

# Truancy Guide

*A Training & Resource Manual for  
Truancy Intervention*

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The Children's Law Office  
USC School of Law

In Cooperation With

The South Carolina Center for Truancy and Dropout Prevention  
South Carolina Department of Education

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## ***Preface***

This Guide was prepared by the Children's Law Office, USC School of Law, in cooperation with the South Carolina Center of Truancy and Dropout Prevention. It is intended to provide a single source of information for professionals involved in the truancy intervention process, including school officials, DJJ staff, solicitors, attorneys, and family court judges.

The Guide is divided into four parts. Part one identifies the laws and regulations that govern truancy in South Carolina. It also includes the definition of truancy and explains educational neglect, which is an issue that needs to be understood by anyone dealing with a truant child.

Part two provides a chronological overview of the truancy intervention process, which includes descriptions of what parents, school officials, and juvenile justice professionals are required by law and encouraged as a matter of good practice to do in the intervention process. The purpose of this overview is to give the various professionals involved in the intervention process a clear understanding of what is expected of everyone and what their particular role is in relation to the overall process.

Part three deals with truancy intervention at the school level, focusing on the school's role in addressing the truant behavior and working with the parents to improve the child's attendance. One section addresses underlying causes of truant behavior and another provides guidance for developing and implementing an effective intervention plan.

Part four focuses on what happens if the intervention process at the school level is unsuccessful and, as a last resort, the child is referred to family court.

Applicable statutes, regulations, and model forms have also been included in the appendices.

Throughout this Guide, unless indicated otherwise, the term "parent" means biological parent, adoptive parents, step-parent, person with legal custody, or guardian. "Guardian" is defined by statute as "a person who legally has the care and management of a child."

The Model Student Intervention Plan (Appendix Five) and the Student Contract to Improve Attendance (Appendix Six) were adapted from similar documents found in the manual entitled “Guidelines for Improved Student Attendance and Truancy Prevention,” which was developed by Chicago Public Schools’ Office of Instruction and School Management.

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## Introduction

Truancy has been clearly identified as one of the early warning signs that youth are headed for potential delinquent activity, social isolation, and educational failure. Several studies have established lack of commitment to school as a risk factor for substance abuse, delinquency, teen pregnancy, and dropping out of school (Bell, Rosen, and Dynlacht, 1994; Dryfoos, 1990; Huizinga, Loeber, and Thornberry, 1995; Rohrman, 1993). Decades of research have also identified a link between truancy and later problems such as violence, marital problems, job problems, adult criminality, and incarceration (Dryfoos, 1990; Catalano et al., 1998; Robins and Ratcliff, 1978; Snyder and Sickmund, 1995).

More recent studies, such as the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Program of Research on the Causes and Correlates of Delinquency, indicate that truancy may be a precursor to serious violent and nonviolent offenses and that the connection between truancy and delinquency appears to be particularly acute among males (Kelley et al., 1997). In addition, findings from OJJDP's Study Group on Very Young Offenders indicate that chronic truancy in elementary school by children aged 12 and under is linked to serious delinquent behavior (Loeber and Farrington, 2000).

Students with the highest truancy rates have the lowest academic achievement rates, and because truants are the youth most likely to drop out of school, they also have high dropout rates (Dynarski and Gleason, 1999). The consequences of dropping out of school are well documented. School dropouts have significantly fewer job prospects, make lower salaries, and are more often unemployed than youth who stay in school (U.S. Department of Education, 1993). According to a recent report from the Bureau of Labor Statistics (2001:2), "6.0 percent of workers with a high school diploma were in poverty [in 1999], considerably lower than the proportion of those who had not completed high school (14.3 percent)." High school dropouts are also more likely to depend on welfare, experience unstable marriages, and serve time in prison than those who complete high school (Snyder and Sickmund, 1995; U.S. Department of Education, 1993). The financial impact of truancy and dropouts can be measured in a number of ways, including a less educated workforce, business loss due to youth who "hang out" or shoplift during the day, increased daytime crime rates, and the costs of social services for families of children who are habitually truant.

The way a state addresses truancy issues has an even more direct financial impact on communities: it can result in the loss of Federal and State education funding. Federal education allocations can be withheld from states that do not comply with federal legislation. In 2002, the United States Department of Education reauthorized the 2001 Elementary and Secondary Education Act, coined "No Child Left Behind" (NCLB). NCLB requires truancy rates to be collected on a school by school basis and reported to the federal government.

