

## Each Child, Our Future: Supporting Regular Attendance

**Each Child, Our Future**, is Ohio's shared plan for ensuring each student is challenged, prepared and empowered for his or her future by way of an excellent prekindergarten through grade 12 education. The plan's purpose is to lift aspirations, create hope and excitement, guide development of state-level education policies and promote high-quality educational practices across the state. Ohio can only reach success by meeting the needs of the whole child. The time a child spends in school is precious and should ensure all aspects of a child's well-being are addressed, including the physical, social, emotional and intellectual aspects. Ensuring Ohio students are in school every day is a crucial first step.

In 2016, the Ohio General Assembly revised Ohio's attendance laws to encourage and support a preventative approach to excessive absences and truancy. Missing too much school has long-term negative effects on students, such as lower achievement and graduation rates. There are many reasons students miss school, but districts often can directly impact their students' attendance. By using data to identify and support students who may need extra support and services, districts can target supports to get students to school every day. Districts should utilize a continuum of strategies to reduce student absence including, but not limited to:

- Creating a positive and welcoming school climate and culture;
- Implementing a multi-tiered intervention strategy;
- Using positive family and community engagement strategies;
- Notification of student absence to the parent or guardian;
- Development and implementation of an absence intervention plan;
- Counseling;
- Parent education and parenting programs;
- Mediation;
- Intervention programs available through juvenile authorities; and
- Referral for truancy, if applicable.

Ohio's budget bill,<sup>1</sup> effective Oct. 17, 2019, made changes to Ohio's attendance laws, which are addressed in this document and highlighted below.

### **Changes to make-up assignments during out-of-school suspensions:**

Students must be given the opportunity to make up assignments missed during out-of-school suspensions. Students must be given at least partial credit for work made up during out-of-school suspensions and cannot fail courses due to suspensions.<sup>2</sup> More information can be found on [page 10](#) of this document.

### **Changes to requirements for excessively absent students:**

Ohio House Bill 166 updated the definition of excessively absent to include absences with nonmedical excuses or without legitimate excuses for 38 hours in a month or 65 hours in a year.<sup>3</sup> If a student is absent for 38 hours in a month or 65 hours in a year with medical excuses, the district is not required to notify the student's parent or guardian in writing.<sup>4</sup> More information about these changes can be found on [page 6](#) of this document. Districts should update their attendance policies to define medical excuse and the processes and timelines students and families must follow. More information can be found on [page 10](#).

<sup>1</sup> H.B. 166, 133<sup>rd</sup> General Assembly

<sup>2</sup> 3313.66 (A)(1)(b)

<sup>3</sup> 3321.191 (C)(1)

<sup>4</sup> 3321.191 (C)(1)

# Ohio’s Attendance Laws: Frequently Asked Questions

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## Commonly Used Definitions

### What is the definition of chronic absenteeism?

Chronic absenteeism, as defined by the Every Student Succeeds Act,<sup>5</sup> is missing 10 percent or more of the school year for any reason. It includes excused and unexcused absences. Schools and districts should provide supports to the student and his or her family before the student has missed 10 percent of the school year.

### What is the definition of habitual truancy?

Ohio law<sup>6</sup> defines a habitually truant student as “any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for thirty or more consecutive hours, forty-two or more hours in one school month, or seventy-two or more hours in one school year.”

Districts should keep in mind that truancy is different from chronic absenteeism. Truancy only counts absences without a legitimate excuse. Also, when a child is habitually truant, the district is required to follow several administrative procedures and legal solutions to ensure the student attends school regularly. These procedures can be found on [page 7](#).

### What is the definition of excessive absences?

Ohio law<sup>7</sup> specifies that a student is excessively absent “with a nonmedical excuse or without legitimate excuse from the public school the child is supposed to attend for thirty-eight or more hours in one school month, or sixty-five or more hours in a school year.”

### What are the definitions of medical and nonmedical excuses?

The definitions of medical and nonmedical excuses are defined by districts per Ohio Administrative Code [3301-69-02](#) and [3301-18-01](#). Districts should update local board-adopted attendance policies to include definitions of medical and nonmedical excuses, including a process and timeline for submitting medical excuses.

