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ATTENDANCE AND TRUANCY ISSUES

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Iowa Compulsory Attendance Law: Iowa Code Chapter 299

- A child who has reached the age of 6 and is under 16 years of age by Sept. 15 is of compulsory attendance age.
- If a child reaches the age of 16 on or after September 15, the child shall be subject to the compulsory attendance laws until the end of the regular school year.

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Recent Changes to Compulsory Attendance Law:

- As of July 1, 2012, a child who is age five by September 15 and is enrolled in a school district is of compulsory attendance age.
- As of July 1, 2013, a child who is age four (4) and enrolled in the statewide voluntary preschool program is of compulsory attendance age.
- The only exception to this is if a parent notifies the district, in writing, of its intent to withdraw the child from the school district.


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Exception to Law: A resident child of compulsory attendance age must enroll in the district unless:

- The child is enrolled in another accredited school;
- The child has completed the requirements for graduation in an accredited school or has obtained a high school equivalency diploma;
- The child is excused for sufficient reason by a court of record or judge;
- The child is attending religious services or receiving religious instruction;


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Exception to Law: A resident child of compulsory attendance age must enroll in the district unless:

- The child is attending a private accredited college preparatory school;
- The child is blind or deaf, and the superintendent of the state school determines that the child is physically or mentally unable to attend school;
- The child is exempted by the Director of the Iowa Dept. of Education based on religious beliefs and principles of the child's parents or guardians;


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Exception to Law: A resident child of compulsory attendance age must enroll in the district unless:

- The child is receiving competent private instruction or independent private instruction in accordance with Iowa law either : 1) directly by a licensed teacher in a non-accredited nonpublic school, 2) directly by a licensed teacher in a tutorial or home school setting, 3) indirectly by a licensed teacher assisting and supervising a parent, guardian or custodian who provides instruction, or 4) directly by a parent, guardian or custodian.
- NOTE: New law and DE rules—CPI and IPI are subject to compulsory attendance laws for students of compulsory attendance age, but little way to enforce.


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Truancy

- Any child of compulsory attendance age who fails, with out reasonable excuse, to:
 - Attend school as provided by law, or
 - Attend school as required by the school board's or school governing body's attendance policy, or
 - Attend competent private instruction or independent private instruction under Chapter 299A
- The board of directors of a public school district or the authorities in charge of an accredited nonpublic school shall prescribe reasonable rules for the punishment of truants.

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Failure to attend — driver's license.

A child of compulsory attendance age who 1) does not meet the requirements for an exception, 2) who does not attend a public school or an accredited nonpublic school, 3) who is not receiving competent private instruction or independent private instruction in accordance with the provisions of chapter 299A, and 4) who does not attend an alternative school or adult education classes:


Shall not receive an intermediate or full driver's license until age eighteen.

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Attendance Policy Considerations


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• **Educational Need and Attendance**

1. A school's primary obligation is the education of its students.
2. Districts must exercise reasonable responsiveness to accommodate a wide range of learning needs to best support academic success.
3. Attendance problems may be caused by limited academic success. Therefore, schools must provide reasonable educational alternatives or supports for those students at risk of failing academically.


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• **Discipline and Attendance**

1. Schools must provide a learning environment that is safe and orderly to support the academic success of all students. Schools may set reasonable expectations for student behavior, including school attendance, and may impose reasonable sanctions when those expectations are not met.
2. For secondary students, DE has said failure to attend school may be considered behavior that is subject to disciplinary sanctions.


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• **Discipline and Attendance**

3. Students should not be subject to sanctions or disciplinary action if the failure to attend school is for certain reasons beyond the student's control or other unavoidable occurrences (illness, family death).
4. While it may be reasonable to require a doctor's verification in some circumstances, DE has found it is not reasonable to do so in every case since to do so may cause a hardship on certain families.
5. Frequent or prolonged absences due to illness should prompt schools to determine whether the student has a disability or other special health condition.


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- **Discipline and Attendance**

6. Schools may define at a local level what is an excused and unexcused absence and adopt a minimum number of allowable unexcused absences before sanctions.
7. The policy should provide reasonable administrative flexibility in the administration of disciplinary action.
8. The sanctions should be imposed within the parameters established by the requirements of substantive and procedural due process.


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- **Discipline and Attendance**

- Procedural Due Process:
 - Policy be clearly written so that parents and students understand what behavior is unacceptable.
 - Policy must be properly adopted by the school board and disseminated to parents and students.
- Substantive Due Process:
 - Policy must be fair and reasonable.
 - Must be a legitimate relationship between the punishment and the misconduct.


