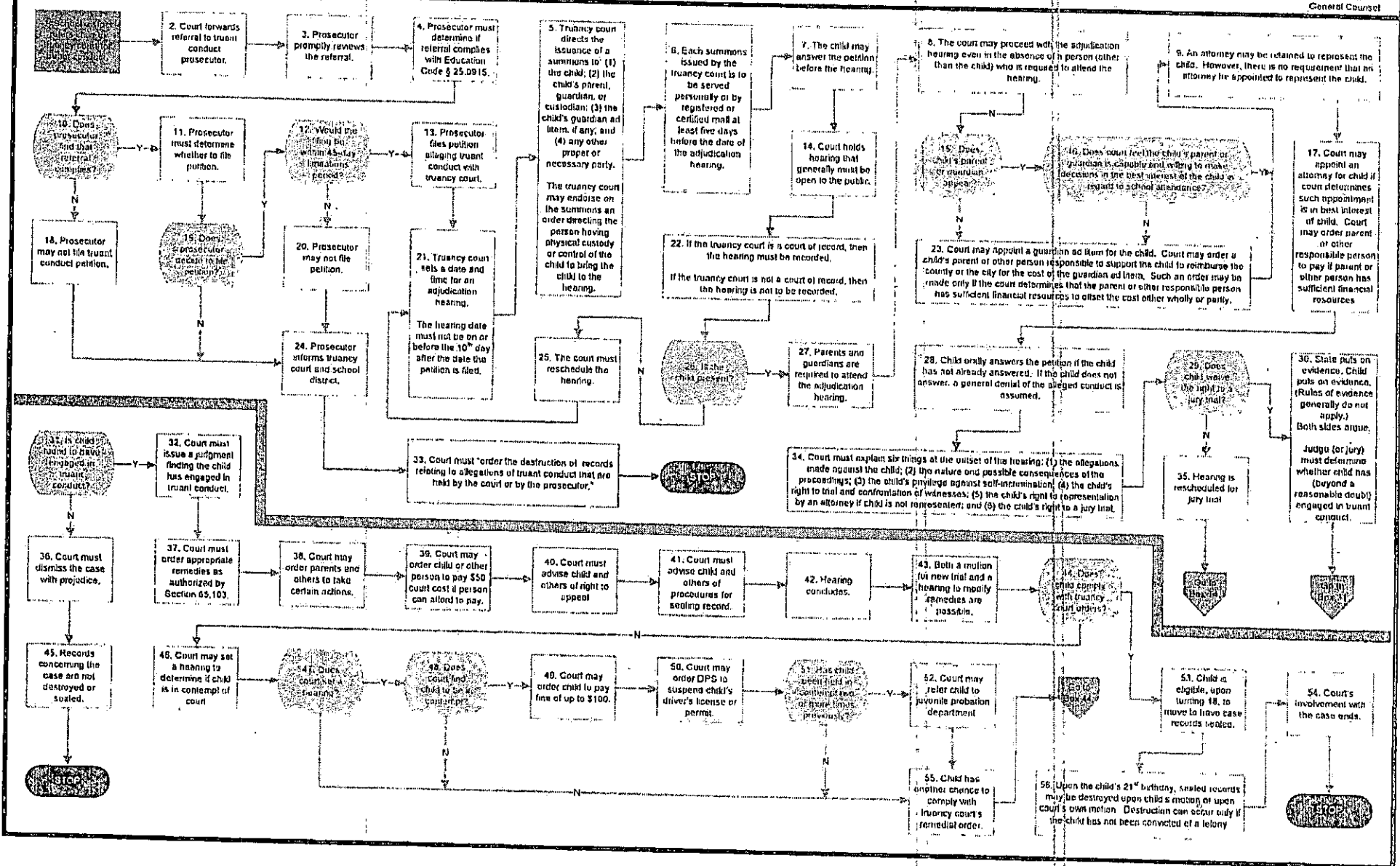
## School Responsibilities Regarding Truancy

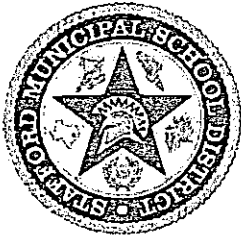
Ted Wood  
Assistant  
General Counsel





# Truancy Court Procedures





## **Stafford MSD Truancy Interventions & Attendance Incentives**

### **Campus Attendance Incentives**

- Semester Final Exam Exemptions (3 absences or less)
- Attendance Rewards (acknowledgments, certificates, ice cream social)
- Campus staff positive encouragement for good attendance

### **Truancy Interventions**

- House Bill 2398 Truancy notification letter to parents & students
- District warning notices mailed at 3, 5 & 9 absence intervals
- Lost Credit Restoration Plan implemented every semester
  1. No additional unexcused absences
  2. Required tutorial sessions to support mastery of course work
  3. Successful completion & mastery of course work
  4. Successful master of final exams
  5. Reinstatement of credit per the Attendance Review Committee
- Campus interventions
  1. Parent conference
  2. Behavior/Attendance contracts
  3. Home visits
  4. After-School Tutorials



## Stafford MSD

### Attendance and Truancy Process

When a student is marked absent

- Automated phone calls will be placed to parents or guardians notifying them when the student has been marked absent

When a student accumulates three unexcused absences in a four week period

- Attendance clerk will mail a truancy warning letter to parents or guardians
- AP will require a student conference
- AP will implement a truancy preventive plan
- AP will contact parent

When a student accumulates five unexcused absences within a six week period

- Attendance clerk will mail second truancy warning letter to parents or guardians
- AP will require a parent & student conference
- AP will implement a truancy attendance plan
- Counselors will conduct group counseling every six weeks for student who have five or more unexcused absences in a six weeks

When a student accumulates nine unexcused absences

- AP will require a parent & student conference
- AP will implement a Student Behavior/Attendance Contract
- AP will discuss loss of credit and possible credit recovery
- Student will be referred to counselor



