

**RECOMMENDED LEGISLATIVE AMENDMENTS
TO THE PENNSYLVANIA PUBLIC SCHOOL CODE
BY THE PA STATE ROUNDTABLE’S EDUCATIONAL SUCCESS
AND TRUANCY PREVENTION WORKGROUP**

Section 1326. Definitions. These definitions shall apply only to provisions related to compulsory school attendance and consequences arising therefrom.

Citation – shall mean a non-traffic citation or private criminal complaint.

Compulsory school age – shall mean the period of a child’s life between the age of six (6) and until the age of seventeen (17) years of age. A child reaching age six (6) after September 1 of any calendar year is not compelled to attend school until the following school year. The term compulsory school age shall not include any child who holds a certificate of graduation from a regularly accredited senior high school.

Conviction – a conviction under Section 1333 for violation of the requirement for compulsory school attendance shall be considered a summary conviction.

Court – a magisterial district court or a court of common pleas.

Excused absence – an absence from school which is permitted by the provisions of Section 13-1329.

Excused tardy – a tardy which is permitted by the provisions of Section 13-1329.

Habitually truant – unexcused absence six (6) or more days or unexcused tardy twelve (12) or more times during the current school year by a child subject to compulsory school attendance.

Judge – a magisterial district judge or a judge of the court of common pleas.

Juvenile Act – shall mean the provisions of Chapter 63 of Title 42.

Migratory child – this term, wherever used in this subdivision of this article, shall include any child domiciled temporarily in any school district for the purpose of seasonal employment, but not acquiring residence therein, and any child accompanying his/her parent or guardian who is so domiciled.

Offense – an offense under Section 1333 for violation of the requirement for compulsory school attendance shall mean each citation filed before the court regardless of the number of unexcused absences or unexcused tardies averred therein.

Parent – shall mean biological or adoptive parent, guardian, person in parental relationship, or person with whom the child lives and who is acting in a parental role of any child of compulsory school age. This definition shall not expand the right of any child under any other section of the Public School Code.

School Attendance Improvement Conference – a conference consisting of the child, parent(s), appropriate school personnel and recommended service providers where the child’s absences and reasons therefore are examined in an effort to improve attendance, with or without additional services. The outcome of the conference shall be documented in a written School Attendance Improvement Plan. The Department shall develop a form to be used for this purpose. Each school shall use a form substantially in compliance with the form developed by the Department.

School day – the length of time, as determined by the local school board, that a child subject to compulsory attendance is expected to be receiving instruction during any calendar day. The local school board shall

establish policy defining how portions of a school day can be accumulated to determine the equivalent of a school day.

School year – shall have the same meaning as school year or school term as used in Section 102 of the Public School Code, as applicable to the particular school district in question.

Tardy – the failure of a child to arrive at school by the beginning of the school day, a failure to attend a class of instruction, or a departure from the school prior to the end of the school day as defined in policy established by the local school board.

Truant – unexcused absences of three (3) or more school days or six (6) or more unexcused tardies during the current school year by a child subject to compulsory school attendance. However, an out-of-school suspension may not be considered an unexcused absence.

Unexcused absence or unexcused tardy – an absence or tardy from school which is not permitted by the provisions of Section 13-1329 and where an approved explanation has not been submitted within the time period and in the manner prescribed by the local school board.

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Section 1333. Consequences for failure to attend school. Procedures.

1. Whenever a child is truant the school shall notify the parent(s) in writing of the child's violation of compulsory attendance and of the consequences that will follow if the child becomes habitually truant. The notice shall be in such form and use such language that would be considered reasonably understandable by the parent(s).
2. If unexcused absences or unexcused tardies continues after the school has issued the notice provided for in subsection (1), above, the school shall then offer a school attendance improvement conference to the child and parent(s). No further legal action may be taken by the school to address unexcused absences by the child until after the date for the scheduled conference has passed. This provision does not place any legal requirement upon the child or parent(s) to attend the conference.
3. Whenever a child is habitually truant and:
 - a. The child is under the age of fifteen (15) years the school:
 - i. Shall refer the child to the county children and youth agency for services or for possible disposition as a dependent child under the provisions of the Juvenile Act, or
 - ii. May file a citation in the office of the appropriate magisterial district judge against the parent(s) with whom the child resides or who shares custody of the child.
 - b. The child is age fifteen (15) years or older the school shall either:
 - i. Refer the child to the county children and youth agency for services or for possible disposition as a dependent child under the provisions of the Juvenile Act, or
 - ii. File a citation in the office of the appropriate magisterial district judge against the child and/or the parent(s) with whom the child resides or who shares physical custody of the child.
 - c. When referring a case to the County Children and Youth agency or the magisterial district court because of the child has been habitually truant the school shall provide verification that a school attendance improvement conference was offered.