### What is the difference between chronic absenteeism, habitual truancy and excessive absences?

	<b>Consecutive hours</b>	<b>Hours per school month</b>	<b>Hours per school year</b>
<b>Habitual Truancy</b>	<b>30</b> <i>without legitimate excuse</i>	<b>42</b> <i>without legitimate excuse</i>	<b>72</b> <i>without legitimate excuse</i>
<b>Excessive Absences</b>	--	<b>38</b> <i>with a nonmedical excuse or</i>	<b>65</b> <i>with a nonmedical excuse</i>

<sup>5</sup> ESSA, 2015

<sup>6</sup> Ohio Revised Code 2151.011(B)(18)

<sup>7</sup> ORC 3321.191(C)(1)

		<i>without legitimate excuse</i>	<i>or without legitimate excuse</i>
<b>Chronic Absenteeism</b>	--	--	<b>10% of total hours either excused or unexcused</b>

## Tracking and Reporting Attendance

### Are there additional EMIS reporting requirements?

Yes, Ohio law<sup>8</sup> requires districts to report the information below:

- i. When a district is required to notify a parent that a student has excessive absences;
- ii. When a child has been absent without legitimate excuse from the public school the child is supposed to attend for 30 or more consecutive hours, 42 or more hours in one school month, or 72 or more hours in one school year;
- iii. When a child of compulsory school age who has been adjudicated an unruly child for being a habitual truant violates the court order regarding that adjudication;
- iv. When an absence intervention plan has been implemented for a child under Ohio law.<sup>9</sup>

### Why do excused absences count toward excessive absence triggers?

When a student is missing a lot of school, the student is missing instruction time, and there may be a larger problem contributing to the absences. Furthermore, excessive absences may serve as an early warning indicator districts can use to address absences before a student becomes habitually truant. Likewise, a student still may need district support to get to school every day even though the student's absences are excused.

### In what situations can an absence be excused?

Even if an absence is excused, it still results in loss of educational opportunities that cannot be made up. Nonetheless, there are times when a student simply cannot be at school. Ohio Revised Code<sup>10</sup> and Ohio Administrative Code<sup>11</sup> set forth the situations in which an absence can be excused. Districts are encouraged to add to this list of excused absences to adapt their attendance policies to fit the needs of their students and families.

### Are students who cannot attend school due to chronic or terminal illness considered truant?

A student cannot be considered truant for excused absences — thus the student would not be referred to the absence intervention team to develop and complete a plan for absences due to illness. Further, a student would not be referred to court due to excused absences. Districts have discretion through their

<sup>8</sup> ORC 3321.191(E)

<sup>9</sup> ORC 3321.191

<sup>10</sup> ORC 3321.04

<sup>11</sup> OAC 3301-69-02

local policies to tailor their approaches to attendance, absences and truancy to the unique needs of their student populations.

## **Do absences caused by suspensions count toward truancy or excessive absences triggers?**

Though suspensions are considered unexcused absences, they should not count toward truancy triggers because suspensions represent a legitimate excuse to be out of school. Suspensions do count toward excessive absences because the definition of excessive absences does not distinguish between legitimate and not legitimate reasons for missing school.

## **Habitual Truancy and Excessively Absent**

### **What happens when a student becomes excessively absent from school?**

In the event a child of compulsory school age is absent with a nonmedical excuse or without legitimate excuse from the public school the child is supposed to attend for 38 or more hours in one school month or 65 or more hours in a school year, the following must occur:<sup>12</sup>

- The district will notify the student's parents in writing within seven days of the triggering absence if the absences are for nonmedical reasons or without legitimate excuse;
- The student will follow the district's policy for addressing excessive absences; and
- The district may refer the student and family to community resources, as appropriate.

### **How must the district notify the family when a student becomes excessively absent?**

A district must notify the student's family in writing within seven days of the triggering absence when the student becomes excessively absent. A district should consider different modes of communication when notifying the family. This may include an email, note home from the teacher or friendly letter in the mail.

### **What happens when a student becomes excessively absent from school but has medical excuses?**

Ohio House Bill 166 updated the definition of excessively absent to include absences with nonmedical excuses or without legitimate excuses for 38 hours in a month or 65 hours in a year.<sup>13</sup> If a student is absent for 38 hours in a month or 65 hours in a year with medical excuses, the district is **not** required to notify the student's parents in writing.<sup>14</sup>

### **Do students with excessive absences need to have personalized absence intervention plans developed by their schools' or districts' absence intervention teams?**

No, unless the absences surpass the threshold for habitual truancy. Students who have met the threshold for excessive absences but are not considered habitually truant do not need absence intervention plans developed by their schools' or districts' absence intervention teams. Districts should follow their district policies for addressing excessive absences.