## STAFFORD MSD

### Attendance & Truancy Prevention Measures

STUDENT NAME \_\_\_\_\_ DOB \_\_\_\_\_ STUDENT ID \_\_\_\_\_

Date(s) of Absences \_\_\_\_\_

#### Truancy Prevention Measures.

(Check all that apply)

- ☐ Automated call out to parent/guardian
- ☐ 1<sup>st</sup> Warning Letter mailed home Date: \_\_\_\_\_
- ☐ 2<sup>nd</sup> Warning Letter mailed, along with a request for a conference Date: \_\_\_\_\_
- ☐ Phone contact with parent (include summary) \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_
- ☐ Administrator conference with student (include summary) \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_
- ☐ Administrator conference with parent and student (include summary) \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_
- ☐ Referral to Counselor Date: \_\_\_\_\_
- ☐ Group Counseling – Truancy Date: \_\_\_\_\_
- ☐ Attendance Contract developed during parent and student conference Date: \_\_\_\_\_
- ☐ Behavior Plan/Truancy Action Plan (Attach) Date: \_\_\_\_\_
- ☐ Home Visit Date: \_\_\_\_\_
- ☐ Referral to Quest: if referred for one of the four factors:  
Pregnancy, Foster Care, Homeless, or Income Earner Date: \_\_\_\_\_
- ☐ Unable to contact parent/guardian (include summary of attempts) \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_
- ☐ Other \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_

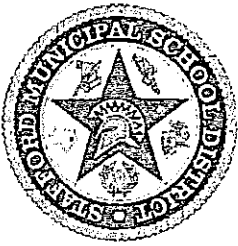
The student receives Special Education Services \_\_\_\_\_ Yes \_\_\_\_\_ No

This statement certifies that the school applied the truancy prevention measures listed above to the student; and the prevention measures succeeded in/failed to meaningfully address the student's school attendance

\_\_\_\_\_  
Campus Administrator

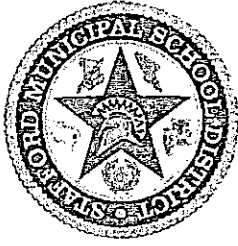
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## Stafford High School Truancy Process

1. Automated phone calls will be placed to parents or guardians notifying them when a student has been marked absent. It is the parent's or guardian's responsibility to ensure that he/she provides current and up-to-date contact information to the school.
2. Assistant principals will monitor student attendance through attendance reports provided by attendance clerk, every three weeks.
3. Counselors will conduct group counseling every six weeks for students who have five or more unexcused absences in a six weeks.
4. Attendance clerk will mail a truancy warning letter to parents or guardians when:
  - a. A student has three unexcused absences within a four week period during the school year
  - b. A student has five or more unexcused absences within a six week period during the school year.
5. Upon the third unexcused absence, the assistant principal will require a student conference and contact parents. The assistant principal will implement a truancy preventive plan.
6. Upon the fifth unexcused absence, the assistant principal will meet with the parent and student to discuss attendance, make up work, grades and possible truancy implications. The assistant principal will implement a truancy attendance contract. The student will also be referred to the counselor.
7. Upon the ninth unexcused, the assistant principal will request a conference with the student and parent or guardian for the purpose of addressing truancy prevention measures for students who exhibit attendance issues in order to improve the student's overall attendance.
  - a. Conference will include credit loss and credit recovery
  - b. Truancy attendance plan will be signed by student, parent and administrator
8. At the beginning every semesters, any student who attends at least 75 percent but fewer than 90 percent of the days the class is offered, will have the opportunity to complete make up hours (approved the principal) for credit recovery.
9. Any student who attends less than 75 percent of the days a class is offered, will be referred to the attendance review committee to determine whether there are extenuating circumstances for the absences and how the student can regain credit lost because of absences.



## Stafford MSD Attendance Contract

Date \_\_\_\_\_

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

D.O.B: \_\_\_\_\_ Student ID: \_\_\_\_\_

Parent/Guardian: \_\_\_\_\_

Phone #: \_\_\_\_\_ Email: \_\_\_\_\_

We are committed to working with each student and his/her family to encourage excellent student attendance. Regular school attendance is essential for you to make the most of your education; therefore, you should make every effort to avoid unnecessary absences.

The following behaviors are the behaviors that I agree to improve:

1. I will make every effort to be in school every day.
2. I will arrive daily to school on time.
3. I will attend all of my classes.
4. I understand that the school will notify my parent/guardian every time I am absent.
5. I will submit all valid excuse notes to the Attendance Clerk the next day of attendance.
6. I understand that I can lose credit in a course if I am not in attendance 90 percent of the class.
7. I will make-up all missing work within two days of any absence.

Student Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Parent/Guardian Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Counselor Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Assistant Principal Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# Stafford MSD

## Truancy Attendance Plan

Regular school attendance is critical to academic achievement. The school is responsible for working with each student and his/her family to encourage school attendance. This contract is an agreement between the school, the student, and the family to improve school attendance.

