

# **Basic Education Circular (BEC)**

## **24 P.S. 13-1327 Compulsory Attendance and Truancy Elimination Plan**

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### **I. Introduction**

Educational success promotes workforce opportunity and development and builds a strong economic future for our state. The Pennsylvania Department of Education's (PDE) goals are for every child to be known by name, be proficient or advanced in the core subjects, be graduates from high school, and achieve equitable outcomes regardless of background or "condition." The Commonwealth of Pennsylvania is committed to improving school attendance rates. In order for students to realize the opportunities and benefits from school, students have to not only be in attendance, but they must also be meaningfully connected to the school and experiencing success. To achieve this, there must be a collaborative effort across agencies, both at the state level and locally, to work with students and families to address the source issues that result in truant behavior.

This BEC is the result of the work of the Statewide Task Force on School Attendance and Truancy Reduction, so magisterial district judges, parents, and schools will receive guidance on what they can do to help Pennsylvania's children. The Department of Education and the schools of the Commonwealth are obligated to comply with state and federal requirements for student attendance and truancy. As "No Child Left Behind" and the Pennsylvania Accountability System place increased emphasis on student achievement and attendance, it has become even more important to improve Pennsylvania's efforts to reduce truancy.

Development of this BEC has been driven by recommendations made by the Task Force to facilitate a consistent statewide response to truancy and absenteeism and for the development of a continuum of prevention and intervention strategies that involve collaboration among schools, law enforcement agencies, social services providers, as well as faith-based and youth-serving agencies. This BEC describes Pennsylvania law pertaining to pupil attendance and truancy and offers recommendations made by the PDE to encourage the adoption of proven truancy reduction efforts. This document also provides recommendations using national experience and best practices that have proven successful in reducing truancy.

There should be a common understanding among school personnel that the initial responsibility to address truancy rests with teachers, principals and guidance counselors. School districts are advised to develop creative and innovative approaches to ensure that children are active participants in their education. Every effort should be made to keep youth in school and reduce the school district's referrals to the courts, child welfare or juvenile justice systems in order to effectively intervene and eliminate truant behavior. Children are truant for many reasons and schools should seek to understand and address those issues. In Section IV (A)(3) of this BEC, the Department recommends that schools develop a Truancy Elimination Plan (TEP) as a means to address truancy.

Section II of the BEC describes Pennsylvania’s law on attendance; Section III provides guidance for schools to use in working with partners to prevent truancy; Section IV outlines the recommended policy on truancy for districts to adopt; Section V addresses proceedings and penalties for violation of compulsory attendance requirements; and Section VI addresses charter schools.

This BEC does not apply to first class school districts. The truancy procedures and programs of the School District of Philadelphia are developed and implemented by the district’s Office of Transition and Alternative Education and the City of Philadelphia’s Office of Truancy Prevention in the Department of Human Services.

## **II. Attendance**

### **A. Compulsory Attendance Requirements**

Compulsory school age refers to the period of a child’s life from the time the child enters school as a beginner, which may be no later than eight years of age, until the age of seventeen or graduation from a high school, whichever occurs first. It is mandatory for all children of compulsory school age having a legal residence in Pennsylvania to attend a day school in which the subjects and activities prescribed by the Standards of the State Board of Education are taught in the English language, except in the following situations found in sections 1327, 1327.1, 1329, and 1330 of the Pennsylvania School Code:

1. Attendance at a private trade school or private business school continuously through the entire term congruent with the school term of the resident school district and that meets the requirements set forth by the State Board of Education or the State Board of Vocational Education when:
  - The child is 15 and has approval from the district superintendent and Secretary of Education, or
  - the child is 16 and has approval from the district superintendent.
2. Attendance at a school operated by a bona fide church or other religious body which provides a minimum of 180 days of instruction or 900 hours of instruction per year at the elementary level or 990 hours per year of instruction at the secondary level.
3. Privately tutored or home school students provided a minimum of 180 days of instruction or 900 hours of instruction per year at the elementary level or 990 hours per year of instruction at the secondary level.
4. Children who are 16 and regularly engaged in useful and lawful employment during the school session with a valid employment certificate. The Department of Education’s opinion is that “regularly engaged” means 35 or more hours per week of employment.
5. Children who have been examined by an approved professional and identified to be unable to profit from further public school attendance and excused by the school board.
6. Children who are 15 who hold a permit approved by the school district to engage in farm

work or domestic service in a private home.

