

# A GUIDE TO TRUANCY REFERRALS

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In the fall of 2005, the Public Education Department contracted for a statewide school protocol booklet to facilitate closing the gaps between the school and juvenile justice systems. This was in line with the 2004 Legislative session, where language changes to the Compulsory School Attendance Laws required school districts, school boards, juvenile probation services, and other agencies to be more involved in the process in handling of truants and habitual truants.

**A. Compulsory Attendance Law Changes**

The Compulsory School Attendance Law changed definitions of truants, habitual truants, and unexcused absences. It requires school districts to maintain an attendance policy that provides for the early identification of students with unexcused absences and truancy while providing intervention strategies that focus on keeping truants in an educational setting and prohibiting out of school suspension and expulsion as a punishment. The new changes now required that class attendance be taken on every student, during every instructional day, within every public school or school program in school districts. The new law also required that school districts report their truancy and habitual truancy rate to the Public Education Department in a format and when requested by PED. It is important for those to understand the definitions related with these new laws.

- A. “Habitual truant” refers to a student who has accumulated the equivalent of ten or more unexcused absences within a school year.
- B. “Truant” refers to a student who has accumulated five unexcused absences within any twenty day period; and
- C. “Unexcused absence” is an absence from school or a class for which the student does not have an allowable excuse pursuant to the Compulsory School Attendance Laws or rules of the local school board or the governing authority of a private school.

Since the Compulsory School Attendance Laws went into effect, each school district and public education has continued to struggle with what constitutes an unexcused absence. As recent as July of 2006, discussion at the Statewide School Administrator's Conference in Albuquerque focused on a dialogue during a truancy workshop where a panel was convened to discuss the defining of unexcused absences. In most school districts, an unexcused is an absence for which no appropriate excuse is provided by the student's parent or legal guardian. Most school districts agree that absences may be excused for a number of reasons including illness, family emergencies, religious commitments, death in the family, diagnostic testing, doctor's appointment, a school sponsored activity, or extenuating circumstances that is agreed to by the school administration.

#### **B. Early Identification**

Under the current Compulsory School Attendance Laws, school districts are required to maintain an attendance policy that provides for the early identification of students with unexcused absences and truancy while requiring intervention strategies to truants and habitual truants in an educational setting. It is suggested that schools develop a written protocol that requires school personal to take appropriate action after three, five, seven, and ten unexcused absences. Recommendations for the written protocol are as follows:

**A. Three unexcused absences:** When a child has accumulated three unexcused absences, school personal shall inform truancy staff and/or teachers to contact the family to address the concern. In addition, a Three Day Parent Absentee Notification Form shall be sent to the parents or the legal guardians of the child (Appendix A).

**B. Five unexcused absences:** When a child has accumulated five unexcused absences, school personal shall inform truancy staff and/or teachers to contact the family to address the concern. At this point, the teacher if the child is in

elementary school or school administrator (counselor or assistant principal) for middle and high schools will arrange a meeting at the school with the parent or legal guardian to discuss the unexcused absences. A Five Day Absentee Notification Form will be sent to the child's parent or legal guardian (Appendix B).

**C. Seven unexcused absences:** When a child has accumulated seven unexcused absences, school personal shall inform truancy staff and/or teachers to contact the family to address the concern. At this point, the teacher if the child is in elementary school or school administrator (counselor or assistant principal) for middle and high schools will arrange a second meeting at the school with the parent or legal guardian to discuss the unexcused absences. At the second meeting, if a contract with the student and the parent has not been conducted, then one shall be developed at this time concerning the alleged child being a truant. In addition, the Seven Day Absentee Notification Form will be sent to the child's parent or legal guardian (Appendix C).

**D. Ten unexcused absences:** if a student has accumulated an equivalent of ten or more unexcused absences within a school year, the parent shall be given written notice by personal service or certified mail that the student is a habitual truant and is not in compliance with the Compulsory Attendance School Laws. At that time, the student shall be reported to the probation services office of the judicial district where the student resides for an investigation as to whether the student shall be considered to be a neglected child or a child in a family in need of services because of habitual truancy (Appendix D).

As schools are required to provide intervention strategies that focus on keeping truants in an education setting, it is suggested that the parent student conferences be in accordance

with the three and five absentee notification letters. Also another intervention that can be explored by the teacher/administrator at the parent teacher conference is referring the child and their families to local community based programs. Reasons behind students missing school can then be more thoroughly explored as to the factors relating to issues with the child or with the child and the family. Teachers and administrators should familiarize themselves with programs in the community that can offer assistance with the truants or habitual truants and their families. It is suggested that teachers and administrators review the New Mexico Sentencing Commission (NMSC) website to explore the juvenile program inventory to ascertain appropriate programs to referral the their students. The NMSC website is [www.nmsc.state.nm.us](http://www.nmsc.state.nm.us).