<b>Date:</b>	<b>Grade:</b>
<b>First Name:</b>	<b>Last Name:</b>
<b>D.O.B:</b>	<b>Student ID:</b>
<b>Parent/Guardian:</b>	<b>Phone:</b>
<b>Address:</b>	<b>Email:</b>

### Truancy Factors

<b>Student explanation of truancy:</b>
<b>Parent explanation of truancy:</b>

### Possible Causes for Truancy

x	Check all that apply	x	Check all that apply	Comments
<input type="checkbox"/>	Documented illness	<input type="checkbox"/>	Transition issues	
<input type="checkbox"/>	Mental health concerns	<input type="checkbox"/>	Substance issues	
<input type="checkbox"/>	Home challenges	<input type="checkbox"/>	Legal issues	
<input type="checkbox"/>	Relationship/social issues	<input type="checkbox"/>	Motivation issues	
<input type="checkbox"/>	School avoidance	<input type="checkbox"/>	Socioeconomic issues	
<input type="checkbox"/>	Poor Self Esteem	<input type="checkbox"/>	Bullying issues	
<input type="checkbox"/>	Academic challenges	<input type="checkbox"/>	Other	

### Solutions/Outcomes

x	Student will...	x	Student will...
<input type="checkbox"/>	Go to bed earlier	<input type="checkbox"/>	Make teachers aware of social concerns
<input type="checkbox"/>	Wake up earlier	<input type="checkbox"/>	Communicate with an administrator or counselor any concerns about social, academic, or attendance issues
<input type="checkbox"/>	Develop a proactive morning routine	<input type="checkbox"/>	Ask teacher for help on concepts not understood
<input type="checkbox"/>	Ride the school bus	<input type="checkbox"/>	Attend tutorials
<input type="checkbox"/>	Ensure homework is completed nightly	<input type="checkbox"/>	Arrive daily to school on time
<input type="checkbox"/>	Attend counseling on campus	<input type="checkbox"/>	Get to all class periods on time
<input type="checkbox"/>	Develop healthy relationships	<input type="checkbox"/>	Maintain regular school attendance
<input type="checkbox"/>	Talk to an adult on campus as needed	<input type="checkbox"/>	Submit all valid excuse notes to the Attendance Clerk

x	Family will...	x	Family will...
	Make sure child wakes up earlier		Communicate with child daily regarding attendance
	Inform attendance clerk by phone of daily absences on the day of the absence		Communicate with administrator and counselors at school proactively
	Provide a note upon return for any day of absence		Provide any medical documentation that might affect attendance
	Bring child in to the school office when the child is late		Communicate with teachers regarding any academic issues
	Have the child ride the school bus		Other
	Bring the child to school		Other
	Identify a back-up means of transportation		Other

x	School will...	x	School will...
	Schedule future follow up meetings		Follow up with student weekly
	Provide counseling		Have teachers contact parent pertaining to grades and attendance
	Check child's attendance and grades		Contact parent immediately when student has unexcused absences
	Provide tutoring before or after school		Other

I, \_\_\_\_\_, understand that I am being asked to sign an attendance contract because I have been displaying behaviors consistent with a chronic attendance problem. Regular school attendance is important in order for me to maintain passing grades and to remain on track for graduation. As a student at Stafford High School, I understand that it is important for me to follow all rules and regulations. In addition, the school will provide me with opportunities to meet with my counselor and administrator to discuss concerns as they arise.

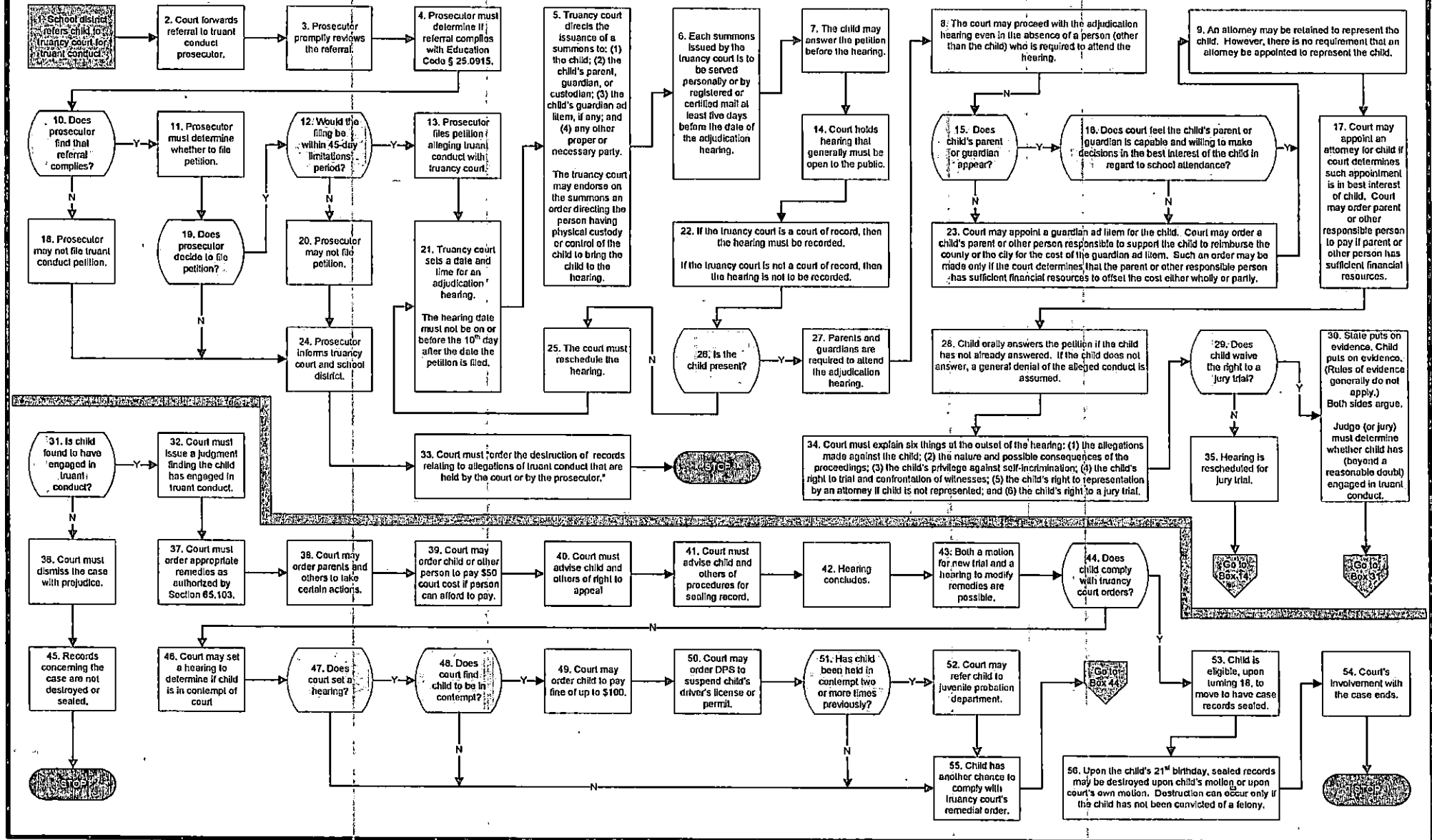
I understand that if I violate this agreement, I will be responsible for the consequences assigned to me, as so determined by the school. I also understand that if I accumulate 5 unexcused absences in a class again, I can automatically lose credit in that course.