7. Children who are 14 and satisfactorily completed the equivalent of the highest grade of elementary school in their district who hold a permit approved by the Secretary of Education to engage in farm work or domestic service in a private home.

### **B. Temporary Attendance Excuses**

Principals or teachers in any public, private, or other school may also excuse any child for non-attendance during temporary periods following their respective school district's policy and Pennsylvania law in excusing students. The board of school directors is required to adopt written policies governing pupil absences and excusals.

### **C. Categorizing Absences: What is Unlawful Absence from School?**

The school district is responsible for monitoring and maintaining records of the attendance of students. All absences should be treated as unlawful until the school district receives a written excuse explaining the reason(s) for an absence. Parents/guardians and students should submit the written explanation within three calendar days of the absence and should be informed that if they fail to provide a written excuse within three days of the absence, the absence would be permanently counted as unlawful. The PDE recommends that schools immediately inform parents in writing upon each incident of unlawful absence.

Pennsylvania law broadly defines absences as excused when a student is prevented from attendance for mental, physical, or other urgent reasons. Many school districts consider illness, family emergency, death of a family member, medical or dental appointments, authorized school activities, and educational travel with prior approval as the only lawful absences. An absence that should not be categorized as unlawful is one in which a student who is involved with the county children and youth agency or juvenile probation office is required to leave school for the purposes of attending court hearings related to their involvement with these agencies. It is the responsibility of each district to determine the validity of excuses and have clear written policies regarding absences.

Under Section 11.24, students who miss ten consecutive school days shall be dropped from the active membership roll unless the school is provided with evidence the excuse is legal or the school is pursuing compulsory attendance prosecution. Students of compulsory school age, who have not complied with compulsory attendance requirements, may be offered alternative education services or other provisions of education. Students are entitled to a free public education until the age of 21 years of age or until they receive a high school diploma, whichever occurs first.

#### **D. Cumulative Lawful Absences**

A maximum of ten days of cumulative lawful absences verified by parental notification may be permitted during a school year. All absences beyond ten cumulative days should require an excuse from a physician.

#### **E. Reports of Attendance Public and Private Schools (24 PS 13-1332 and 1354)**

Every principal or teacher in a public or private school and every private teacher (tutor) is required to report at once to the superintendent, attendance officer, home and school visitor, or secretary of the board of school directors of the district, cases when a child of compulsory school age has been absent three days, or their equivalent, without a lawful excuse. The rationale of such reporting is to actively engage in case of habitual truancy appropriately. A systemic response should be initiated only when a demonstrated pattern of truancy has been developed. If parents are neglectful in providing written excuses or do not meet such requirements in a timely fashion, reasonable allowances should be made to accept parent's explanations for their child's absences without initiating any punitive response.

### **III. Creating a Community Plan to Keep Children in School**

#### **A. Informing Stakeholders**

Every school district should develop with their truancy reduction partners (e.g. parents, magisterial district judges, juvenile probation department, and county children and youth agency) comprehensive policies regarding attendance, absenteeism and truancy reduction. Updates should be distributed to all parties as soon as changes in policy take place. School district policies should be posted and available to the public and community organizations, including potential student employers.

The county-based integrated children's services team should be part of the development of any truancy reduction efforts including the development of policies related to school attendance. Partnerships with the judicial system and agencies or organizations that are concerned with truancy reduction are a critical linkage that school districts must develop. These stakeholders should assist in identifying student needs and potential family environments that contribute to high rates of absenteeism. The county children and youth agency is especially important in this regard. School districts that enlist the assistance of these agencies have had success at reducing truancy and building a community effort to emphasize the importance of keeping children in school.

