

Pennsylvania Truancy Laws

What is the definition of truancy in Pennsylvania? The simple answer is that truancy is the failure to attend school. However, from a statutory point of view, the answer is more involved. The Public School Code does not have a specific definition for the word “truancy”. As will be seen, a child becomes “truant” upon attaining a specific number of unexcused absences. **To provide more guidance, the York County Truancy Task Force worked with school districts to create the York County Truancy Protocol, which defines a range of unexcused absences, namely four to six, and alleviates the ambiguities of the PA Truancy Law.** Under provisions of the Code, specifically 24 P.S. §13-1327, every child of compulsory school age (from when a child’s parents elect to enroll the child in school, which shall be no later than age 8, until age 17) is required to attend a day school unless the child satisfies one of the exceptions set forth in §13-1330. Each school board is charged with setting policies governing pupil absences and excuses which shall be considered lawful. §13-1329.

Each school principal is required to report to the superintendent any child who has been absent three (3) days “during the term of compulsory attendance, without lawful excuse.” §13-1332 (emphasis added). A strict reading of the Code would suggest that a child is “truant” if he or she has three (3) unexcused absences during the entire time the child is subject to compulsory attendance.

In Pennsylvania the legal actions that are permitted or which are required for violation of the provisions regarding compulsory school attendance vary according to the circumstances. The school district may file a summary citation with the local Magisterial District Judge against the parent/guardian or child or, in the alternative, refer the matter to the local Children & Youth Services agency for services or the filing of a dependency proceeding.

Before the school district may file a summary citation with the local Magisterial District Judge the school must give the offending person three (3) days written notice that the provision regarding compulsory school attendance has been violated. Thereafter during the child’s term of compulsory attendance if there is another unexcused absence the school may proceed without further notice.¹ 24 P.S. 13-1333(a)(1). After the filing of the complaint a **hearing** is scheduled at which **both the parent/guardian and child** are required to **attend**. Section 13-1333(a)(2).

¹ Some confusion potentially exists between this section and Section 13-1354. The latter section provides that the appropriate school personnel shall be notified of every child who has been absent three(3) days, or their equivalent, without lawful excuse. The school shall then provide the parent/guardian with written notice of the absences and “and if it shall appear that, within three (3) days thereafter, any child, parent, guardian ... shall have failed to comply with the provisions of this act, the [school] ... shall proceed against the person so offending in accordance with the provisions of this act.” After the written notice is given Section 13-1333 suggests that the next unlawful absence can precipitate the filing of a citation before the Magisterial District Judge whereas Section 13-1354 indicates that “within three (3) days thereafter” the school can proceed. Does this mean the school can proceed anytime after the 4th unexcused absence, only if the 4th absence occurs within the three day period after the notice is given, or upon the 6th unexcused absence? See footnote No. 7, below.

If the parent/guardian is found guilty the Magisterial District Judge has a variety of options to consider:

- a. Impose a fine not to exceed \$300.00 payable to the benefit of the school district together with court costs (Sec. 13-1333(a)(1));
- b. Attend a parenting program (Sec. 13-1333(a)(1));²
- c. Order the parent/guardian to perform community service in the school district for a period not to exceed six(6) months (Sec. 13-1333(a)(4));
- d. Suspend the sentence in whole or in part provided that the child is no longer **habitually truant**³ from school without justification (Sec. 13-1333(a)(3)).

If the parent/guardian satisfies the Magisterial District Judge that he/she took every reasonable step to insure attendance of the child at school a not guilty verdict shall be entered. Sec. 13-1333(a)(2). If a not guilty verdict is entered for this reason and the **child is 13 years old or older and** has failed to comply with compulsory attendance **or** has been habitually truant without justification a summary citation may be filed against that child. Sec. 13-1333(b)(1). Upon conviction of that child the Magisterial District Judge again has a variety of options to consider including:

- a. Impose a fine not to exceed \$300.00 payable to the benefit of the school district (Sec. 13-1333(b)(1));
- b. Assign the child to an adjudication alternative program pursuant to 42 Pa.C.S.A. s1520⁴ (Sec. 13-1333(b)(1));
- c. Suspend the sentence in whole or in part provided that the child is not longer habitually truant from school without justification (Sec. 13-1333(b)(3)).
- d. Notify the Pennsylvania Department of Transportation of the conviction (Sec. 13-1333(c)).⁵

Should a **child age 13 years or older** fail to comply with option (a) or (b), above, the Magisterial District Judge **may allege** the child to be a dependent child under provisions of the Juvenile Act. Sec. 13-1333(b)(2). However, failure of the child to pay the fine shall not be considered a delinquent act under the Juvenile Act. Sec. 13-1333(b)(2).⁶

² If the parent defaults in paying the fine or in completing the parenting program he/she **shall** be sentenced to the county jail for a period not exceeding five (5) days. Sec. 13-1333(a)(1).

³ The term “habitually truant” under Sec. 13-1333 means absence for more than three (3) school days or their equivalent following the first notice of truancy given under Sec. 13-1354. A person may be habitually truant after such notice. Sec. 13-1333(b)(5).

⁴ 42 Pa.C.S.A. 1520 allows a Magisterial District Judge to place a person charged with certain summary offenses in an appropriate program approved by the Court of Common Pleas which may include work, counseling, public service, job training, education, appropriate community service, self-improvement, costs, restitution, and a reasonable administrative fee.

⁵ The Department of Transportation shall suspend the driving privileges of the child for a period of 90 days for the first offense and for a period of 6 months for each subsequent offense. If the child has not obtained his/her driving privileges the right to do so shall be delayed for the aforementioned periods. Sec. 13-1338.1.

⁶ The Juvenile Act provides that a child can be considered delinquent if he/she after a summary conviction fails to pay the financial obligations imposed. 42 Pa.C.S.A. 6302. The School Code would be an exception. Essentially, such fines are uncollectible. The Magisterial District Judge cannot impose any sanction upon the child for failure to pay. Juvenile Probation cannot collect the fine or provide services

If the parent/guardian satisfies the Magisterial District Judge that he/she took every reasonable step to insure attendance of the child at school, a not guilty verdict is entered, the **child is under the age of 13 years**, and the child has failed to comply with compulsory attendance **and** is habitually truant the school **shall refer** the child for services or possible disposition as a dependent child under provisions of the Juvenile Act. Sec. 13-1333(b)(4).

Interestingly, school officials who willfully refuse or neglect to comply with provisions of the School Code relating to compulsory school attendance shall be liable for a fine of up to \$25.00 and, in default thereof, be incarcerated in the county jail for a period not to exceed thirty (30) days. Sec. 13-1355.⁷

Finally, the Juvenile Act defines a dependent child as including a child who ‘while subject to compulsory school attendance is habitually and without justification truant from school.’ 42 Pa.C.S.A. 6302. There is an assumption that the term “habitually and without justification truant” under the Juvenile Act is equivalent to “habitually truant” under the School Code but the Legislature has not clarified that assumption. The burden of proof needed to finding a child dependent is by “clear and convincing evidence.” 42 Pa.C.S.A. 6341 (C). A child adjudicated dependent may be permitted to remain with his/her parents or removed and placed outside the home. However, before removing a child from the home there must have been reasonable efforts made to prevent or eliminate the need for removal. 42 Pa.C.S.A. 6351.

because the failure to pay does not constitute a delinquent act. Truancy can be referred to Children & Youth Services agencies for services or disposition as a dependent child but there is no mechanism in place for the collection of the delinquent fine. This raises a question as to the appropriateness of even imposing fines against truant children if there is no realistic way to collect the fines.

⁷ It is unclear who would be responsible for filing these charges.