We will meet again to review the student's attendance plan on: \_\_\_\_\_

Signatures	Date
Student Signature	
Parent/Guardian Signature:	
Counselor Signature:	
Assistant Principal Signature:	
Principal Signature:	



# Truancy Court Procedures



# **Step-by-Step Commentary Accompanying Flowchart for Truancy Court Procedures**

July 2015

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### **Box 1. School district refers child to truancy court for truant conduct.**

A school district must usually refer a child to a truancy court to face an allegation of truant conduct in certain circumstances. Such circumstances exist if a child fails to attend school without excuse on a prescribed number of days. Specifically, a child must miss school on ten or more days (or parts of days) within a six-month period in the same school year. Education Code § 25.0951(a).

The school district is required to make the referral "within 10 school days of the student's 10<sup>th</sup> absence." *Id.*

There are exceptions to the referral requirement discussed above. These exceptions are set out in Section 25.0951(d) of the Education Code.

The school district's referral has no set form, but is envisioned to be a written document.

**Move to Box 2.**

### **Box 2. Court forwards referral to truant conduct prosecutor.**

A school district's referral must meet certain requirements. But a truancy court receiving such a referral is not to examine the referral for defects. Rather, the truancy court is simply required to forward the referral to the truant conduct prosecutor. Family Code § 65.051.

Section 65.051 requires the court to forward the referral if the court is not required to dismiss the referral under Education Code § 25.0915. But nothing in Section 25.0915 requires the court to dismiss a referral prior to forwarding the referral to the truant conduct prosecutor. Thus, a truancy court must always forward a school district's referral to a truant conduct prosecutor.

Family Code § 65.052 describes a truant conduct prosecutor as follows:

~~"In a justice or municipal court or a constitutional county court~~  
that is designated as a truancy court, the attorney who represents  
the state in criminal matters in that court shall serve as the  
truant conduct prosecutor.

**Go to Box 3.**

### **Box 3. Prosecutor promptly reviews the referral.**

Upon receiving a referral from the truancy court, the truant conduct prosecutor is required to "promptly review the facts describe in [the] referral." Family Code § 65.053(a). There is no set period of time within which the prosecutor must perform this review. The statute simply instructs the prosecutor to perform his or her review promptly. *Id.* This make sense because any petition alleging that the child has engaged in truant conduct must be filed within a short time period. Specifically, a petition must be filed no later than the 45<sup>th</sup> day after the last absence giving rise to the act of truant conduct. Family Code § 65.055.

Go to Box 4.

### **Box 4. Prosecutor must determine if referral complies with Education Code § 25.0915.**

As part of his or her review, the prosecutor must determine whether the referral was made in compliance with Education Code, Section 25.0915. Family Code § 65.053(c). A referral complies if the referral:

- (1) is not for a student whose truancy is determined by the school to be the result of: (a) pregnancy; (b) being in the state foster program; (c) homelessness; or (d) being the principle income earner for the student's family;
- (2) specifies whether the student is eligible for (or receives) special education services under Subchapter A of Section 29 of the Education Code;
- (3) is accompanied by a statement from the student's school certifying that the school applied the "truancy prevention measures" adopted under Subsection (a) or (a-4) of Education Code, Section 25.0915; and
- (4) is accompanied by a statement from the student's school certifying that the truancy prevention measures failed to meaningfully address the student's school attendance.

Advance to Box 10.

**Box 5. Truancy court directs the issuance of a summons to: (1) the child; (2) the child's parent, guardian, or custodian; (3) the child's guardian ad litem, if any; and (4) any other proper or necessary party. The truancy court may endorse on the summons an order directing the person having physical custody or control of the child to bring the child to the hearing.**

The statute requiring a summons to be issued to the persons set out above is Family Code § 65.057(a), (c). The summons must require the person to appear before the court at the place, date, and time of the adjudication hearing. Family Code § 65.057(b). At the adjudication hearing, the person summoned will be required to answer the allegations of the petition. *Id.* A copy of the petition must accompany the summons. *Id.*

"The truancy court may endorse on the summons an order directing the person having the physical custody or control of the child to bring the child to the hearing." Family Code § 65.057(c).

Go to Box 6.

**Box 6. Each summons issued by the truancy court is to be served personally or by registered or certified mail at least five days before the date of the adjudication hearing.**

See Family Code § 65.058(a). Service of the summons may be made by any suitable person under the direction of the court. Family Code § 65.058(b).

"A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing." Family Code § 65.057(d).

~~Go to Box 7.~~

**Box 7. The child may answer the petition before the hearing.**

"After the petition has been filed, the child may answer, orally or in writing, the petition at or before the commencement of the hearing." Family Code § 65.060.

There is no set way in which the child is to answer. But a plea of guilty or not guilty would not be appropriate since the case is not criminal. A child can "admit" or

"deny" the allegations in the petition. Another possible way to plead would be "true" or "not true."

Advance to Box 14.