#### **B. The Role of Parents and Families**

Family involvement is essential to keeping children in school. Parents and/or families should play a key role in the development of policies. Establishing immediate positive and proactive personal contact with families from the time the school year starts is critical to developing a working partnership. In an effective school environment, parents and families are the school districts' best partners and should be approached as valuable resources in addressing a truancy issue. Section 11.41 (b) of State Board regulations provides that parents/guardians must be given copies of the district's attendance policy yearly and the Department suggests that copies be provided at the beginning of each year and to all new enrollees. It is important that such

material is written in a way that is easily understood by all parents and translated when there are large populations of non-English speakers residing in the district. Parents and/or families should be provided with a list of community-based resources and a school representative that they can contact when they have concerns or issues related to their child's school attendance. To ensure that parents have dedicated the time necessary to understand the school's truancy policy, signature forms that acknowledge parental/guardian understanding of attendance policies are recommended.

School personnel designated to inform parents of truant behavior should approach parents as equal partners and express concern related to how the school can help address the reason the child is not attending school. It is important that information be shared with parents about the consequences and penalties associated with violation of state law and school board attendance requirements. This information should be shared in a factual, non-threatening manner. Schools should document and maintain a record of all communications, including telephone calls, written correspondence, and any other documents used.

### **C. The Role of the School and School District**

Teachers serve as a first line of defense against habitual absenteeism. It is important to involve teachers in the development of attendance expectations and district policy. Likewise, it is important to listen to observations made by teachers about students in their classes. Teachers should take an active role by meeting with students individually and contacting the parent or guardian to encourage better attendance. The district's Student Assistance Teams should be made aware of all instances of unlawful absences. Districts should be developing a team response at the elementary level, as well as at the secondary level. In many instances of truancy, there will be underlying issues of school safety, family health, substance abuse, or mental health problems. The Department strongly recommends that school districts take a proactive approach and work with parents and families to avoid having the child identified as a habitual truant.

### **D. Mandatory Employees – Attendance Officer or Home and School Visitor (24 PS 13-1341)**

First, second, and third class school districts are required to employ at least one person holding the title of attendance officer, or home and school visitor. (PDE issues Home School and Visitor certification only.) Many attendance officers also hold this certification but it is not mandatory. The employee is to enforce the provisions of the Pennsylvania School Code regarding compulsory attendance. These individuals have full police power without warrant, and may arrest or apprehend any child who fails to attend school in violation of compulsory attendance. State, municipal, port authority, transit authority, housing authority and school police officers are provided with the same arrest powers. Many districts have personnel with the title of school resource officer or district security officer; however, they are not empowered to arrest students for truancy. In cases where students are arrested or apprehended, the apprehending or arresting officer is required to promptly notify the parents, guardian, or person in parental relation and to place the child in the public school in which the child is, or should be, enrolled unless the parent, guardian, or person in parental relation requests placement in a school other than a public school. Certification by the PDE is required for all individuals employed as home and school visitors. School districts of the fourth class may also employ attendance officers or home

and school visitors with the same powers and responsibilities. Districts may join in cooperative agreements to employ an attendance officer.

Whenever school personnel charged with overseeing attendance discover that any child of compulsory school age is unable to attend school due to the lack of necessary clothing or food, the case must be reported to any suitable relief agency operating in the school district. If a proper relief agency is not found in the district, the case should be referred to the proper county board of assistance for investigation and relief.

#### **IV. PDE Recommended School Responses to Unlawful Absences**

Habitual truancy negatively impacts a child's school performance and increases the likelihood of juvenile delinquency. An intensive and timely response to truancy is critical in those cases where a clear pattern of habitual truancy is evident. School districts shall not wait until a child has missed an excessive number of days before initiating a response, however, school districts should exercise caution and reason when utilizing punitive measures and involving other systems.

