

Truancy and Withdrawal
HB 410
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I. HB 410 passed, was effective April 6, 2017, and impacts the 2017-18 school year as related to truancy and discipline

HB 410 makes a number of changes to the truancy provisions in the Ohio Revised Code. Beginning July 1, 2017, it prohibits suspension or expulsion solely on the basis of absences from school without a legitimate excuse. It is designed to encourage earlier and collaborative intervention in cases of absence and decrease the number of truant students getting involved in the juvenile court system for school-related absences.

School District policies typically include reasons for which a student may be excused.

A. Truancy Interventions

1. Definitions

HB 410 changes the truancy definition to be based on instructional hours, rather than days of instruction. The designation of "chronic truancy" has been eliminated, and the designation of "habitual truant" is defined as any child of compulsory school age who has been absent without legitimate excuse for: (1) 30 or more consecutive hours; (2) 42 or more hours in a school month; or (3) 72 or more hours in a year.

2. Notice and Truancy Intervention

Schools must provide written notice to parents of a child of compulsory school age within 7 calendar days of a child's being absent with or without legitimate excuse for 38 or more hours in a school month or 65 or more hours in a school year. At the time the notice is given, the school may take any appropriate action as an intervention strategy contained in the board's policy. ORC 3321.191(C)(1)

3. Absence Intervention Team

ORC 3321.16 requires school districts to attempt to address habitually truant students through absence intervention teams and absence intervention plans.

A habitual truant must be assigned to an absence intervention team. Note that ORC 3321.19(D)(1) requires assignment of the student to an absence intervention team within 10 calendar days of becoming a habitual truant while ORC 3321.191 (C)(2)(e) requires selection of the absence intervention team within 7 school days and attempts to secure the participation of parents/guardians must occur within 7 school days. Within 7 school days of the designation, the superintendent or principal must select the members of the team, which must include a representative of the child's

school, another representative from the school who knows the child, and the child's parent, custodian, guardian ad litem, or temporary custodian. The team may also include a school psychologist, counselor, social worker or representatives of local public agencies designed to assist students and their families in reducing absences. ORC 3321.19(D)(1), 3321.191(C)(2). Districts with a truancy rate of less than 5% do not have to form a team, but must intervene with the student for 60 days regarding attendance. ORC 3321.19(E)

4. Parent Participation

Within 7 school days of the student being a habitual truant the superintendent or principal shall make at least 3 meaningful, good faith attempts to secure the participation of parents/guardians, guardian ad litem, or temporary custodian on the absence intervention team. If 7 days elapse and the parent/guardian fails to respond to the attempts to secure parent participation, the school shall investigate whether the failure to respond triggers mandatory reporting to children's services and the absence intervention team is to proceed to develop a plan for the student. ORC 3321.191(C) (2)(e)

5. Absence Intervention Plan

Within 14 school days after the student is assigned to an absence intervention team, the team shall develop an intervention plan for the student to reduce or eliminate further absence. Each plan is to be based on the individual needs of the student but shall state that the attendance officer shall file a complaint not later than 61 days after the dated the plan was implemented if the child has refused to participate or failed to make progress on the intervention plan ORC 3321.191(C)(2)(a)

6. Parent Notice

Within 7 calendar days after development of the absence intervention plan, the school must make reasonable efforts to provide the student's parent, custodian, guardian ad litem, or temporary custodian with written notice of the plan. ORC 3321.191(C)(2)(a)

7. End of the Year Absences

If a student becomes habitually truant within the 21 school days prior to the end of the school year, the district may, in its discretion, assign one school official to work with the student's parent and develop an absence intervention plan during the summer. This plan is to be implemented not later than 7 calendar days prior to the first day of instruction of the next school year. In the alternative, the school may wait to reconvene the absence intervention process on the first day of instruction in the next school year. ORC 3321.191(C)(2)(f).

8. Other

A school district may still adopt a policy requiring a parent or guardian of a student who is truant or habitually absent to attend a parental education or training program provided by the district. ORC 3313.663.

B. Juvenile Court Referral

Eventually the student is to be referred to Juvenile Court if certain criteria are met. The attendance officer must file a complaint in the juvenile court on the 61st day after implementation of the absence intervention plan or other intervention strategies if all of the following apply (3321.16):

1. The student was absent without legitimate excuse 30 or more consecutive hours, 42 or more hours in one school month or 72 or more hours in a school year;
2. The school has made meaningful attempts to re-engage the student through the absence intervention plan or other intervention strategies and any offered alternatives to adjudication; and
3. The student has refused to participate in or failed to make satisfactory progress on the plan. ORC 3321.16(B)(1), 3321.19(D)(2).

An attendance officer must also file a complaint against a student who, at any time during the implementation of the absence intervention plan or other intervention strategies is absent without legitimate excuse 30 or more consecutive hours, 42 or more hours in one school month, unless the absence intervention team has determined that the student has made substantial progress on the plan. ORC 3321.16(B)(2).

If the 61st day after implementation of the intervention plan falls on a day during the summer, the district may extend the implementation of the plan and delay the filing of the complaint for an additional 30 calendar days after the first day of instruction of the next school year.

C. Policy Changes

1. The State Board of Education was required to and did develop a model policy for the 2017-18 school year that emphasizes prevention and alternatives to out of school suspension and expulsion. ODE must develop materials to assist school districts in providing teacher and staff training on implementing the strategies. Uncodified Section 3.
2. Excessive truancy was removed from the Ohio statute related to zero-tolerance policies as well as the Ohio statute that requires the "Big 8" school districts to establish alternative schools to meet the needs of students with severe discipline problems. ORC 3313.534
3. Effective for the beginning of the 2017-18 school year, districts, under ORC 3321.191, are to revise their policies for dealing with student absences to include establishing district absence intervention teams and developing the absence intervention plans. Also, for the beginning of the 2017-18 school year, school districts and ESCs must adopt or revise policies to guide employees in addressing and ameliorating student absences. ORC 3321.191.

D. Discipline Changes

1. After July 1, 2017, schools may not suspend or expel a student solely on the basis that the student was absent from school. ORC 3313.668
2. If a student is suspended, the school district may, in its discretion, permit the student to complete any classroom assignments missed because of the suspension. ORC 3313.66(A)(2).
3. If a student is suspended at the end of the school year, the disciplinary removal may no longer carry over into the next school year. Instead, the superintendent may require the student to participate in a community service program or another alternative consequence for a number of hours equal to the remaining part of the suspension. The student shall be required to begin the community service or alternative consequence during the first full week of summer break. In the event that the student fails to complete the community service or alternative consequence, the school district may determine the next course of action, which shall not include requiring the student to serve the remaining out of school suspension at the beginning of the following school year. ORC 3313.66

E. Reporting

Beginning with the 2017-18 school year, districts must report to ODE when an absence notice is submitted to a parent, when a student is a habitual truant, when a student is adjudicated an unruly child for habitual truant violates the court order, or when an absence intervention plan has been implemented. ORC 3321.191(E)

F. Other

Note that several statutes that currently refer to school days were revised to a number of school hours instead.

A pilot program was created for multidisciplinary truancy teams.

II. The US Dept. of Education released a Dear Colleague Letter and Resource Guide on chronic absenteeism in October 2015.