**Box 8. The court may proceed with the adjudication hearing even in the absence of a person (other than the child) who is required to attend the hearing.**

"If a person, other than the child, required to appear under this section [Family Code § 65.057] fails to attend a hearing, the truancy court may proceed with the hearing." Family Code § 65.057(b).

Go to Box 15.

**Box 9. An attorney may be retained to represent the child. However, there is no requirement that an attorney be appointed to represent the child.**

"A child may be represented by an attorney in a case under this chapter. Representation by an attorney is not required." Family Code § 65.059(a).

Go to Box 17.

**Box 10. Does prosecutor find that referral complies?**

If yes, then go to Box 11. If no, then go to Box 18.

**Box 11. Prosecutor must determine whether to file petition.**

The decision to file a petition that complies with Education Code § 25.0915 lies entirely with the prosecutor. See Family Code § 65.053(b). The decision is a matter of prosecutorial discretion.

Go to Box 19.

**Box 12. Would the filing be within 45-day limitations period?**

"A petition may not be filed after the 45<sup>th</sup> day after the date of the last absence giving rise to the act of truant conduct." Family Code § 65.055.

If yes, then go to Box 13. If no, then go to Box 20.

**Box 13. Prosecutor files petition alleging truant conduct with truancy court.**

A petition for an adjudication of a child for truant conduct initiates an action of the state against a student who has allegedly engaged in truant conduct. Family Code § 65.054(a). The form and contents of the petition are detailed in Family Code § 65.054 as follows:

(b) The proceedings shall be styled "In the matter of \_\_\_\_\_, Child," identifying the child by the child's initials only.

(c) The petition may be on information and belief.

(d) The petition must state:

(1) with reasonable particularity the time, place, and manner of the acts alleged to constitute truant conduct;

(2) the name, age, and residence address, if known, of the child who is the subject of the petition;

(3) the names and residence addresses, if known, of at least one parent, guardian, or custodian of the child and of the child's spouse, if any; and

(4) if the child's parent, guardian, or custodian does not reside or cannot be found in the state, or if their places of residence are unknown, the name and residence address of any known adult relative residing in the county or, if there is none, the name and residence address of the known adult relative residing nearest to the location of the court.

No filing fee is required. Family Code § 65.054(e).

Go to Box 21.

**Box 14. Court holds hearing that generally must be open to the public.**

The law envisions a hearing in every case involving allegations of truant conduct. See Family Code §§ 65.056, 65.062, 65.101. Section 65.101 explicitly states that "[a] child may be found to have engaged in truant conduct only after an adjudication hearing

conducted in accordance with the provisions of [Chapter 65]." This means that a child may not simply plead true to the allegations and avoid showing up in court.

As a general rule, truancy courts are required to be open to the public. There is an exception to this general open-court rule if the court determines that the public should be excluded. Family Code § 65.015(a).

Go to Box 22.

**Box 15. Does child's parent or guardian appear?**

If yes, then go to Box 16. If no, then go to Box 23.

**Box 16. Does court feel the child's parent or guardian is capable and willing to make decisions in the best interest of the child in regard to school attendance?**

If yes, then go to Box 9. If no, then go to Box 23.

**Box 17. Court may appoint an attorney for child if court determines such appointment is in best interest of child. Court may order parent or other responsible person to pay if parent or other person has sufficient financial resources.**

"A child is not entitled to have an attorney appointed to represent the child, but the court may appoint an attorney if the court determines it is in the best interest of the child." Family Code § 65.059(b).

"The court may order a child's parent or other responsible person to pay for the cost of an attorney appointed under this section if the court determines that the person has sufficient financial resources." Family Code § 65.059(c).

Move to Box 28.



**Box 18. Prosecutor may not file truant conduct petition.**

"The prosecutor may not file a petition for an adjudication of a child for truant conduct if the referral was not made in compliance with Section 25.0915, Education Code." Family Code § 65.053(c).

Go to Box 24.

**Box 19. Does prosecutor decide to file petition?**

If yes, then go to Box 12. If no, then go to Box 24.

**Box 20. Prosecutor may not file petition.**

"A petition may not be filed after the 45<sup>th</sup> day after the date of the last absence giving rise to the act of truant conduct." Family Code § 65.055.

Go to Box 24.

**Box 21. Truancy court sets a date and time for an adjudication hearing. The hearing date must not be on or before the 10<sup>th</sup> day after the date the petition is filed.**

See Family Code § 65.056(a).

Go to Box 5.

**Box 22. If the truancy court is a court of record, then the hearing must be recorded. If the truancy court is not a court of record, then the hearing is not to be recorded.**

"The proceedings in a truancy court that is a court of record must be recorded by stenographic notes or by electronic, mechanical, or other appropriate means." Family Code § 65.016(b). "The proceedings in a truancy court that is not a court of record may not be recorded." Family Code § 65.016(a).

Move to Box 26.

**Box 23. Court may appoint a guardian ad litem for the child. Court may order a child's parent or other person responsible to support the child to reimburse the county or the city for the cost of the guardian ad litem. Such an order may be made only if the court determines that the parent or other responsible person has sufficient resources to offset the cost either wholly or partly.**

"If a child appears before the truancy court without a parent or guardian, or it appears to the court that the child's parent or guardian is incapable or unwilling to make decisions in the best interest of the child with respect to proceedings under this chapter, the court may appoint a guardian ad litem to protect the interests of the child in the proceedings." Family Code § 65.061(a).

"The court may order a child's parent or other person responsible to support the child to reimburse the county or municipality for the cost of the guardian ad litem. The court may issue the order only after determining that the parent or other responsible person has sufficient financial resources to offset the cost of the child's guardian ad litem wholly or partly." Family Code § 65.061(c).

Please note that an attorney for a child may also be the child's ad litem. Family Code § 65.061(b). "A law enforcement officer, probation officer, or other employee of the truancy court may not be appointed as a guardian ad litem." Family Code § 65.061(b).