##### **A. PDE's Recommended Policy**

PDE recommends that a notice be sent to the parent/guardian after each unlawful absence. See Section IIC, page 3, for a definition of unlawful absence. Specific recommendations for each notice and step are found below. PDE recommends that unlawful absences do not trigger a formal response until the district has exhausted all efforts to work collaboratively with parent/guardian to address the truancy of the student and until the student has three unlawful absences over the course of the school year. Schools are a critical part of a child's support system and have a significant opportunity to assist children and families.

##### **(1) First Unlawful Absence**

Parent/guardian receives a notice of unlawful absence from the school district. The legal penalties established by law for violation of compulsory attendance requirements should be attached to the notice (see sample notices in Attachment). In addition to stating the legal punishments, the name and telephone number of a school contact person shall be included. Parents are then able to contact a specific person to request assistance in resolving the child's truant behavior.

##### **(2) Second Unlawful Absence**

Parent/guardian receives a second notice of unlawful absence from the school district. Once again, the legal penalties established by law for violation of compulsory attendance requirements and the name and telephone number of a school contact person shall be included. Additionally, another offer of assistance should be made to the parent.

##### **(3) Third Unlawful Absence**

Parent/guardian receives a third notice of unlawful absence by certified mail providing "official notice of child's third illegal absence." Attached to this notice will be penalties for violation of compulsory attendance requirements as they pertain to both the student and the parent/guardian, including information that three days after giving such notice, the student or parent/guardian who again violates the compulsory attendance requirements shall be liable without further notice.

School districts shall coordinate a school/family conference to discuss the cause of the child's truancy and develop a mutually agreed upon Truancy Elimination Plan (TEP) to resolve truant behavior. Issues to be reviewed at the school/family conference include the appropriateness of the child's educational environment, current academic difficulties, physical or behavioral health issues, and family/environment concerns. At the end of the conference all parties should sign a comprehensive TEP that is agreed to by the school representative, the child, and the parents and/or family. The plan could include accessing academic and social/health supports from the school and community organizations, an outline of family/parent and student responsibilities, and levels of performance monitoring that include rewards and consequences.

#### **(4) Subsequent Unlawful Absence**

After agreeing to a TEP, or if there is not agreement on a truancy elimination plan and 3 days have passed since the parent/guardian received the official notice of the child's third illegal absence, if a child is unlawfully absent, at any point within the school year, an official notice of unlawful absence will be sent home. The purpose of this correspondence is to inform the child's parent/guardian that the child has violated the TEP or, if there is not a TEP, to inform the child's parent/guardian that the child has again violated the compulsory attendance requirements, and advise the parent/guardian that a citation will immediately be sent to the magisterial district judge. To ensure the parent/guardian receives the notice, it is recommended that such a notice be sent through certified mail. After this step, the school is not obligated to inform parents in writing of absences but it is recommended that the school continue to call the parent/guardian to inform them of additional truant behavior. Schools should refer all future incidents of truancy directly to the magisterial district judge having jurisdiction in the region.

#### **(5) Referral to County Children and Youth Agency**

##### **(a) Children Under 13 Years of Age**

Any child who has not attained the age of 13 who fails to comply with the compulsory attendance requirements and is habitually truant, shall be referred by the school district to the local county children and youth agency for services, which may include addressing family issues that may be responsible for the child's truant behavior, or possible adjudication as a "dependent" child under the Juvenile Act. The referral to the county children and youth agency may be in addition to proceeding against the parent/guardian by sending the citation to the appropriate magisterial district judge or a school may decide to refer a family to the local county children and youth agency instead of sending a citation to the appropriate magisterial district judge. If the parent/guardian provides written consent, a copy of the TEP should be forwarded to the county children and youth agency.

##### **(b) Children 13 Years of Age and Older**

Any child who has attained the age of 13 who fails to comply with the compulsory attendance requirements and is habitually truant may, in lieu of being prosecuted (as described in Section V below), be referred by the school district to the local county children and youth agency for services, which may include addressing family issues that may be

responsible for the child's truant behavior or, possible adjudication as a dependent child under the Juvenile Act.