4. Citation proceedings. Whenever a citation is filed against a parent or child under the provisions of this section:
- a. Notice of hearing – the magisterial district judge shall provide notice of the hearing in writing to the school, the parent(s), the child and the county children and youth agency.
 - b. Prior to the commencement of the summary trial the magisterial district judge shall notify the parent and/or child of the availability of any pre-conviction diversionary program authorized under 42 Pa. C.S.A. Sec. 1520.
 - c. Burden of proof – at the hearing the burden is upon the school to prove beyond a reasonable doubt noncompliance with the compulsory school attendance requirements in that the child was habitually truant.
 - d. Defense – if the citation is filed against the parent(s) it is a defense if the parent(s) can prove by a preponderance of the evidence that every reasonable step to insure attendance of the child at school was taken.
 - e. Sentence – before entering a sentence the judge shall permit the school, parent(s) and/or child to present any relevant information that will assist the judge in making an informed decision regarding the appropriate sentence. Any person convicted of a summary offense under this section may be sentenced to:
 - i. Pay a fine for the benefit of the school district in an amount not exceeding three hundred dollars (\$300.00) for each citation together with court costs.
 - ii. If a parent – complete an appropriate parenting course or its equivalent, or program approved by the President Judge of the judicial district, which may include community service.
 - f. Suspended sentence – the court may suspend the sentence of any person convicted under the provisions of this section and may remit or waive fines and costs if the child attends school in accordance with a plan devised by the court.
 - g. Appeal – any person convicted of a summary offense under this section by a magisterial district judge shall have a right to appeal de novo to the court of common pleas of the proper county within thirty (30) days after conviction. Thereafter the appeal shall proceed as any other appeal of a summary conviction.
 - h. Subsequent proceedings – no citation shall be filed against a parent or child for violation of compulsory school attendance while (i) a proceeding is pending under this section against said parent or child unless a warrant has been issued for failure of the parent or child to appear before the court and the warrant has not been served, (ii) a referral for services has been made to the county’s children and youth agency and the agency has not closed the case, or (iii) a petition has been filed alleging the child is dependent due to being habitually truant under provisions of the Juvenile Act and the case remains under the jurisdiction of the Juvenile Court. A proceeding is pending after the citation is filed and until judgment has been entered. The child’s school attendance while the proceeding is pending can be considered in imposing sentence.
 - i. Repeat offenders – upon a second conviction of a parent or child for violation of the provisions of compulsory school attendance in any court within this Commonwealth within a three (3) year period the court shall refer the child for services or possible disposition as a dependent child under provisions of the Juvenile Act.

- j. Failure to pay fine – upon the failure of any person to satisfy a fine and/or costs imposed under this section or upon failure to comply with a payment plan the court may, after finding that the person has the ability to pay the financial obligation imposed:
 - i. In the case of a parent impose a period of incarceration not to exceed five (5) days.
 - ii. In the case of a child such failure shall not be considered a delinquent act, however, the President Judge of the judicial district may adopt a local policy pursuant to 42 Pa. C.S.A. Sec. 6304 (relating to powers and duties of probation officers) and the Pennsylvania Rules of Juvenile Court Procedure to provide that a juvenile probation officer may receive allegations that such child is dependent for the purpose of considering the commencement of proceedings under the Juvenile Act.

5. Suspension of driving privileges –

- a. If a child is convicted for violation of this section the court shall, at its discretion, send to the Department of Transportation a certified record of the conviction on a form prescribed by the department only if the child fails to comply with any lawful sentence entered for such violation.
- b. The Department of Transportation shall suspend for ninety (90) days the operational privilege of any child upon receiving a certified record that the child was convicted of a summary offense under this section. If the department receives a second or subsequent conviction for a child's summary conviction under this section the department shall suspend the child's operating privilege for six (6) months.
- c. Any child whose record is received by the department under this section and who does not have a driver's license shall be ineligible to apply for a driver's license under 75 Pa.C.S. Section 1505 (relating to learners' permits) and 1507 (relating to application for driver's license or learner's permit by minor) for the time period specified in subsection (b). If the child is under sixteen (16) years of age when convicted, suspension of operating privileges shall commence in accordance with 75 Pa. C. S. Section 1541 (relating to period of revocation or suspension of operating privilege) for the time specified in subsection (b).
- d. A child whose driving privileges have been suspended or whose eligibility for a permit or license is delayed pursuant to this section may have that license or eligibility restored by providing the department with a form containing the following information: a certified record from the child's school that the child has attended school for a period of at least two (2) months after the first conviction or four (4) months after the second conviction without an unexcused absence or unexcused tardy, has no school disciplinary actions pending or served any disciplinary sanction during that period, and is participating in and passing all classes. The department shall develop the form to be used for this purpose.