Go to Box 9.

**Box 24. Prosecutor informs truancy court and school district.**

"If the prosecutor decides not to file a petition requesting an adjudication, the prosecutor shall inform the truancy court and the school district of the decision." Family Code § 65.053(b).

Go to Box 33.

**Box 25. The court must reschedule the hearing.**

"The child must be personally present at the adjudication hearing. The truancy court may not proceed with the adjudication hearing in the absence of the child." Family Code §65.062(a).

Return to Box 21.

**Box 26. Is the child present?**

"The child must be personally present at the adjudication hearing. The truancy court may not proceed with the adjudication hearing in the absence of the child." Family Code §65.062(a).

If yes, then go to Box 27. If no, then go to Box 25.

**Box 27. Parents and guardians are required to attend the adjudication hearing.**

"A parent or guardian of a child and any court-appointed guardian ad litem of a child is required to attend the adjudication hearing." Family Code § 65.062(b). This rule "does not apply to: (1) a person for whom, for good cause shown, the court excuses attendance; (2) a person who is not a resident of this state; or (3) a parent of a child for whom a managing conservator has been appointed and the parent is not the conservator of the child." Family Code § 65.062(c).

Go to Box 8.

**Box 28. Child orally answers the petition if the child has not already answered. If the child does not answer, a general denial of the alleged conduct is assumed.**

"After the petition has been filed, the child may answer, orally or in writing, the petition at or before the commencement of the hearing." Family Code § 65.060.

There is no set way in which the child is to answer. But a plea of guilty or not guilty would not be appropriate since the case is not criminal. A child can "admit" or "deny" the allegations in the petition. Another possible way to plead would be "true" or "not true."

If for some reason the child does not enter a plea, the court is to treat the non-response as a general denial.

Advance to Box 34.

**Box 29. Does child waive the right to a jury trial?**

If yes, then go to Box 30. If no, then go to Box 35.

**Box 30. State puts on evidence. Child puts on evidence. (Rules of evidence generally do not apply.) Both sides argue. Judge (or jury) must determine whether child has (beyond a reasonable doubt) engaged in truant conduct.**

The State has the burden of proof to show that the child engaged in truant conduct. The burden of persuasion is "beyond a reasonable doubt" as in criminal cases. See Family Code § 65.010.

As the party with the burden of proof, the State introduces its evidence first. The child is the next to introduce evidence. Both sides argue at the end.

The factfinder (typically the judge, but possibly the jury) has a responsibility to make just one determination. That determination is whether the child engaged in truant conduct. Family Code § 65.101(f) ("At the conclusion of the adjudication hearing, the court or jury shall find whether the child has engaged in truant conduct.") The finding of the factfinder must be based on competent evidence admitted at the hearing. *Id.*

Go to Box 31.

**Box 31. Is child found to have engaged in truant conduct?**

If yes, then go to Box 32. If no, then go to Box 36.

**Box 32. Court must issue a judgment finding the child has engaged in truant conduct.**

"If the court or jury finds that the child did engage in truant conduct, the court shall proceed to issue a judgment finding the child has engaged in truant conduct . . . ." Family Code § 65.101(h).

Go to Box 37.

**Box 33. Court must "order the destruction of records relating to allegations of truant conduct that are held by the court or by the prosecutor."**

"A truancy court shall order the destruction of records relating to allegations of truant conduct that are held by the court or by the prosecutor if a prosecutor decides not to file a petition for an adjudication of truant conduct after a review of the referral under Section 65.053." Family Code § 65.203.

**Stop.**

**Box 34. Court must explain six things at the outset of the hearing: (1) the allegations made against the child; (2) the nature and possible consequences of the proceedings; (3) the child's privilege against self-incrimination; (4) the child's right to trial and confrontation of witnesses; (5) the child's right to representation by an attorney if child is not represented; and (6) the child's right to a jury trial.**

These explanations are required by Family Code § 65.101. An adjudication hearing should never be conducted without the truancy court explaining these six things.

Go to Box 29.

**Box 35. Hearing is rescheduled for jury trial.**

A child accused of engaging in truant conduct has the right to a jury trial. Family Code §§ 65.007, 65.101(b)(6), 65.101(c).

The number of jurors is set at six. Family Code § 65.007(b). Both sides are entitled to three peremptory challenges. *Id.* There is no fee for a jury. Jury verdicts must be unanimous. Family Code § 65.101(c).

If the child declines to waive his or her right to a jury, then the court will have to stop the hearing and reschedule the case. Once the case is rescheduled for a jury trial, the hearing process starts again.

~~Return to Box 14.~~

**Box 36. Court must dismiss the case with prejudice.**

"If the court or jury finds that the child did not engage in truant conduct, the court shall dismiss the case with prejudice." Family Code § 65.101(g).

Go to Box 45.

**Box 37. Court must order appropriate remedies as authorized by  
Section 65.103.**

"If the court or jury finds that the child did engage in truant conduct, the court shall . . . order the remedies the court finds appropriate under Section 65.103. Family Code § 65.101(h).