This is to ensure that schools are working to reduce dropouts and providing alternatives where needed to keep children in school.<sup>1</sup> Congress enacted the Juvenile Justice and Delinquency Prevention (JJDP) Act in 1974. This landmark legislation established the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to support local and state efforts to prevent delinquency and improve the juvenile justice system. The JJDP Act was reauthorized on November 2, 2002. One of the Act's mandates is the Deinstitutionalization of Status Offenders (DSO), which requires states to keep status offenders, such as truants, out of correctional institutions. South Carolina was not in compliance with this mandate for several years prior to 2004, due to the number of children committed to correctional institutions for truancy and for contempt of court for violating a previous order to attend school; accordingly, the federal government penalized the state by reducing its allocation of grant funding. In 2004, South Carolina regained compliance with the DSO mandate. In order to avoid future loss of federal funds crucial to maintaining many of the local programs that serve children in South Carolina, there must be a continuous effort to maintain compliance.

*The first three paragraphs of the Introduction were taken from an article by Myriam L. Baker, Jane Nady Sigmon, and M. Elaine Nugent that was published in the September 2001, OJJDP Juvenile Justice Bulletin. The full article can be found on the OJJDP website.*

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<sup>1</sup> The section of NCLB that relates to the collection of truancy rates on a school by school basis is found on page 5 of the following US Department of Education website: <http://www.ed.gov/legislation/ESEA02/pg52.html>.

# Part One: Overview of Truancy Issues

## I. South Carolina Laws Governing Attendance and Truancy

In South Carolina, attendance and truancy issues are governed by the South Carolina Code of Laws, Sections 59-65-10 through 59-65-280, and the South Carolina Code of Regulations, Reg. 43-274.

South Carolina law requires regular school attendance for every child who is at least five years old on or before the first day of September of a particular school year, until the child turns 17 years old. There are several, limited exceptions to this requirement which are listed in S.C. Code Ann. §59-65-30. Parents are primarily responsible for ensuring that their child attends school regularly, and they face statutory penalties if they neglect that responsibility. A parent whose child is not six years of age on or before the first day of September of a particular school year may elect for their child not to attend kindergarten by signing a written document making the election with the school district in which the parent resides.

Chapter 43 of the South Carolina Code of Regulations governs the State Board of Education and is authorized by S.C. Code Ann. §59-5-60 (1990). Reg. 43-274 outlines the state requirements for students' school attendance. In November of 2003, the State Board of Education revised Reg. 43-274 in response to the federal "No Child Left Behind" Act mandate to gather and report on truancy rates and the Deinstitutionalization of Status Offenders (DSO) mandate of the Juvenile Justice and Delinquency Prevention (JJDP) Act designed to keep truant children out of jail. (See Appendix Three for an overview of the JJDP Act.)

## II. Truancy Defined

Prior to the 2003 revision of Reg. 43-274, South Carolina schools had not been provided a uniform definition of truancy; this matter was left up to the individual school districts, which resulted in inconsistencies throughout the state.

As amended, Reg. 43-274 provides a clear and concise definition of truancy. The regulation uses a three tiered approach for defining the varying levels of truant behavior. A child is deemed to be a truant, a habitual truant, or a chronic truant depending on the surrounding circumstances, as described below:

### A. Truant:

A child, at least 6 but not yet 17 years old, who has accumulated three consecutive unlawful absences or a total of five unlawful absences.

**B. Habitual Truant:**

A child, at least 12 but not yet 17 years old, who (1) fails to comply with the intervention plan developed by the school, the child, and the parents or guardians, and (2) accumulates two or more additional unlawful absences.

**C. Chronic Truant:**

A child, at least 12 but not yet 17 years old, who (1) has been through the school intervention process; (2) has reached the level of a habitual truant and has been referred to family court and placed under an order to attend school; and (3) continues to accumulate unlawful absences.

The varying levels of truancy are important because there are requirements and limitations at each level for what should and can be done to address the child's truant behavior.

