

Title of Regulation:

Regulation No.: 43-274

STUDENT ATTENDANCE

Effective Date: 06/27/14

Constitutional and Statutory Provisions:

Section(s):

59-5-65.

Powers and responsibilities of State Board of Education

59-65-90.

Rules and regulations

Code of Laws of South Carolina, 1976.

20 U.S.C. § 7112.

No Child Left Behind Act of 2001

42 U.S.C. § 5601 et seq.

Juvenile Justice and Delinquency Prevention Act of 1974

U.S. Code of Laws

State Board Regulation:

43-274. Student Attendance.

I. Lawful and Unlawful Absences

School districts must adopt policies to define and list lawful and unlawful absences.

(A) Lawful absences include but are not limited to

(1) absences caused by a student's own illness and whose attendance in school would endanger his or her health or the health of others,

(2) absences due to an illness or death in the student's immediate family,

(3) absences due to a recognized religious holiday of the student's faith, and

(4) absences due to activities that are approved in advance by the principal.

(B) Unlawful absences include but are not limited to

(1) absences of a student without the knowledge of his or her parents, or

(2) absences of a student without acceptable cause with the knowledge of his or her parents.

(C) Suspension is not to be counted as an unlawful absence for truancy purposes.

II. Truancy

The State Board of Education recognizes that truancy is primarily an educational issue and that all reasonable, educationally sound, corrective actions should be undertaken by the school district prior to resorting to the juvenile justice system.

(A) Truant

A child ages 6 to 17 years meets the definition of a truant when the child has three consecutive unlawful absences or a total of five unlawful absences.

(B) Habitual Truant

A “habitual” truant is a child age 12 to 17 years who fails to comply with the intervention plan developed by the school, the child, and the parent(s) or guardian(s) and who accumulates two or more additional unlawful absences. This child may need court intervention and an initial truancy petition may be filed. The written intervention plan, and documentation of non-compliance, must be attached to the truancy petition asking for court intervention.

(C) Chronic Truant

A “chronic” truant is a child ages 12 to 17 years who has been through the school intervention process, has reached the level of a “habitual” truant, has been referred to Family Court and placed on an order to attend school, and continues to accumulate unlawful absences. Should other community alternatives and referrals fail to remedy the attendance problem, the “chronic” truant may be referred to the Family Court for violation of a previous court order. All school intervention plans existing to this point for this child and family must accompany the Contempt of Court petition as well as a written recommendation from the school to the court on action the court should take.

III. Intervention Plans

(A) Each district must develop a policy relating to requirements for intervention. The district plan for improving students’ attendance must be in accordance with any applicable statutes.

(B) Once a child is determined to be truant as defined in Section II(A), school officials must make every reasonable effort to meet with the parent(s) or guardian(s) to identify the reasons for the student’s continued absence. These efforts should include telephone calls and home visits, both during and after normal business hours, as well as written messages and e-mails. School officials must develop a written “intervention plan” to address the student’s continued absence in conjunction with the student and parent(s) or guardian(s).

(C) The intervention plan must include but is not limited to

(1) Designation of a person to lead the intervention team. The team leader may be someone from another agency.

(2) Reasons for the unlawful absences.

(3) Actions to be taken by the parent(s) or guardian(s) and student to resolve the causes of the unlawful absences.

(4) Documentation of referrals to appropriate service providers and, if available, alternative school and community-based programs.

(5) Actions to be taken by intervention team members.

(6) Actions to be taken in the event unlawful absences continue.

(7) Signature of the parent(s) or guardian(s) or evidence that attempts were made to involve the parents(s) or guardian(s).

(8) Documentation of involvement of team members.

(9) Guidelines for making revisions to the plan.

(D) School officials may utilize a team intervention approach. Team members may include representatives from social services, community mental health, substance abuse, and prevention, and other persons the district deems appropriate to formulate the written intervention plans.