**(c) Habitually Truant**

The School Code defines habitually truant as absence for more than three (3) school days or their equivalent following the first notice of truancy given after a child's third unlawful absence.

**B. Continued Truancy**

If a child of any age continues to be truant after the above actions have been taken, then school districts are encouraged to file citations with the local magisterial district judge citing the child's continued truancy on a weekly basis. It is imperative that the local magisterial district judge be kept informed if truant behavior continues after a plan is in place.

**V. Proceedings and Penalties for Violation of Compulsory Attendance Requirements (24 PS 13-1333 and 1338.1)**

**A. School Code**

Every parent/guardian of any child of compulsory school age is subject to penalties if compulsory school-age attendance requirements are not met. While school districts are required to give three days written notice of violation of compulsory attendance prior to proceeding against the offending party it is strongly recommended that school districts make a concerted effort to address the cause of a child's truant behavior before referring the child to another system.

Possible sentences for parents found to be in violation of compulsory attendance law:

- Paying a fine up to \$300 for each offense and court costs, or
- Completing a parenting education program, and
- In cases where the party convicted fails to pay the fine or complete the parenting education program, a subsequent sentencing to the county jail for no more than five days.
- Completing in lieu of, or in addition to the previous penalties, community service within the school district for a period of no more than six months.

(Magisterial district judges may suspend all or portions of the sentence if the child is no longer habitually truant.)

The board of school directors may bring a student before the court. Possible dispositions for children found in violation of compulsory attendance law:

If the parent/guardian is not convicted by the magisterial district judge because the parent/guardian took every reasonable step to insure the child's attendance at school and the child has attained the age of 13, the child may be:



- subject to a fine of no more than \$300 for each offense, or
- assigned to an adjudication alternative program pursuant to 42 Pa.C.S. § 1520, and
- alleged to be dependent under 42 Pa.C.S. §6303(a)(1) by the magisterial district judge if the child fails to pay the fine or comply with the adjudication program.
- referred by the school district for services or possible disposition as a dependent child as defined under 42 Pa.C.S. § 6302(5), in lieu of prosecution or assignment to an adjudication alternative program, if the child fails to comply with compulsory attendance provisions and is habitually truant

(Magisterial district judges may suspend all or portions of the sentence if the child is no longer habitually truant.)

Any child who has not attained the age of 13 who fails to comply with the compulsory attendance requirements and is habitually truant, shall be:

- Referred by the school district for services or possible adjudication as a dependent child as defined under 42 Pa.C.S. § 6302(5).

For children convicted of violation of compulsory attendance requirements by the magisterial district judge, the court, including a court not of record, must send a certified record of the conviction or other disposition to the Department of Transportation.

- Upon first conviction, the child's operating privilege for operating an automobile will be suspended for 90 days.
- Upon the second or subsequent conviction, the child's operating privileges will be suspended for six months.
- Children who do not yet have a driver's license will be ineligible to apply for a license for the time periods of 90 days for the first conviction and six months for the second and any subsequent conviction.

If a student of compulsory school age cannot be kept in school on account of truancy, the school district may proceed against the student before the juvenile court.

### **B. Further corrective measures for violation of compulsory attendance**

General protective services are defined as services to prevent the potential for harm to a child. Under Title 55 Pa Code, Chapter 3490.223, children who are habitually and without justification truant from school while subject to compulsory school attendance are subject to an assessment to determine if there is a need for general protective services. Children shall not be referred to the county children and youth agency for assessment as possibly needing services until after the school district has made a formal effort to involve the family and child in resolving the cause of the truant behavior.

## **VI. Charter Schools**

### **A. Charter School Responsibilities**

Charter schools must report to the student's school district of residence when a student has accrued three or more days of unlawful absences. It is the responsibility of the school district to enforce the compulsory attendance laws in accordance with the Public School Code. However, charter schools should also follow PDE's Recommended Responses to Unlawful Absences for the first, second and third unlawful absences including the school/family meeting and implementation of a TEP. Charter schools should also refer the child to the county children and youth agency as stated in Section V above.