**III. Lawful and Unlawful Absences**

Truancy intervention is initiated when a student accumulates "unlawful" absences. Reg. 43-274 requires school districts to adopt policies to define and list lawful and unlawful absences, which must at least incorporate the following:

**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.

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

**IV. Educational Neglect Distinguished from Truancy**

Closely connected to the issue of truancy is educational neglect. Educational neglect is defined by state statute, but is often misunderstood and creates a source of confusion for school personnel faced with dealing

with a child who is not attending school regularly. South Carolina law places the ultimate responsibility for making sure a child attends school on the child's parent, and educational neglect should be considered as a possible cause of the child's absences.

#### **A. Educational Neglect Defined**

Child abuse or neglect may exist when parents do not provide their children with education as required by law. However, a child's absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate.<sup>1</sup>

#### **B. Indicators of Educational Neglect**

Specific signs that indicate educational neglect are not included in state law, regulations, or agency policy. Rather, professional judgment is required on a case-by-case basis.

Educational neglect may be indicated if:

1. The child is too young to be held responsible for his or her own regular attendance.
2. The parents do not respond to requests by school officials to meet regarding the child's attendance problems.
3. The parents appear apathetic about school attendance and make no effort to work with the school to encourage the child's future attendance.
4. The parents refuse to cooperate with an intervention plan instituted by the school to address the child's continued absence from school.
5. Other indicators of neglect are present. Child neglect is often chronic and can occur across dimensions. Neglect may be indicated when frequent absences from school are coupled with other signs of neglect, such as the following:
  - a. The child is dressed in clothing that is inappropriate for the weather.
  - b. The child exhibits poor hygiene as evidenced by continued body odor, untreated head lice, etc.
  - c. The child's medical needs are not being met; the parents are not making sure that the child receives routine or urgent medical care.
  - d. The child exhibits excessive sleepiness during the day.
  - e. The child comes to school hungry; the child is observed stealing or asking for food.
  - f. The child is acting as the caretaker for younger siblings.
  - g. The child reports being left alone at home.
  - h. The child is overly compliant, passive, or withdrawn.
  - i. The parents appear to be indifferent to the child's needs.

## C. Reporting Educational Neglect

### 1. Mandated Reporters

School teachers, counselors, principals, and assistant principals are specifically required by law to report to the Department of Social Services (DSS) when they have reason to believe that a child has been abused or neglected. Nurses, mental health professionals, social workers, and law enforcement officers are also mandated to make such reports.<sup>2</sup>

If efforts to work with the parents have failed to correct the attendance problem due to the parents' failure to cooperate, school personnel, as mandated reporters, must make a report to DSS in the county of the child's legal residence.

### 2. Making the Report

The school district is not authorized to petition the court directly for suspected educational neglect or other abuse. School personnel should report such a case to the local DSS. DSS is the designated agency responsible for investigating reports of child abuse and neglect, and it may petition the court to hear the case. (Reports of other types of abuse or neglect can be made to either DSS or law enforcement.<sup>3</sup>) Reports to DSS may be made orally or in writing.<sup>4</sup>

The requirement to report suspected child abuse or neglect supersedes all other federal and state confidentiality laws, including HIPAA.<sup>5</sup>

In making a report of suspected neglect, the following information is helpful to DSS: child's name, age, date of birth, address, and present location if known; names and ages of siblings; and parents' names and addresses. The report should provide information about the child's attendance and any other reasons that cause you to be concerned about the child. The school's efforts to obtain cooperation from the parents should be presented in detail, including dates and times of meetings, phone calls, and letters.

DSS may summarize the outcome of an investigation to the reporter if the request is made at the time of the report. (For additional information about the investigation process, see Appendix Nine.)

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<sup>1</sup> S.C. Code of Laws Ann. §20-7-490(2) (Supp. 2004)

<sup>2</sup> S.C. Code of Laws Ann. §20-7-510(A) (Supp. 2004)

<sup>3</sup> S.C. Code of Laws Ann. §20-7-510(D) (Supp. 2004)

<sup>4</sup> Id.

<sup>5</sup> 45 C.F.R. sections 160.203(c), 164.502(g)(5), and 164.512

## Part Two: A Chronological Overview of the Truancy Intervention Process

### *Including Requirements and Recommendations for Parents and Professionals Involved in the Process*

Whether a child is just beginning to exhibit truant behavior or is headed into the family court for violating the compulsory attendance law or a court order to attend school, certain steps should be taken to address the truant behavior and encourage regular attendance by the child. There are specific laws and state regulations that identify who should intervene with children exhibiting truant behavior and what is required of them in the intervention process.