IV. Referrals and Judicial Intervention

At no time should a child ages 6 to 17 years be referred to the Family Court to be placed on an order to attend school prior to the written intervention planning being completed with the parent(s) or guardian(s) by the school. A consent order must not be used as an intervention plan from any local school or school district. Should the parent(s) or guardian(s) refuse to cooperate with the intervention planning to remedy the attendance problem, the school district has the authority to refer the student to Family Court in accordance with S.C. Code Ann. Section 59-65-50 (2004), and a report shall be filed against the parent(s) or guardian(s) with the Department of Social Services in compliance with S.C. Code Ann. Section 20-7-490(2)(c)(Supp. 2002).

(A) Petition for a School Attendance Order

If the intervention plan is not successful and further inquiry by school officials fails to cause the truant student and/or parent(s) or guardian(s) to comply with the written intervention plan or if the student and/or parent(s) or guardian(s) refuses to participate in intervention and the student accumulates two or more additional unlawful absences, the student is considered an "habitual" truant. Each referral must include a copy of the plan and specify any corrective action regarding the student and/or the parent(s) or guardian(s) that the district recommends that the court adopt as well as any other available programs or alternatives identified by the school district. The intervention plan must be attached to the petition to the Family Court and served on the student and the parent(s) or guardian(s).

(B) Petition for Contempt of Court

Once a school attendance order has been issued by the Family Court and the student continues to accumulate unlawful absences, the student is considered to be a "chronic" truant and school officials may refer the case back to Family Court. The school and district must exhaust all reasonable alternatives prior to petitioning the Family Court to hold the student and/or the parent(s) or guardian(s) in contempt of court. Any petition for contempt of court must include a written report indicating the corrective actions that were attempted by the school district and what graduated sanctions or alternatives to incarceration are available to the court in the community. The school district must include in the written report its recommendation to the court should the student and/or parent(s) or guardian(s) be found in contempt of court.

V. Coordination with the South Carolina Department of Juvenile Justice

Each school district should coordinate with the local office of the South Carolina Department of Juvenile Justice to establish a system of graduated sanctions and alternatives to incarceration in truancy cases.

VI. Transfer of Plans

If a student transfers to another public school in South Carolina, intervention plans shall be forwarded to the receiving school. School officials will contact the parent(s) or guardian(s) and local team members to review the plan and revise as appropriate. Court ordered plans may be amended through application to the court.

VII. Approval of Absences in Excess of Ten Days and Approval of Credit

(A) Approval or Disapproval of Absences

The district board of trustees, or its designee, shall approve or disapprove any student's absence in excess of ten days, whether lawful, unlawful, or a combination thereof, for students in grades K-12. For the purpose of awarding credit for the year, school districts must approve or disapprove absences in excess of ten days regardless as to whether those absences are lawful, unlawful, or a combination of the two.

(B) High School Credit

In order to receive one Carnegie unit of credit, a student must be in attendance at least 120 hours, per unit, regardless of the number of days missed, or must demonstrate proficiency as determined by the local school district. This exception to the 120-hour requirement is to be administered by local school districts on a case-by-case basis and only for students who have excessive absences that have been approved by the local school board. General request for proficiency-based credit must be made through the process described in Regulation 43-234. Students whose absences are approved should be allowed to make up any work missed in order to satisfy this requirement. Local school boards should develop policies governing student absences giving appropriate consideration to unique situations that may arise within their districts when students do not meet the minimum attendance requirements. Therefore, districts should allow students, whose excessive absences are approved in part 1 of this section, to make-up work missed to satisfy this requirement.

Examples of make-up work may include

(1) after-school and/or weekend make-up programs that address both time and academic requirements of the course(s), or

(2) extended-year programs that address both time and academic requirements of the course(s). All make-up time and work must be completed within thirty days from the last day of the course(s). The district board of trustees or its designee may extend the time for student's completion of the requirements due to extenuating circumstances that include but are not limited to the student's medical condition, family emergencies, and other student academic requirements that are considered to be a maximum load. Make-up requirements that extend beyond thirty days due to extenuating circumstances must be completed prior to the beginning of the subsequent new year.

VIII. Reporting Requirements

The South Carolina Department of Education will develop and implement a standard reporting system for the adequate collection and reporting of truancy rates on a school-by-school basis.

IX. Guidelines

Additional information relating to the implementation of this regulation will be contained in South Carolina Department of Education Guidelines. The South Carolina Department of Education will review and update these guidelines as needed.