

TEXAS SCHOOL FOR THE DEAF

ATTENDANCE COMPULSORY ATTENDANCE

FEA

COMPULSORY ATTENDANCE

Students who are at least six years of age, or who have been previously enrolled in first grade, and who have not yet reached their 19th birthday shall attend school for the entire period the program is offered, unless exempted as indicated below. Students enrolled in prekindergarten or kindergarten shall attend school.

VOLUNTARY ENROLLMENT OF STUDENTS 19 AND OVER

A person who voluntarily enrolls in school or voluntarily attends school after the person's 19th birthday shall attend school each school day for the entire period the program of instruction is offered.

After the third unexcused absence of a person who voluntarily enrolls, the School shall issue a warning letter to the person that states the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester.

The School may revoke for the remainder of the school year the enrollment of a person who has more than five absences which are not excused under the provisions of this policy in a semester if all special education procedures and safeguards are followed including but not limited to a Manifestation Determination Review (MDR) and except the School may not revoke the enrollment of a person under this provision on a day on which the person is physically present at the school.

A person whose enrollment is revoked for exceeding this limit may be considered an unauthorized person on school grounds for the purposes of Education Code 37.107 regarding trespassing.

As an alternative to revoking a person's enrollment, the School may impose a behavior improvement plan described by Education Code 25.0915(a-1)(1) and IDEA.

The School may, by policy, require the student to attend school until the end of the school year.

ACCELERATED / COMPENSATORY PROGRAMS

A student must also attend:

1. An extended-year program for which the student is eligible that is provided by the School for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Education Code 29.084; [see EHBC]
2. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g); [see EKC]
3. An accelerated instruction program to which the student is assigned under Education Code 28.0211; [see EIE]
4. A basic skills program to which the student is assigned under Education Code 29.086; or [see EHBC]
5. A summer program provided:
 - a. To a student placed in in-school suspension or other alternative

Adopted: 08-09-07
Amended: 12.14.07, 08.06.10,
12.12.2014, 05.06.16

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setting, other than a disciplinary alternative education program (DAEP), who has been offered the opportunity to complete each course in which the student was enrolled at the time of removal.

- b. To a student removed to a DAEP who has been offered an opportunity to complete coursework, before the beginning of the next school year.

Education Code 25.085

EXEMPTIONS

Students who meet one or more of the following conditions shall be exempt from compulsory attendance requirements:

EQUIVALENCY DIPLOMA 1. The student is at least 17 years of age and has been issued a high school equivalency certificate or diploma.

PRIVATE OR HOME SCHOOL 2. The student attends a private or parochial school that includes in its course a study of good citizenship.

A student in a home school shall be exempt from compulsory attendance if he or she is pursuing in good faith a curriculum consisting of books, workbooks, other written materials (including those that appear on an electronic screen of either a computer or video tape monitor), or any combination of these. The curriculum shall be designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship. TEA v. Leeper, 893 S.W.2d 432 (Tex. 1994)

SPECIAL EDUCATION NONDISTRICT PLACEMENT 3. The student is eligible to participate in a district's special education program under Education Code 29.003 and cannot be appropriately served by the resident district.

MEDICAL CONDITION 4. The student has a temporary and remediable physical or mental condition that renders attendance infeasible and the student has a certificate from a qualified physician that specifies the condition, indicates the prescribed treatment, and covers the anticipated time of absence needed for receiving and recuperating from remedial treatment.

EXPULSION— NO JJAEP 5. The student has been expelled in accordance with legal requirements in a district that does not participate in a mandatory juvenile justice alternative education program.

17-YEAR-OLD IN GED COURSE 6. The student is at least 17 years old, is attending a course of instruction to prepare for the high school equivalency examinations, and:

- a. Has the permission of the student's parent or guardian to attend the course;
- b. Is required by court order to attend the course;
- c. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; or

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d. Is homeless as defined by 42 U.S.C. 11302.

HIGH SCHOOL
REPLACEMENT
PROGRAMS
16-YEAR-OLD IN GED
PROGRAM OR JOB
CORPS

- 7. The student is enrolled in the Texas Academy of Leadership in the Humanities or Texas Academy of Mathematics and Science.
- 8. The student is at least 16 years old and is attending a course of instruction to prepare for the high school equivalency examinations, if:
 - a. The student is recommended to take the course by a public agency that has supervision or custody of the student under a court order; or
 - b. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801.

OTHER EXEMPTION

- 9. The student is specifically exempted under another law.

Education Code 25.086

EXCUSED ABSENCES FOR
COMPULSORY
ATTENDANCE
DETERMINATIONS

The School shall excuse a student from attending school for the following purposes:

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- RELIGIOUS HOLY DAYS 1. Observing religious holy days. A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site.

- COURT APPEARANCES 2. Attending a required court appearance. A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site.

- CITIZENSHIP
PROCEEDINGS 3. Appearing at a governmental office to complete paperwork required in connection with the student’s application for United States citizenship, including travel for this purpose. A student who is appearing at a governmental office to complete such paperwork is allowed up to one day of excused travel for traveling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site.

- 4. Taking part in a United States naturalization oath ceremony, including travel for this purpose. A student who is taking part in such a ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site.

- ELECTION CLERKS 5. Serving as an election clerk. A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site.