The following information outlines what parents, school officials, DJJ community staff, the family court prosecutor, the child's defense attorney, and the family court judge are required by law or encouraged to do in order to help ensure the child attends school in compliance with the laws of South Carolina.

- I. **From the school year in which a child is five years of age before September first until the child attains his or her seventeenth birthday or graduates from high school,** parents and school officials have a responsibility to ensure the child attends school regularly.

#### **A. Parents**

1. Parents are required by law to make sure their children regularly attend school (unless the child meets one of the limited exceptions listed in §59-65-30, which can be found in Appendix Two).<sup>1</sup>
2. A parent whose child is not six years of age on or before the first day of September of a particular school year may elect for their child not to attend kindergarten. The parent must sign a written document making the election with the school district in which the parent resides.<sup>2</sup>
3. Parents who neglect to enroll their child or refuse to make their child attend school, upon conviction, may be fined up to fifty dollars or imprisoned for up to thirty days for each absence.<sup>3</sup> It may be considered educational neglect if a child is accumulating unlawful absences and the school's efforts to help the child attend regularly fail because of the parent's refusal to cooperate.<sup>4</sup>

## **B. School Officials**

1. School principals are required to report to the county attendance supervisor on a child's continuous unexcused absences.<sup>5</sup>
2. Attendance supervisors are required to make an earnest effort to have and keep enrolled all children of school age in the county.<sup>6</sup>
3. S.C. Code Ann. §59-65-50 states that "if the board of trustees of a school district or its designee is unable to obtain the school attendance of a child required by law to attend school, the board or its designee shall report such nonattendance in writing to the family court." Reg. 43-274 outlines the requirements that must be met by the school prior to referring a child to court.

## **II. Truant Level**

If a child, who is at least 6 but not yet 17 years old, accumulates three consecutive unlawful absences or a total of five unlawful absences, that child is classified as a truant.<sup>7</sup> Once a child is classified as a truant, the child's parents and school officials have additional responsibilities to improve the child's attendance.

### **A. Parents**

1. Parents must cooperate with the school intervention planning. This means that parents should take an active role in assisting the school in identifying the reasons for the child's truant behavior. Parents should also cooperate with any referrals made by the school in an effort to improve the child's attendance.
2. It is important for parents to understand that if they refuse to cooperate with the intervention planning, Reg. 43-274(D) states that the school district has the authority to refer the child to family court for truancy and requires that a report be filed against the parents with DSS for educational neglect. It may be considered educational neglect only if a child is accumulating unlawful absences and the school's efforts to help the child attend regularly were unsuccessful because of the parent's refusal to cooperate.

### **B. School Officials**

1. As soon as a child is determined to be "truant," school officials are required to immediately intervene to encourage the child's future attendance.
2. The first step should be to identify the reasons for the child's continued absence. This is a crucial step in the intervention process. Truancy is generally a symptom of an underlying problem. If the underlying causes of the truant behavior are not accurately identified

- and are ignored, the intervention plan developed will be missing key elements necessary to effectively address the attendance problem.
3. At this point, it will be necessary to meet with the child's parents to discuss why the child has been missing school. It is not acceptable to make minimal efforts to contact the parents to set up a meeting. Every reasonable effort must be made to meet with the parents, including phone calls and home visits, both during and after normal business hours, as well as written messages and e-mails if necessary.<sup>8</sup> When meeting with parents, it is important to treat them with respect and, until proven otherwise, it should be assumed that the parents want their child to be in school.
  4. Once the underlying causes of the truancy have been identified, school officials are required to work with the child and the parents to develop a written intervention plan to address the child's continued absence.<sup>9</sup>
  5. When developing the intervention plan, school officials may determine that the child and the family are in need of additional services that the school is not equipped to provide. If this is the case, a team intervention approach may be used to formulate the intervention plan. Team members may include representatives from social services, community mental health, substance abuse and prevention, and other persons deemed appropriate.<sup>10</sup>
  6. The intervention team or the school officials may determine that it is appropriate to make referrals to particular organizations or agencies to address specific problems, needs, or concerns of the child and family.
  7. If the parents refuse to cooperate with the intervention planning to remedy the attendance problem, the school district may refer the child to family court and file a report against the parents with DSS for educational neglect.<sup>11</sup>
  8. In an effort to encourage participation by the parents, it is a good idea in the beginning to educate the parents about what can happen to them if they do not cooperate. School officials should provide the parents with a copy of the laws on penalties for failure to cause a child to attend school (§59-65-20) and educational neglect (§20-7-490(2)), which can be found in Appendix Two.
  9. Throughout the intervention process, school officials should carefully document all actions taken with and on behalf of the child and family.