<sup>12</sup> 3321.191

<sup>13</sup> 3321.191 (C)(1)

<sup>14</sup> 3321.191 (C)(1)

## What happens when a student becomes habitually truant from school?

When a student is habitually truant, the following will occur:<sup>15</sup>

- Within **seven school days** of the triggering absence, the district will:
  - Select members of the absence intervention team; and
  - Make three meaningful attempts to secure the participation of the student's parent, guardian custodian, guardian ad litem, or temporary custodian on the absence intervention team.
- Within **10 calendar days** of the triggering absence, the student will be assigned to the selected absence intervention team;<sup>16</sup>
- Within **14 school days** after the assignment of the team, the district will develop the student's absence intervention plan;
- Within **seven calendar days** after the plan is developed, the district shall make reasonable efforts to provide written notification to the student's parent or guardian; and
- The student has **60 calendar days** to participate and make satisfactory progress on the plan. If the student does not participate or make satisfactory progress on the plan, as determined by the absence intervention team, the attendance officer must file a complaint in juvenile court against the student on the **61<sup>st</sup> calendar day** after the implementation of the absence intervention plan.<sup>17</sup> If at any time during the implementation phase of the absence intervention plan the student is absent without legitimate excuse **30 or more consecutive hours** or **42 or more hours** in one school month, the district must have its attendance officer file a complaint against the student.<sup>18</sup> This requirement does not apply if the absence intervention team has determined the student has made substantial progress on the absence intervention plan.

## Absence Intervention Team

### What is the role of an absence intervention team?

Any district with a chronic absenteeism rate of 5 percent or greater must establish an absence intervention team.<sup>19</sup> The absence intervention team develops a student-centered absence intervention plan that will help identify specific barriers and solutions to attendance for every child who is habitually truant. The team should include participation of the student and his or her parent or guardian to break down barriers to attendance without filing criminal complaints against the student in juvenile court.

### Who is required to participate on the absence intervention team?

Membership of each absence intervention team should vary based on the needs of each individual student, but each team **MUST** include:

- a. A representative from the school or district;
- b. Another representative from the school or district who has a relationship with the child; and
- c. The child's parent (or parent's designee) or the child's guardian, custodian, guardian ad litem or temporary custodian.

<sup>15</sup> ORC 3321.16

<sup>16</sup> ORC 3321.19 (D)(1)

<sup>17</sup> ORC 3321.16 (B)(3)

<sup>18</sup> ORC 3321.16 (A)(2)

<sup>19</sup> ORC 3321.19 (E)

The district may invite a school psychologist, counselor, social worker, representative of a public or nonprofit agency, or representative from the court to participate on the team.

The parent may appoint a designee, such as a relative or other trusted adult, if the parent is unable to participate. If, after three good faith attempts, the district is unable to ensure participation of the parent, the team should develop the student's absence intervention plan without the parent.

### **What if a district cannot engage the parent in the absence intervention team after three good faith attempts?**

The district must make three good faith efforts to engage the student's parent, guardian custodian, guardian ad litem, or temporary custodian, as outlined in the district's local policy. If the parent is unable to participate in the absence intervention team, the student's parent may appoint a parent designee, such as a relative or other trusted adult. If, after three good faith attempts, the district is unable to ensure participation of the parent or the parent's designee, the team should develop the student's absence intervention plan without the parent. Districts have seven days after the plan's completion to send the plan to the student's parents.

### **Does a parent or guardian have to participate in the absence intervention team in person?**

No, a parent does not have to participate in the absence intervention team in person. Absence intervention teams should consider alternatives for including parents, such as conference calls or video conferencing.

### **Are all districts required to have absence intervention teams?**

No. Districts with chronic absenteeism rates of 5 percent or greater on the most recent Ohio School Report Cards must establish absence intervention teams for students who are habitually truant for the 2019-2020 school year.<sup>20</sup> This applies to districts and community schools. If a district is required to have an absence intervention team, all schools in that district are subject to the requirement.

The list of districts required to have absence intervention teams and districts exempt from having teams can be found under the section on Ohio's Attendance Laws on the Department's [Chronic Absenteeism](#) webpage.

### **Does an absence intervention plan carry over from one school year to the next school year?**

If a student becomes habitually truant within 21 school days prior to the last day of instruction of a school year, the school district or school may assign one school official to work with the child's parent, guardian, custodian, guardian ad litem or temporary custodian to develop an absence intervention plan during the summer. If the school district or school selects this method, the district and student must implement the plan no later than seven calendar days prior to the first day of instruction of the next school year. Alternatively, the school district or school may reconvene the absence intervention process on the first day of instruction of the next school year.

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<sup>20</sup> ORC 3321.19 (E)

In regard to students not successfully implementing their absence intervention plans, as outlined on [page 8](#), if the 61<sup>st</sup> calendar day after the implementation of the absence intervention plan falls on a day during the summer months, at the school district's discretion, the absence intervention team or the attendance officer may extend the implementation of the plan and delay the filing of the complaint for an additional 30 days from the first day of instruction of the next school year.<sup>21</sup>

## Changes to District Policies

### What is the difference between a district policy to address excessive absences and a student absence intervention plan for habitual truancy?