- CHILDREN IN
CONSERVATORSHIP OF
DFPS 6. If the student is in the conservatorship of the Department of Family and Protective Services (DFPS), participating as determined and documented by DFPS, in an activity:
 - a. Ordered by a court under Family Code Chapter 262 or 263, provided that it is not practicable to schedule the participation outside of school hours, or
 - b. Required under a service plan under Family Code Chapter 263, Subchapter B.

- HEALTH-CARE
APPOINTMENTS 7. Temporary absence resulting from an appointment with a health-care professional if that student commences classes or returns to school on the same day of the appointment. “Temporary absence”

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includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

Education Code 25.087(b), (b-3); 19 TAC 129.21(k) [See FEB]

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HIGHER EDUCATION VISITS

The School may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

1. The School may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and
2. The School adopts:
 - a. A policy to determine when an absence will be excused for this purpose; and
 - b. A procedure to verify the student's visit at the institution of higher education.

Education Code 25.087(b-2); 19 TAC 129.21(k)(9)

EARLY VOTING CLERKS

The School may adopt a policy excusing a student from attending school for service as a student early voting clerk in an election. The School may excuse a student for serving as an election clerk [see ELECTION CLERKS, above] or early voting clerk for a maximum of two days in a school year. *Education Code 25.087(b-1), (d)*

MILITARY DEPENDENTS

The School shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services and has been called to duty, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian. The school may not excuse a student under this provision more than five days in a school year. An excused absence under this provision must be taken not earlier than then 60th day before the date of deployment or not later than the 30th day after the date of return from deployment. *Education Code 25.087 (b-4)* [See FDD]

TAPS AT MILITARY FUNERAL

In addition, the School may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran. *Education Code 25.087(c)*

NO PENALTY

A student whose absence is excused for a reason described beginning at EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMATIONS, above, may not be penalized for that absence and shall be counted as if the student attended school for purposes of

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calculating the average daily attendance of students in the School.

MAKE-UP WORK

The student shall be allowed a reasonable time to make up school work missed on the days described above. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance.

Education Code 25.087(c)

**OTHER EXCUSED
ABSENCES**

A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled.

TEMPORARY ABSENCES

Education Code 25.087(a)

**SPECIAL EDUCATION
MATTERS**

Students may be excused for special education assessment procedures and for special education-related services. *19 TAC 129.21(l)*

NOTICES TO PARENTS

WARNING NOTICE

The School shall notify a student's parent in writing at the beginning of the school year that, if the student is absent from school on ten or more days or parts of days within a six-month period in the same school, the student's parent is subject to prosecution under Education Code 25.093, and the student is subject to referral to a truancy court for truant conduct under Family Code 65.003(a).

**NOTICE OF
ABSENCES**

The School shall notify a student's parent if the student has been absent from school, without excuse under Education Code 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 parent is subject to truancy prevention measures under Education Code 25.0915; and
2. Request a conference between school officials and the parent to discuss the absences.

The fact that a parent did not receive the notices described above is not a defense for the parent's failure to require a child to attend school nor for the student's failure to attend school.

Education Code 25.095

NON-ATTENDANCE

PARENT LIABILITY

A parent or person standing in parental relation commits an offense:

1. A warning notice is issued,

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- 2. The parent with criminal negligence fails to require the child to attend school as required by law, and
- 3. The child has absences for the amount of time specified under Family Code 65.003(a).

The attendance officer or other appropriate school official shall file a complaint against him or her in an appropriate court, as permitted under Education Code 25.093.

AFFIRMATIVE
DEFENSE — PARENT

It is an affirmative defense to prosecution that one or more of the absences required to be proven was excused by a school official or should be excused by the court. A decision by the court to excuse an absence for this purpose does not affect the ability of the School to determine whether to excuse the absence for another purpose.

Education Code 25.093

STUDENT LIABILITY

A child engages in truant conduct if the child is required to attend school under the compulsory attendance laws and fails to attend school on ten or more days or parts of days within a six-month period in the same school year . Truant conduct may be prosecuted only as a civil case in a truancy court. *Family Code 65.003(a), (b)*
"Child" means a person who is 12 years of age or older and younger than 19 years of age. *Family Code 65.002(1)*

The following are designated as truancy courts:

- 1 The constitutional county court in a country with a population of two million or more;
- 2 The Justice courts; and;
- 3 The justice court of any precinct in the county in which the school is located;
- 4 Municipal courts.

A truancy has exclusive original jurisdiction over cases involving allegations of truant conduct. *Family Code 65.004(a), (b)*

AFFIRMATIVE
DEFENSE —
STUDENT

It is an affirmative defense to an allegation of truant conduct that one or more of the absences required to be proven have been excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute an truant conduct. The burden is on the child to show by a preponderance of the evidence that the absence has been or should have been excused or that the absence was involuntary. A decision by the court to excuse an absence does not affect the ability of the School to determine whether to excuse the absence for another purpose. *Family Code 65.003(c)*

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**TRUANCY PREVENTION
MEASURES**

If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described below, the School shall initiate truancy prevention measures on the student. [See FED]

Education Code 25.0915(a-4)

**SCHOOL COMPLAINT OR
REFERRAL**

If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, the School shall within ten school days of the student's last absence refer the student to a truancy court for truant conduct under Family Code 65.003(a). [See FED]:

Education Code 25.0951

Adopted: 08-09-07
Amended: 12.14.07, 08.06.10,
12.12.2014, 05.06.16