### III. Habitual Truant Level

A child, who is at least 12 but not yet 17 years old, who fails to comply with the intervention plan and accumulates two or more additional unlawful absences is classified as a habitual truant.<sup>12</sup> A child, under the age of 12, cannot be classified a habitual truant according to Reg. 43-274. The regulation was drafted this way based on the belief that parents should be

held responsible for making sure that their children under the age of 12 attend school.

If a child reaches the habitual truant level, the parents and school officials are still under an obligation to continue with the intervention planning, but the child may also need court intervention. At this point, an initial truancy petition may be filed with the family court.

#### **A. Parents**

1. Up to this point, parents should have been actively involved in the intervention planning process and should continue to make every reasonable effort to improve their child's attendance. They should attend any appointments made for them and follow through with any referrals that were suggested in the intervention plan. If the parents are not assisting in the intervention plan, the school can make a referral to DSS for educational neglect without referring the child to court for truancy.
2. If the child is referred to family court for truancy and placed under a court order to attend school, the judge will likely make the parents a party to the action and place them under the order to require their cooperation.

#### **B. School Officials**

1. If school officials have been unsuccessful in causing a child to comply with the written intervention plan, they have the option of referring the child to family court. It is important that the school make every effort possible to keep the child in school before resorting to filing a petition against the child. As noted in Reg. 43-274(B), "(t)he 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."
2. School officials should be aware of the implications of referring a child to family court. A child involved in family court proceedings will likely miss numerous days of school when attending court hearings and meeting with court personnel. Also, any child who becomes involved with the juvenile justice system is at risk for being sentenced to a DJJ institution.
3. If it is determined that a referral to the family court is necessary, school officials may refer the case by filing an initial truancy petition.<sup>13</sup> The written intervention plan and documentation of non-compliance with the plan must be attached to the truancy petition and served on the child and parents.<sup>14</sup> The referral must also specify any corrective action regarding the child or the parents that the district

recommends that the court adopt, as well as any other available programs or alternatives identified by the school district.<sup>15</sup>

4. When a child returns to school after being placed under a school attendance order, though not required by law, school officials should update the intervention plan to incorporate the terms of the order. It is good practice to set up a meeting with the child and the parents soon after the first court hearing to make sure they know that the school is still supportive and willing to continue to make the effort to resolve the attendance problem with the family's cooperation. School officials should continue to assist the child and family through any new referrals for services that may be needed.
5. Again, throughout the intervention process, school officials should carefully document all actions taken with and on behalf of the child and family.

### **C. Family Court Solicitor**

Procedures vary from county to county as to how children are referred to family court for violating the compulsory school attendance law (commonly referred to as "first time truancy referrals" for an "initial truancy hearing"). Regardless of how a first time truancy petition is filed with the family court, there are certain steps that the solicitor, if involved, should take to ensure proper handling of the case.

1. The solicitor should verify that the school officials have complied with all the requirements outlined in Reg. 43-274 before proceeding with the case.
2. The solicitor should also verify that the written intervention plan and documentation of non-compliance have been attached to the truancy petition and served on the child and parents prior to the initial truancy hearing.
3. The solicitor should proceed with a clear understanding of the Juvenile Justice and Delinquency Prevention (JJDP) Act "valid court order" requirement and the importance of using a court order that qualifies as a "valid court order" under the JJDP Act. See Appendix Three for an overview of the "valid court order" requirement of the JJDP Act which explains the implications of not using a "valid court order" as defined by the Act. A model "valid court order" for the purposes of the JJDP Act is provided in Appendix Seven.

### **D. Child's Defense Attorney**

1. At this stage, a child may be represented by an attorney. Whether the child has the right to appointed counsel at this first "hearing" is unclear and may depend on the process by which the presiding judge conducts the hearing. At issue is whether or not the hearing may result in commitment to an institution in which the child's freedom is

curtailed. In *In re Gault*, 387 U.S. 1 (1967), the U.S. Supreme Court held that “the Due Process Clause of the Fourteenth Amendment requires that in respect of proceedings to determine delinquency which may result in commitment to an institution in which the juvenile's freedom is curtailed, the child and his parents must be notified of the child's right to be represented by counsel retained by them, or if they are unable to afford counsel, that counsel will be appointed to represent the child.” For additional information regarding a juvenile’s due process rights, including the right to appointed counsel, see Appendix Four.