### **B. School District Response to Charter School Absences**

Under compulsory attendance laws, the parents/guardians of a student who has accumulated three unlawful absences are to receive notice stating any subsequent unlawful absences will result in a citation being filed with the magisterial district judge. The school district of residence should send the notice to parents/guardians immediately upon notification of the third unlawful absence by a charter school. It is recommended that such notice be sent through certified mail. Future unlawful absences should be filed with the magisterial district judge.

For brick and mortar charter schools, a school district may file truancy documents with the magisterial district judge in whose jurisdiction the charter school is located, which is where the cause of action arose, or where the charter school student resides, which is where the parent/guardian may be served. For cyber charter schools, a school district may file truancy documents with the magisterial district judge in whose jurisdiction the charter school student resides, which is where the cause of action arose and where the parent/guardian may be served. Charter schools and cyber charter schools must cooperate with school districts by providing necessary documentation for the truancy filings, and attending the hearings to provide testimony, if necessary.

**REFERENCES:**

**Purdon's Statutes**

24 PS 13-1326  
24 PS 13-1327  
24 PS 13-1329  
24 PS 13-1330  
24 PS 13-1332  
24 PS 13-1333  
24 PS 13-1334  
24 PS 13-1338  
24 PS 13-1338.1  
24 PS 13-1339  
24 PS 13-1341  
24 PS 13-1343  
24 PS 13-1354