Every district must have an approach to addressing attendance and excessive absenteeism outlined in their district truancy and attendance policies.<sup>22</sup> The district policy should outline the district's interventions, supports and processes for ensuring every student gets to school every day. When a student is excessively absent, the district must notify the student's parent or guardian in writing and follow its truancy and attendance policy to assist that student and his or her family in getting to school regularly.<sup>23</sup>

A student absence intervention plan is a student-centered, personalized plan developed to address barriers to attendance when a student becomes habitually truant. **A student absence intervention plan is only required for students who are habitually truant.** The district or school absence team develops the student absence intervention plan collaboratively with the student and his or her family. In addition to resources, the absence intervention plan contains agreed-upon strategies and interventions for getting the student to school every day. The student absence intervention plan holds the student and his or her parents accountable for attending school regularly. Continued absences or failure to make progress toward implementation of the absence intervention plan will result in the district filing a complaint with juvenile court.

### Do local policies have to address zero tolerance?

Yes. Districts must have zero tolerance policies for violent, disruptive or inappropriate behavior by their students per Ohio Revised Code.<sup>24</sup> However, districts must remove "excessive absences" from their zero tolerance policies. Districts also are no longer allowed to suspend or expel students for being absent from school without legitimate excuse.<sup>25</sup>

### Can students who are suspended make up missed work?

The school board must adopt a policy establishing parameters for completing and grading assignments missed because of a student's suspension.<sup>26</sup> District policy must provide the pupil an opportunity to do both of the following:<sup>27</sup>

- Complete any classroom assignments missed because of the suspension; and

<sup>21</sup> 3321.16(B)(3)

<sup>22</sup> 3321.191

<sup>23</sup> 3321.191 (C)(1)

<sup>24</sup> 3313.534

<sup>25</sup> 3313.668 (A)

<sup>26</sup> ORC 3313.66 (A)(3)

<sup>27</sup> ORC 3313.66 (A)(3)(a)-(c)

- Receive at least partial credit for a completed assignment.

The policy may permit grade reductions on account of the pupil's suspension, but a failing grade on a completed assignment solely on account of the pupil's suspension is prohibited.<sup>28</sup> This provision applies to all students.

### **Do local policies need to define medical excuses for absence?**

Yes. The definitions of medical and nonmedical excuses are within the discretion of the districts. Districts should update local board-adopted attendance policies to include definitions of medical and nonmedical excuses, including a process and timeline for submitting medical excuses.

### **Can suspensions be carried over to the next school year?**

No. The district cannot require the student to complete the suspension at the beginning of the next school year if the student's suspension is longer than the remainder of the school year.<sup>29</sup> However, the district may require the student to complete community service or an alternative engagement activity during the summer.<sup>30</sup>

### **Can districts suspend or expel students for truancy?**

No, districts cannot suspend (out of school) or expel students for truancy.<sup>31</sup> Districts should be proactive by working with families and community organizations to break down barriers that prevent students from attending school.

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<sup>28</sup> ORC 3313.66 (A)(3)(c)

<sup>29</sup> ORC 3313.66 (A)(1)

<sup>30</sup> ORC 3313.66 (A)(1)

<sup>31</sup> ORC 3313.668 (A)

Appendix A

# “FERPA” Parental and/or Eligible Student Consent Disclosure Form

Pursuant to the [Family Educational Rights and Privacy Act](#), 20 U.S.C. § 1232g and [Ohio Revised Code § 3319.321](#), parental consent or consent from the student if he/she is age 18 or older (“eligible student”) is required before personally identifiable information contained within the student’s education records are disclosed, with limited exceptions as stated in [34 CFR 99.31](#).

Please fill in the required information below.

I,                     Parent or Eligible Student                    , give my written consent that [NAME of SCHOOL DISTRICT RELEASING INFORMATION] can release the following records:

- (1) \_\_\_\_\_ ;
- (2) \_\_\_\_\_ ;
- (3) \_\_\_\_\_ .

Involving [Student Named in Records] to the person(s) and/or organization(s) listed:

- (1) \_\_\_\_\_ ;
- (2) \_\_\_\_\_ ;
- (3) \_\_\_\_\_ .

to assist the student’s absence intervention team and/or plan created in accordance with Ohio Revised Code § 3321.191.

By signing below, I consent to the disclosure of the records listed above to the specified person(s)/organization(s) for the purpose stated herein. This consent is valid for the [YEAR] school year only. Consent can be withdrawn at any time, provided it is given in writing to the school district. If signed by the parent/guardian, he/she represents that the student has not yet reached the age of 18 at the time the consent was given. If signed by the student, he/she represents that he/she is at least 18 years old when consent was given.

\_\_\_\_\_  
Signature of Parent, Guardian or Eligible Student

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Print Name of Parent, Guardian or Eligible Student

***Districts should consult with their legal counsel about the proper use of this form.***