2. If the child is represented by an attorney at this stage, the defense attorney should meet with the child and the parents in order to prepare for the court hearing and determine if there are any possible defenses available to the child.
3. Before going to court, the attorney should verify that school officials have complied with the requirements listed in Reg. 43-274, and if they have not, the attorney should ask the prosecutor to dismiss or continue the case or request the judge to dismiss or continue the case and order the school to comply with such requirements.
4. The attorney should also make sure that the written intervention plan and documentation of non-compliance were attached to the truancy petition and served on the child and the parents prior to the initial truancy hearing.
5. Before allowing the child to be placed under a court order to attend school, the attorney should make sure that the child has received full due process rights guaranteed to the child by the United States Constitution.

#### **E. Family Court Judge**

1. When a child is referred to court by school officials for violation of the compulsory attendance law, the judge should verify that the school officials have complied with the requirements of Reg. 43-274. If the requirements have not been met, the judge may dismiss or continue the case and order the school officials to comply with such requirements.
2. The judge should verify that the written intervention plan and documentation of non-compliance are attached to the truancy petition and that these documents have been served on the child and the parents.
3. The judge should also ensure that the child has received full due process rights guaranteed to the child by the United States Constitution.
4. If the judge determines that the child has violated the compulsory school attendance law, the judge may issue an order compelling the child to attend school and join the parents as parties to the action by placing them under the court order, as well. The order may require

the immediate return of the child to court if there are any additional absences, class cuts, or tardies; or it may give some discretion to the school officials as to whether or not they refer the child back to court. The judge may also place the child on probation with DJJ, thus placing DJJ in the active role of monitoring the child's future school attendance.

#### **IV. Chronic Truant Level**

A child, at least 12 but not yet 17 years old, who has been through the school intervention process, has been placed under an order to attend school, and continues to accumulate unlawful absences, is classified as a chronic truant.<sup>16</sup> At this point, the child may be referred back to family court for contempt of court.

##### **A. Parents**

1. Parents must continue their efforts to assist and cooperate with the intervention plan and comply with the school attendance order. If the parents do not comply with the order, they may be held in contempt of court.
2. Parents should also make sure that their child is represented by an attorney if brought back to family court for contempt of court. This is especially important since the child is at risk for being committed to a correctional institution. If the parents are unable to hire an attorney, an attorney will be appointed to represent the child.
3. Parents should be prepared to answer questions the judge may have at the contempt of court hearing regarding any efforts made on their behalf to encourage their child's attendance.
4. If the child is adjudicated delinquent for violating a court order, the parents should comply with any further conditions ordered by the court.

##### **B. School Officials**

1. School officials may refer the child to family court for violation of a previous court order.<sup>17</sup>
2. Before petitioning the court to hold the child in contempt of court, school officials should ensure that they have complied with any specific requirements of the school attendance order and the intervention plan, and the school and district must exhaust all reasonable alternatives prior to petitioning the family court to hold the child or parents in contempt of court.<sup>18</sup> However, if the judge's previous order provided that the child should be brought back for contempt if there is one further unexcused absence, then school officials must act in accordance with the order.

3. If school officials file a contempt of court petition, all school intervention plans existing to this point for the child and family must accompany the petition.<sup>19</sup> The petition for contempt of court must also include a written report that presents as much information as possible to assist the judge in making the best decision for the child. It must at least indicate the corrective actions that were attempted by the school district, recommendations by the school district to the court should the child or parents be found in contempt of court, and graduated sanctions or alternatives to incarceration that are available to the court in the community.<sup>20</sup>
4. The school district should coordinate with the local DJJ office to establish a system of graduated sanctions and alternatives to incarceration in truancy cases.<sup>21</sup>
5. School officials should have a clear understanding of all the facts surrounding the case and should be prepared to answer any questions about the intervention process that the court may ask at the contempt of court hearing. School officials should consider all options available to the child and may present more than one recommendation for consideration by the court.
6. If a child is adjudicated delinquent for contempt of court, the judge may place the child on probation or commit the child to a DJJ institution. No matter what the final disposition of the case, it is likely that the child will ultimately return to school. School officials should not simply rely on a court order to enforce school attendance. It is suggested that the intervention plan be updated as soon as possible after the child returns to school to incorporate the order of the court and provide continued monitoring of the child's attendance. If the underlying issues that caused the truancy in the beginning have not been resolved, a court order to attend school will not substitute for treatment that may be needed. In many cases, professional help and family involvement will be necessary to keep the child in school.