The court is required to orally pronounce the court's remedial actions. Family Code, § 65.102. The remedial actions are also to be entered in a written order. *Id.*

Section 65.103 lists the possible remedies. The entire statute is set out below:

Sec. 65.103. REMEDIAL ORDER. (a) A truancy court may enter a remedial order requiring a child who has been found to have engaged in truant conduct to:

- (1) attend school without unexcused absences;
- (2) attend a preparatory class for the high school equivalency examination administered under Section 7.111, Education Code, if the court determines that the individual is unlikely to do well in a formal classroom environment due to the individual's age;
- (3) if the child is at least 16 years of age, take the high school equivalency examination administered under Section 7.111, Education Code, if that is in the best interest of the child;
- (4) attend a nonprofit, community-based special program that the court determines to be in the best interest of the child, including:
  - (A) an alcohol and drug abuse program;
  - (B) a rehabilitation program;
  - (C) a counseling program, including a self-improvement program;
  - (D) a program that provides training in self-esteem and leadership;
  - (E) a work and job skills training program;
  - (F) a program that provides training in parenting, including parental responsibility;
  - (G) a program that provides training in manners;
  - (H) a program that provides training in violence avoidance;
  - (I) a program that provides sensitivity training; and
  - (J) a program that provides training in advocacy and mentoring;

- (5) complete not more than 50 hours of community service on a project acceptable to the court; and
  - (6) participate for a specified number of hours in a tutorial program covering the academic subjects in which the child is enrolled that are provided by the school the child attends;
- (b) A truancy court may not order a child who has been found to have engaged in truant conduct to:
- (1) attend a juvenile justice alternative education program, a boot camp, or a for-profit truancy class; or
  - (2) perform more than 16 hours of community service per week under this section.
- (c) In addition to any other order authorized by this section, a truancy court may order the Department of Public Safety to suspend the driver's license or permit of a child who has been found to have engaged in truant conduct. If the child does not have a driver's license or permit, the court may order the Department of Public Safety to deny the issuance of a license or permit to the child. The period of the license or permit suspension or the order that the issuance of a license or permit be denied may not extend beyond the maximum time period that a remedial order is effective as provided by Section 65.104.

Please note that the court always determines the remedies to be ordered. "The jury is not involved in ordering remedies for a child who has been adjudicated as having engaged in truant conduct." Family Code § 65.101(h).

Go to Box 38.

### **Box 38. Court may order parents and others to take certain actions.**

If a child is found to have engaged in truant conduct, then the truancy court may ~~issue certain orders affecting parents and others. There are seven specific things that~~ may be ordered. Under Family Code § 65.105(a), the truancy court may:

- (1) order the child and the child's parent to attend a class for students at risk of dropping out of school that is designed for both the child and the child's parent;
- (2) order any person found by the court to have, by a willful act or omission, contributed to, caused, or encouraged the child's truant conduct to do any act



that the court determines to be reasonable and necessary for the welfare of the child or to refrain from doing any act that the court determines to be injurious to the child's welfare;

- (3) enjoin all contact between the child and a person who is found to be a contributing cause of the child's conduct, unless that person is related to the child within the third degree by consanguinity or affinity, in which case the court may contact the Department of Family and Protective Services, if necessary;
- (4) after notice to, and a hearing with, all persons affected, order any person living in the same household with the child to participate in social or psychological counseling to assist in the child's rehabilitation;
- (5) order the child's parent or other person responsible for the child's support to pay all or part of the reasonable costs of treatment programs in which the child is ordered to participate if the court finds the child's parent or person responsible for the child's support is able to pay the costs;
- (6) order the child's parent to attend a program for parents of students with unexcused absences that provides instruction designed to assist those parents in identifying problems that contribute to the child's unexcused absences and in developing strategies for resolving those problems; and
- (7) order the child's parent to perform not more than 50 hours of community service with the child.

Please note that the person subject to an order is entitled to a hearing before an order affecting the person is entered. Family Code § 65.105(b). But while the person is entitled to a hearing, there is no requirement that the court hold a hearing if the person does not exercise his or her entitlement.

Go to Box 39.

~~Box 39. Court may order child or other person to pay \$50 court cost if person can afford to pay.~~

"If a child is found to have engaged in truant conduct, the truancy court, after giving the child, parent, or other person responsible for the child's support a reasonable opportunity to be heard, shall order the child, parent, or other person, if financially able to do so, to pay a court cost of \$50 to the clerk of the court." Family Code § 65.107(a).

"The court's order to pay the \$50 court cost is not effective unless the order is reduced to writing and signed by the judge. The written order to pay the court cost may be part of the court's order detailing the remedial actions in the case." Family Code § 65.107(b).

Please note that the funds collected may only be used to offset the costs of the operation of the truancy court. Family Code § 65.107(d).

Go to Box 40.

**Box 40. Court must advise child and others of right to appeal.**

"After pronouncing the court's remedial actions, the court shall advise the child and the child's parent, guardian, or guardian ad litem of: (1) the child's right to appeal, as detailed in Subchapter D [Sections 65.151 – 65.153]." Family Code § 65.102.

Go to Box 41.

**Box 41. Court must advise child and others of procedures for sealing record.**

"After pronouncing the court's remedial actions, the court shall advise the child and the child's parent, guardian, or guardian ad litem of: . . . (2) the procedures for the sealing of the child's records under Section 65.201. Family Code § 65.102.

Go to Box 42.

**Box 42. Hearing Concludes.**

Go to Box 43.

**Box 43. Both a motion for new trial and a hearing to modify remedies are possible.**

Truancy judges should be aware that changes to the court's initial order are possible through both of these mechanisms.

Motions for new trial are authorized by Family Code § 65.109. The statute announces that Rules 505.3(c) and (e) of the Texas Rules of Civil Procedure apply to motions for new trial.

Family Code § 65.108 deals with hearings to modify remedies. Subsection (c) reads as follows:

"A hearing to modify a remedy imposed by the court shall be held on the petition of the state, the court, or the child and the child's parent, guardian, guardian ad litem, or attorney. Reasonable notice of a hearing to modify disposition shall be given to all parties."

Go to Box 44.

**Box 44. Does child comply with truancy court orders?**

If yes, then go to Box 53. If no, then go to Box 46.

**Box 45. Records concerning the case are not destroyed or sealed.**

There is no statutory directive that courts destroy records of cases in which ~~children have been found to not have engaged in truant conduct. Records in these~~ situations are treated differently than records of school district referrals on which truant court prosecutors have decided not to file petitions. See Family Code § 65.203.