The Juvenile Act- 42 Pa.C.S. §§ 6301- 6365  
55 Pa. Code § 3490.223

**State Board of Education Regulations**

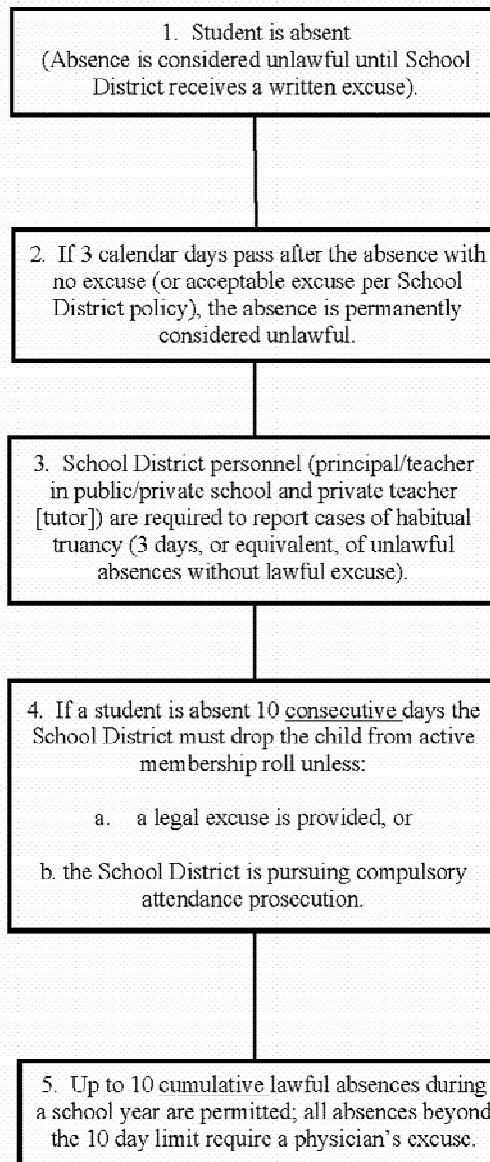
22 Pa. Code §11.34  
22 Pa. Code §11.41

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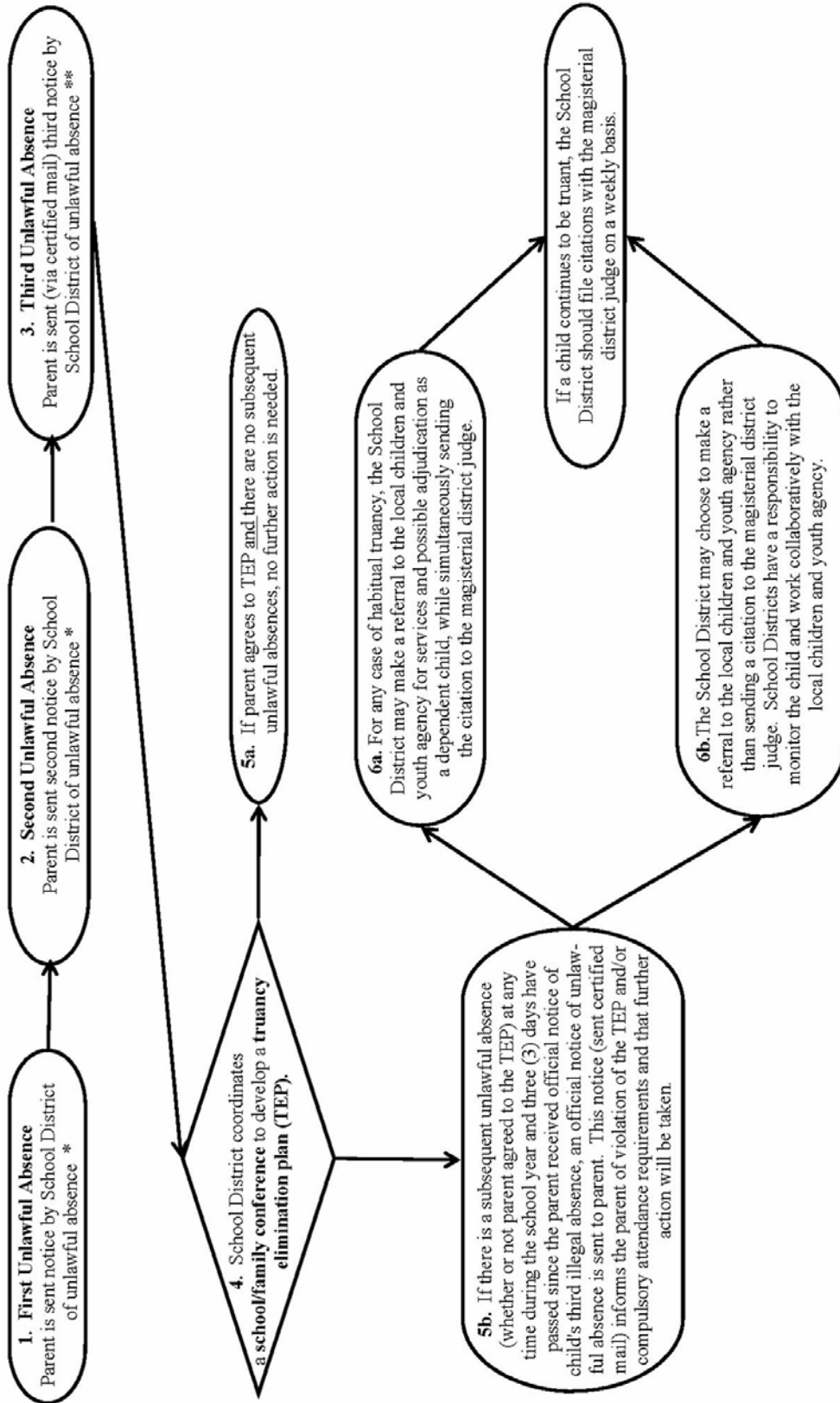
Bureau of Policy and Program  
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A. Attendance policy is determined by Pennsylvania law and School District policy (which must be in writing).

B. School Districts are required to inform parents of attendance requirements annually, and recommended to immediately inform parents in writing of any and all incident(s) of unlawful absence(s).

## PDE Recommended School Responses to Unlawful Absences



\* Legal penalties and school contact information included with correspondence.

\*\* Legal penalties, school contact information and notice regarding liability included with correspondence.