### **C. DJJ Community Specialist**

1. DJJ is required by law to provide intake services to independently assess the circumstances and needs of children referred for possible prosecution.<sup>22</sup> When a child is charged with contempt of court, the child and parents will be notified of the date and time they are scheduled to meet with the DJJ community specialist at the local DJJ county office for intake.
2. While reviewing the case file and preparing for intake, the DJJ specialist should ensure that the written intervention plan is included with the petition and that the plan is individualized, updated, and complete.
3. During intake, the DJJ community specialist will explain the court proceedings to the child, collect background information from the child and the parents, and request the parents to sign releases to

obtain school and medical records. The DJJ community specialist should also inform the child and parents of the child's right to an attorney and may refer the parents to be screened to determine if they qualify for a public defender.

4. The information gathered at intake, school records, past involvement in the juvenile justice system, and other available information will be used by the DJJ community specialist to make a recommendation to the solicitor as to whether or not to prosecute the child. DJJ staff will also rely on this information to make a recommendation to the court for its consideration and determination of the disposition of the case.
5. DJJ's recommendation to the solicitor should include whether reasonable efforts to comply with Reg. 43-274 have been made. It should also include whether all required documentation is accompanying or contained in the referral or petition for truancy.
6. If the required written documentation does not exist, does not accompany, or is not contained in the referral or petition or, does not comply with the requirements of Reg. 43-274, the DJJ community specialist should recommend to the solicitor that the petition not be processed, but rather returned to the school district with the deficiencies noted so that the deficiencies can be corrected. The focus should be on the substance of what is provided, not the form in which it is provided.
7. If circumstances do not warrant prosecution in the discretion of the solicitor, the DJJ community specialist should offer referral services as appropriate for the child and family.<sup>23</sup>
8. The DJJ specialist should also look into diversion options for the child. If an appropriate truancy diversion option exists in the community, then the DJJ community specialist should recommend to the solicitor that such option be used prior to court.
9. The DJJ specialist should cooperate with the school district's efforts to establish a system of graduated sanctions and alternatives to incarceration.<sup>24</sup>
10. At the contempt of court hearing, the DJJ community specialist should provide the court, upon request, with any advice or assistance concerning procedural compliance or recommendations concerning appropriate intervention services available to address the child's truancy.
11. If the child is placed on probation at the contempt of court hearing, the DJJ community specialist should meet with the child and family following the hearing to explain the probation court order and set up an appointment to begin monitoring the probation. DJJ should also coordinate with the school officials to continue the intervention process and incorporate the terms of the court order into the process.

#### **D. Family Court Solicitor**

1. Prior to court, the solicitor should review DJJ's intake recommendations and make a determination as to whether or not to prosecute.<sup>25</sup>
2. Before proceeding with the case, the solicitor should make sure that school officials and DJJ representatives have complied with all laws and requirements of Reg. 43-274.
3. The solicitor should verify that all school intervention plans existing to this point for the child and family are attached to the contempt of court petition. The solicitor should also verify that the petition includes a written report indicating the corrective actions that were attempted by the school district, graduated sanctions or alternatives to incarceration that are available to the court in the community, and recommendations by the school district to the court should the child or parents be found in contempt of court.
4. Again, as noted at the habitual truant level, the solicitor should have a clear understanding of the JJDP Act "valid court order" requirement and understand the importance of using a court order that qualifies as a "valid court order" under the JJDP Act, 42 U.S.C. 5603(16). See Appendix Three for an overview of the "valid court order" requirement of the JJDP Act, which includes an explanation of the implications of not using a "valid court order" as defined by the Act. A model "valid court order" for the purposes of the JJDP Act is provided in Appendix Seven.