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- **Academic Credit or Grade Reduction and Attendance**

1. DE has said an attendance policy can result in loss of credit for a student after exceeding a number of UNEXCUSED absences, but it does not advocate for such a position, except as a last resort. *In re Tami Schmidt*
2. An attendance policy providing that students may be dropped from a class because of excessive unexcused absences should make reasonable provisions for alternative class or activities within the parameters of the school's resources.
3. The total number of absences that result in being dropped from a class or being given no-credit should be reasonable. Dropping a student after fewer than five or six absences appears to be an unreasonable sanction.


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• **Academic Credit or Grade Reduction and Attendance**

4. Significant lack of attendance in a course of study might not result in loss of credit, but might reasonably be expected to negatively affect academic performance which would negatively affect a student's grade in that course.
5. The DE has said grade reductions may result from absences in the following four situations:


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• **Academic Credit or Grade Reduction and Attendance**

- a. Failure to attend makeup sessions as assigned for the completion of make-up work (all students must be given the opportunity to make up missed classwork).
- b. If points or percentages for attendance and participation are given, the denial of those points or percentages for absenteeism is a reasonable practice.
- c. Additional work may be assigned to compensate for class time lost due to absences. However, the failure to complete make-up assignments satisfactorily within a reasonable time is a separate act and constitutes grounds for reduced credit.
- d. The report card should indicate whether grades have been reduced for absences, thereby answering criticism that a school's grading system is a misrepresentation students' academic achievement.


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Attendance Policy Do's and Don'ts:

- **Do:** Clearly define in board policy what absences are excused and unexcused.
 - Excused: Illness (reasonable to require a doctor's verification in some, but not all circumstances), school sponsored trips, family death or funeral, court or legal proceedings, medical appointments, absences for religious service/holidays.
 - Unexcused: Skips, family trips, parent/guardian request.

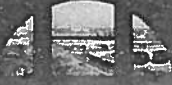
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Attendance Policy Do's and Don'ts:

- Do: Leave some flexibility for administrators to use judgment in determining what is excused in unusual or unexpected situations.
- Do: Allow for the request of documentation to determine whether an absence is excused or unexcused.


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Attendance Policy Do's and Don'ts:

- Do: Set a minimum number of allowable unexcused absences before discipline or loss academic credit will occur. Dept. of Ed. has said that number is around five-six absences. Dropping a student for less than six absences is unreasonable.
- Do: Make sure notice is given to parents and child when student is at least one absence away from discipline or credit loss.


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Attendance Policy Do's and Don'ts:

- Do: Provide students with due process before imposing discipline or loss of credit due to excessive unexcused absences.
- Do: Provide reasonable alternatives/options prior to loss of credit (i.e. summer school, Saturday school,) DE says—academic sanctions should be last resort.


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Attendance Policy Do's and Don'ts:

- Do: Outline procedures and requirements for make up of classwork during absences.
- Do: Review your policy at least every five years as required, but more often if practices or procedures change. Make sure what you do and what you say you will do are the same thing.
- Do: Make sure your attendance policy is communicated not only to students and parents in handbooks, but also to teachers and coaches.


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Attendance Policy Do's and Don'ts:

- Don't: Allow individual teachers to make excused or unexcused absence decisions inconsistent with board policy.
- Don't: Make arbitrary exceptions to those listed excused or unexcused absences.
- Don't: Sanction or discipline students for failure to attend school if lack of attendance is beyond the control of the student.


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Attendance Policy Do's and Don'ts:

- Don't: Allow parents to dictate what absences are excused.
- Don't: Combine excused and unexcused absences for the imposition of sanctions or discipline under an attendance policy.
- Don't: Deny academic credit unless student exceeds a set number of unexcused absences.
- Don't: Reduce a student's grade absent certain key factors.


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Truancy

- **Definition:** "Any child of compulsory attendance age who fails to attend school as provided in this chapter, or as required by the school board's...attendance policy...without reasonable excuse for the absence, shall be deemed to be a truant." IC § 299.8.


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Truancy

- **Penalties:** The school board "shall prescribe reasonable rules for the punishment of truants." IC § 299.9.
- **Truancy officer:** The school board may appoint a truancy officer (police/sheriff, teacher, school official, or other "suitable person"). If no truancy officer is appointed, the board shall designate a suitable person to collect information on the number of district students who are truant. IC § 299.10.

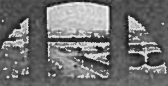
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Duties of Truancy Officer

- Truancy officer may take "any apparently truant child" into custody and place the child in the care of the school principal or designee.
- Truancy officer must make "every reasonable attempt" to notify the parent/guardian of the child's location.
- Truancy officer "shall promptly institute proceedings" against the parent. IC § 299.11.


