

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

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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 10th 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, the 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 45th day after the date of the last absence giving rise to the act of truant conduct.”

Stop.