Also, no statute authorizes a child who has been found to not have engaged in truant conduct to seek a sealing order. Only children who have been found to have engaged in truant conduct and have complied with the court-ordered remedies may have their records sealed. See Family Code § 65.201 (although the child must be at least 18).

Accordingly, there is no further action to be taken at this point. (The records of these cases are generally confidential under Family Code § 65.202.) There are a few persons or entities that can access truancy case records even though the records are generally confidential. See discussion under Box 53.

The truancy court's involvement with the case is at an end.

**Stop.**

**Box 46. Court may set a hearing to determine if child is in contempt of court.**

"If a child fails to obey an order issued by a truancy court under Section 65.103(a) [court's remedial order], or a child is in direct contempt of court, the truancy court, after providing notice and an opportunity for a hearing, may hold the child in contempt of court . . . ." Family Code § 65.251(a).

Please note that this is the same procedure that is to be used in a situation involving direct contempt.

**Go to Box 47.**

**Box 47. Does court set a hearing?**

There is no requirement that a court entertain contempt charges against a child. This is an option.

If the court chooses not to entertain contempt charge, child is still under obligation to obey the court's remedial order. Whether this will happen remains to be seen

**If yes, then go to Box 48. If no, then go to Box 55.**

### **Box 48. Does court find child to be in contempt?**

If the court finds the child to be in contempt, then the court can take certain actions. These actions are discussed in Box 49.

If the court does not find the child to be in contempt, the child has another chance to comply with the court's remedial orders.

If yes, then go to Box 49. If no, then go to Box 55.

### **Box 49. Court may order child to pay fine of up to \$100.**

A truancy court can make two possible orders finding a child to be in contempt of court. The first is to order the child to pay a fine of up to \$100. Family Code § 65.251(a)(1).

Go to Box 50.

### **Box 50. Court may order DPS to suspend child's driver's license or permit.**

A truancy court can make two possible orders finding a child to be in contempt of court. The second is to order the Department of Public Safety [DPS] to suspend the child's driver's license or permit. Family Code § 65.251(a)(2). If the child does not have a license or permit, the court may order DPS to deny the issuance of a license or permit. These orders are meant to encourage the child to comply with the court's remedial orders. When the child fully complies, the DPS suspensions (and non-issuances) are no longer to be kept in effect.

Go to Box 51.

**Box 51. Has child been held in contempt two or more times previously?**

If yes, then go to Box 52. If no, then go to Box 55.

**Box 52. Court may refer child to juvenile probation department.**

"If a child fails to obey an order issued by a truancy court under Section 65.103(a) [court's remedial order] or a child is in direct contempt of court and the child has failed to obey an order or has been found in direct of contempt of court on two or more occasions, the truancy court, after providing notice and an opportunity for a hearing, may refer the child to the juvenile probation department as a request for truancy intervention, unless the child failed to obey the truancy order or was in direct contempt of court while 17 years of age or older." Family Code § 65.251(b).

The procedures within (and the options available to) the juvenile probation department and the juvenile court are fully described in Sections 65.251 and 65.252 of the Family Code. Those procedures will not be detailed here. Suffice it to say that the result of the referral is often an order of the juvenile court that the child continue to obey the truancy court's remedial orders.

This flowchart does not detail the procedures involved in holding a parent or person other than the child in contempt. These procedures are outlined in Family Code, Sections 65.253 through 65.259.

Go to Box 55.

**Box 53. Child is eligible, upon turning 18, to move to have case records sealed.**

Upon turning 18, a child who has been found to have engaged in truant conduct may have the records in his or her case sealed. Family Code § 65.201(a). The records in the case include all records held by the court, the truant conduct prosecutor, and the school district. Family Code § 65.201(a). The records may be sealed only if the child has complied with the remedies ordered by the truancy court. Family Code § 65.201(c).

The following subsections of Section 65.201 provide important details concerning a record that is sealed:

(d) All, index references to the records of the truancy court that are ordered sealed shall be deleted not later than the 30<sup>th</sup> day after the date of the sealing order.

(e) A truancy court, clerk of the court, truant conduct prosecutor, or school district shall reply to a request for information concerning a child's sealed truant conduct case that no record exists with respect to the child.

(f) Inspection of the sealed records may be permitted by an order of the truancy court on the petition of the person who is the subject of the records and only by those persons named in the order.

(g) A person whose records have been sealed under this section is not required in any proceeding or in any application for employment, information, or licensing to state that the person has been the subject of a proceeding under this chapter. Any statement that the person has never been found to have engaged in truant conduct may not be held against the person in any criminal or civil proceeding.

Please note that the records of truancy cases are generally confidential under Family Code § 65.202. No sealing order is necessary to make the cases generally confidential. There are a few persons or entities that can access truancy case records even though the records are generally confidential. These persons and entities are:

- (1) the judge of the truancy court, the truant conduct prosecutor, and the staff of the judge and prosecutor;
- (2) the child or an attorney for the child;
- (3) a governmental agency if the disclosure required or authorized by law;
- (4) a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;
- (5) the Texas Department of Criminal Justice and the Texas Juvenile Justice Department for the purpose of maintaining records or recidivism and for diagnosis and classification;
- (6) the agency; or

(7) with leave of the truancy court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

Go to Box 56.

**Box 54. Court's involvement with the case ends.**

Stop.

**Box 55. Child has another chance to comply with truancy court's remedial order.**

Return to Box 44.

**Box 56. Upon the child's 21<sup>st</sup> birthday, sealed records may be destroyed upon child's motion or upon court's own motion. Destruction can occur only if the child has not been convicted of a felony.**

"On or after the fifth anniversary of a child's 16<sup>th</sup> birthday, on the motion of the child or on the truancy court's own motion, the truancy court may order the destruction of the child's records that have been sealed under this section if the child has not been convicted of a felony." Family Code § 65.201(h).

Go to Box 54.