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Addressing chronic truancy

- If the student has not completed sixth grade and the school has used "every available means" to ensure attendance, the truancy officer shall invite the parent/guardian to participate in an attendance cooperation meeting.
- The truancy officer may invite other school officials, a designee from the juvenile court, county attorney, or other appropriate persons to this meeting. IC § 299.12.

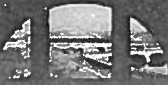
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Attendance cooperation meetings

- Purpose of meeting is to determine the cause of nonattendance, arrive at an agreement, and initiate referrals to any services or counseling that the participants believe "appropriate under the circumstances."
- Agreement should be reduced to writing and signed by the parties (include at minimum identified cause and future responsibilities of each party). Each signing party shall receive a copy.

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Attendance cooperation meetings

- Parties may agree to designate an individual to monitor the agreement. This person may be designated by the board, or may be a volunteer if all parties agree and a written release is provided.
- The monitor shall contact all parties periodically to ensure compliance with the agreement.

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Attendance cooperation meetings

- If no agreement is reached or if the parent/guardian violates the agreement or fails to participate in the meeting, the child shall be deemed truant.

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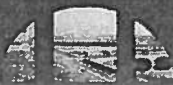


Duty to report

- School officers and employees are required to promptly report known violations of truancy law to the board secretary.
- The board secretary shall notify the board president, who shall determine whether it is necessary to convene a meeting of the board to take such action as may be justified by the facts of the particular case.

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Truancy issues for special needs students

- Child find
- Eligibility
- Addressing truancy in the IEP
- Residential Placement


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Child find

- Excessive absenteeism may trigger child find obligations under IDEA and Section 504.
 - Excessive absenteeism alone is not a *per se* basis for suspecting a disability.
 - Case law indicates that child find is triggered when there are:
 - Excessive absences.
 - Reason to believe the absences may be linked to a disability, and
 - A need for services.
 - Truancy relating solely to social maladjustment or family circumstances may not trigger child find obligation.


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Eligibility under the IDEA


- Poor attendance, on its own, does not qualify a student for special education.
- However, it may help establish that a student has an impairment resulting in a need for special education and related services.
- Team must consider whether:
 - Truancy is caused by a disability
 - That adversely impacts educational performance
 - And causes a need for special education related to the disability.

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- "Social maladjustment" alone doesn't qualify under IDEA, but is not mutually exclusive with disability. For example, *Independent School District v. A.C.* (8th Cir. 2001).
 - Outside of school, student abused drugs and alcohol, was sexually promiscuous, ran away from home, may have forged checks, and repeatedly threatened or attempted suicide.
 - Court found that truancy resulted from genuine emotional disturbance, not a "purely moral failing."


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Addressing truancy in the IEP

- If the student is already eligible under the IDEA and truancy adversely affects learning, the IEP may need to address absences regardless of whether they stem from the disability.
- May need to reevaluate the student if absences increase in frequency or duration. If attendance rising to truancy level under chapter 299, convene IEP team.
- May need to investigate if bullying or harassment may be cause of absenteeism.


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Residential placement

- When parents request residential placement because of truancy, the outcome of the case often depends on whether the HO considers the truancy as an educational need that must be addressed in the IEP.
- To avoid being charged for parentally-selected residential placement, consider what services – including counseling – may be necessary to reduce absenteeism and allow student to access education.

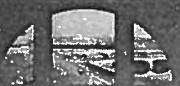
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Recommendations for special ed students


- Try informal efforts to resolve absenteeism early.
- If informal efforts to not resolve, meet with parent to consider referral for special ed.
- Evaluate for eligibility under the IDEA or Section 504.

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- If not related to disability, can follow general policy and practice for unexcused absences.
 - Ensure disabled students are not treated less favorably than non-disabled students.
 - Recommend ensuring that IEP team meets before consequences implemented.
- If related to disability, address in IEP. May include BIP development, desensitization plan, positive reinforcements, counseling, or other support.

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- Reevaluate if student attendance changes.
- Evaluate carefully – consider an FBA or psychological evaluation. Attempt to discover source of absenteeism.
- Engage challenging behavior specialist or others with specialized expertise.
- Remember that parent training is a related service.
- Avoid using homebound instruction if possible.


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One district's approach: Henrico County Public Schools, Virginia

- District faced substantial budget cuts, but established goal to reduce student truancy.
- Gathered data on contributing factors.
- Communicated with parents about consequences of truancy.
- Met monthly with juvenile justice, DHS, and judges to discuss how to support families whose needs were interfering with student attendance.

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- Engaged "parent involvement facilitators" at elementary schools to help develop stronger parent-school relationships.
- Reduced discipline by reviewing data on types of offenses and implementing positive behavior support and anti-bullying programs.
- Required monthly data collection and analysis by building administrators.
- Within a year, truancy was reduced by 32%.

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Questions?

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