### **C. Enforcement of Attendance Laws**

If unexcused absences continue after written notice of habitual truancy, the student shall be reported to the probation services office of the judicial district where the student resides for an investigation as to whether the student is a neglected child or a child in the need of family services. The addresses and phone numbers of the all the states juvenile probation and parole offices, and protective services offices can be retrieved at the CYFD telephone directory from the following web site:

<http://nmsc.state.nm.us/inventory/search.php?q=Juvenile+Probation+Parole&type=all>. If after review by the juvenile probation office, a determination and finding is made that the habitual truancy by the student may have been caused by the parent of the student, then the matter will be referred to the District Attorney's office or any law enforcement agency having jurisdiction for an appropriate investigation and filing of charges allowed under the Compulsory School Attendance Law.

If after review by the juvenile probation office it appears the student is considered to be a neglected child, the juvenile probation office shall refer the family to the Protective Services Division (PSD) within CYFD. Referrals to PSD can be done by calling the Statewide Centralized Intake (SCI) hotline at 1-800-797-3260. After having received the referral, a Protective Services Social Worker will be assigned to investigate the allegation.

It should be noted that Protective Service Division social workers receive all of the neglect and abuse referrals throughout the state through SCI for reporting abuse and neglect. At this point and time, truancy is not a high priority. After having dialogue with social workers of PSD, it appears that truancy referrals will not be acted upon unless there are other issues of neglect and abuse detected through their investigation.

Therefore, it is suggested that schools and/or probation services should not make referrals on truancy on PSD unless they believe there are other issues relating to the child of neglect or abuse.

Juvenile probation services handle all the delinquency referrals for children cited or arrested under the age of 18 in the state of New Mexico. Juvenile probation offices in each community are not staffed or equipped to handle their local school districts habitual truant referrals. Under state law, they are required to review and refer cases for referrals to PSD and the District Attorney's office. In some communities, juvenile probation offices work very closely with the schools and local their truancy initiatives to assist in providing interventions and collaborating with community agencies to keep the child out of the juvenile justice system.

When referring habitual truancy students to the District Attorney's office for review of a referral from the school, it is important that school personnel submit a complete packet of attendance and interventions attempted by all school administrators for the possible prosecution of the child's parents.

#### **D. Current Initiatives**

Throughout the calendar year of 2006, there have been initiatives by several agencies to review the current Compulsory Attendance Laws and the Family in Need of Services Act (FINS) of the New Mexico Children's Code in attempts to improve and strengthen these laws in dealing with habitual truants and children and families who are in need of services. In the fall of 2006, members of PED, CYFD, the Department of Health, and others convened to review those statutes not only to strengthen the referral process for habitual truants and all status offense cases but also in an attempt to bring the Compulsory Attendance Laws and the FINS statutes together and not be in conflict.

It has been apparent for those dealing with habitual truants that the frustration with processing the habitual truant and the neglectful parent has been difficult. Even though the Compulsory Attendance Laws allow for the children's court to suspend habitual truants driving privileges for a specified time not to exceed 90 days, there is no legal mechanism in place to do so. The Compulsory Attendance Laws focus more on 1) the schools to provide identification, intervention, appropriate referrals, attendance records, and for 2) a legal mechanism to convict parents who knowingly allow the student to continually violate a Compulsory Attendance Law. Therefore, there is very little in Compulsory Attendance statutes and Family in Need of Services statutes that hold the individual children, particularly those of middle school and high school age responsible for their own actions.

Unless the statutes under review are strengthened, the state's schools, probation offices, and courts are not going to have the power to address the state's huge problem with truancy and habitual truancy.

The Public Education Department continues to work on the truant and habitual truant issues that affect all of our schools. Through a collaborative and proactive effort, the educational partners in New Mexico can work together to address these issues and reinforce truancy prevention strategies that can lead to the health and well-being of New Mexico children and youth. For further assistance, please contact State Truancy Coordinator Ron Lucero at [ronm.lucero@state.nm.us](mailto:ronm.lucero@state.nm.us) .

## 3 Day Absentee Notification

Date: \_\_\_\_\_

To the Parent(s) / Guardian(s) of: \_\_\_\_\_

Parent(s) / Guardian(s): \_\_\_\_\_

DOB: \_\_\_\_\_ Student Id # \_\_\_\_\_ Grade \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Dear Parent(s)? Guardian(s);

This letter is to inform you that your child may be in violation of the New Mexico School Attendance Law. According to this law, any parent or guardian NOT Ensuring their child is attending school may be guilty of violating the same law.

Our school attendance records indicate that as of today, \_\_\_\_\_, \_\_\_\_\_ has \_\_\_\_\_ unexcused absences from school. Please refer to the attached attendance report to view the documented unexcused Absences from school. This serves as notification.

To impact the importance of school, your child has been referred to \_\_\_\_\_. This is an opportunity to provide support and resources for you and your child.

Please contact your child's school upon receipt of this letter.

Sincerely,

School Administrator

cc: Student File

## 5 Day Absentee Notification

Date: \_\_\_\_\_

To the Parent(s) / Guardian(s) of: \_\_\_\_\_

Parent(s) / Guardian(s): \_\_\_\_\_

DOB: \_\_\_\_\_ Student Id # \_\_\_\_\_ Grade \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Dear Parent(s)? Guardian(s);

This letter is to inform you that your child may be in violation of the New Mexico School Attendance Law, NMSA Section 22-12-1 et. Seq. According to this law, any parent or guardian NOT ensuring their child is attending school may be guilty of violating the same law.

Our school attendance records indicate that as of today, \_\_\_\_\_, \_\_\_\_\_ has \_\_\_\_\_ unexcused absences from school.

Please refer to the attached attendance report to view the documented unexcused Absences from school. This serves as notification. In order to prevent a referral to the Children, Youth and Families Department (Child Protective Services Division and/or the Juvenile Justice Division) and the District Attorney's office, you are required to make sure that your child attends with no further unexcused absences.

Please contact me at \_\_\_\_\_ within two (2) school days upon receipt of this letter. Your cooperation is much appreciated in this matter.

Sincerely,

School Administrator

cc: Student File

cc: Student File

## 7 Day Absentee Notification

Date: \_\_\_\_\_

To the Parent(s) / Guardian(s) of: \_\_\_\_\_

Parent(s) / Guardian(s): \_\_\_\_\_

DOB: \_\_\_\_\_ Student Id # \_\_\_\_\_ Grade \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Dear Parent(s)? Guardian(s);

This letter is to inform you that your child may be in violation of the New Mexico School Attendance Law, NMSA Section 22-12-1 et. Seq. According to this law, any parent or guardian NOT ensuring their child is attending school may be guilty of violating the same law.

Our school attendance records indicate that as of today, \_\_\_\_\_, \_\_\_\_\_ has \_\_\_\_\_ unexcused absences from school.

Please refer to the attached attendance report to view the documented unexcused Absences from school. This serves as notification. In order to prevent a referral to the Children, Youth and Families Department (Child Protective Services Division and/or the Juvenile Justice Division) and the District Attorney's office, you are required to make sure that your child attends with no further unexcused absences.

Please contact me at \_\_\_\_\_ within two (2) school days upon receipt of this letter. Your cooperation is much appreciated in this matter.

Sincerely,

School Administrator

cc: Student File

cc: Student File

## 10 Day Absentee Notification

Date: \_\_\_\_\_

To the Parent(s) / Guardian(s) of: \_\_\_\_\_

Parent(s) / Guardian(s): \_\_\_\_\_

DOB: \_\_\_\_\_ Student Id # \_\_\_\_\_ Grade \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Dear Parent(s)? Guardian(s);

YOU ARE HEREBY NOTIFIED THAT \_\_\_\_\_ is allegedly in Violation of the State of New Mexico Compulsory Attendance Law and/or the District's Attendance Policy. Violation of Law is contrary to section 22-12-2, N.M.S.A. 1978 and/or the School's Attendance Policy.

You were previously notified of \_\_\_\_\_ unexcused absences as of

- 5 days (unexcused) as of (date): \_\_\_\_\_, and
- 7 days (unexcused) as of (date): \_\_\_\_\_.

As of (date): \_\_\_\_\_, the student: \_\_\_\_\_ excessive Unexcused absences have totaled 10 days or more. This case may be referred to the Children's, Youth and Families Department for investigation and potential prosecution by the District Attorney's Office (Children's Court Attorney) with the Judicial District Court of the State of New Mexico and to the Juvenile Probation and Parole Office on our community.

Please contact me at \_\_\_\_\_ within 48 hours of receipt of this letter. Failure to contact me will result in the case being referred to the District Attorney's Office and the Juvenile Probation and Parole Office for further prosecution. Thank-You for your attention in this very important matter.

Sincerely,

School Administrator  
cc: Student File

## NMSC NM Juvenile Justice Program Inventory

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### Home Page

The New Mexico Juvenile Justice Program Inventory is a [searchable](#) statewide catalog of programs available to juveniles needing services. The focus is on the needs of children referred to the NM Children Youth and Families Department's (CYFD) Juvenile Justice Division (JJD).

Each program listing includes as much of the following information as possible: Program name, contact information, description, eligibility, ages served, capacity, funding sources, CYFD contract division (if contracted through CYFD), non-profit status, CYFD client populations, areas of the state served and types of services offered.

A printable cross-referenced document containing all listings is available via PDF (last updated August 2005): [Hard-copy Juvenile Justice Program Inventory](#) (397 KB)

#### View Programs by:

- [All programs](#)
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- [Cities](#)
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The New Mexico Juvenile Justice Program Inventory is sponsored by the [New Mexico Sentencing Commission](#)