#### **E. Child's Defense Attorney**

1. Once hired or appointed to represent a child charged with contempt of court, the defense attorney should set up a meeting with the child and the parents to explain the court proceedings and gather information from the child and parents to prepare for court.
2. The defense attorney should determine whether there are any possible defenses available to the child and explain to the child the options of pleading guilty and admitting to being in willful violation of the court order, or going forward with a trial.
3. The defense attorney should check to make sure that school officials have fulfilled their responsibilities up to this point and that they have complied with all the requirements of Reg. 43-274.
4. The defense attorney should make sure that all school intervention plans existing to this point for the child and family are attached to the contempt of court petition.
5. The defense attorney should also make sure that the petition for contempt of court includes a written report indicating the corrective actions that were attempted by the school district, graduated sanctions or alternatives to incarceration that are available to the

- court in the community, and recommendations by the school district to the court should the child or parents be found in contempt of court.
6. The defense attorney should review the case file and verify that the child was afforded all due process rights guaranteed to such child by the Constitution of the United States. (For additional information regarding a juvenile's due process rights, see Appendix Four.)
  7. If the child was not afforded such due process rights from the very beginning of the process, the defense attorney may assert that any possible future incarceration would be in violation of the federal DSO mandate of the JJDP Act, 42 U.S.C. 5633(a)(11). (See Appendix Three for an overview of the DSO mandate of the JJDP Act.)
  8. The defense attorney should meet with school officials and DJJ staff prior to court to resolve any questions.

## F. Family Court Judge

When a child appears before a family court judge for violating a court order to attend school, the judge is faced with a dilemma – absent other circumstances, an offense of truancy does not make a child a criminal or a danger to the community; however, the child has violated an order of the court which is considered a serious act of defiance that must be addressed. Further, it is in the child's best interest to attend school.

1. Before proceeding with the contempt of court hearing, the judge should verify that an intervention plan was in place from the beginning and that a school attendance order was previously issued.
2. In order to ensure that the school officials have met all required of them, the judge should verify that the petition for contempt of court is accompanied by all school intervention plans existing to this point and includes a written report indicating the corrective actions that were attempted by the school district, recommendations by the school district to the court should the child or parents be found in contempt of court, and graduated sanctions or alternatives to incarceration that are available to the court in the community.
3. The judge should verify that the child or the parents were given written notice of the factual allegations to be considered at the hearing.<sup>26</sup> The judge should also confirm that the notice was given sufficiently in advance to permit preparation and that the child or parents were advised in the notice of their right to be represented by an attorney and that, if unable to hire an attorney, one would be appointed to represent them.<sup>27</sup>
4. In the hearing, the judge must expressly inform the parent and child of their right to counsel and specifically require them to consider whether they do or do not waive the right of counsel.
5. If the judge adjudicates the child delinquent for contempt of court, he or she will issue an order which states the disposition for the child and family. The order may place the child on probation with DJJ,

commit the child to a DJJ institution, or order commitment to DJJ to be followed by probation. In order to be in compliance with the federal “valid court order” requirement of the JJDP Act, 42 U.S.C. 5603 §103(16)(A)(B), a court order used for the purpose of committing a status offender to a correctional institution must be “given by a (family) court judge to a juvenile who was brought before the court and made subject to such order, and who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States.”

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- 1 S.C. Code Ann. §59-65-10(A) (Supp. 2004)  
2 Id.  
3 S.C. Code Ann. § 59-65-20 (1990)  
4 S.C. Code Ann. §20-7-490 (2) (Supp. 2004)  
5 S.C. Code Ann. §59-65-260 (1990)  
6 Id.  
7 Reg. 43-274(B)(1)  
8 Reg. 43-274(C)(2)  
9 Id.  
10 Reg. 43-274(C)(4)  
11 Reg. 43-274(D)  
12 Reg. 43-274(B)(2)  
13 Reg. 43-274(D)(1)  
14 Reg. 43-274(B)(2)  
15 Reg. 43-274(D)(1)  
16 Reg. 43-274(B)(3)  
17 Reg. 43-274(D)(2)  
18 Id.  
19 Reg. 43-274(B)(3)  
20 Reg. 43-274(D)(2)  
21 Reg. 43-274(E)  
22 S.C. Code Ann. §20-7-7405 (Supp. 2004)  
23 Id.  
24 Reg. 43-274(E)  
25 S.C. Code Ann. §20-7-7405 (Supp. 2004)  
26 S.C. Code Ann. §20-7-7415(D) (Supp. 2004)  
27 Id.

## Part Three: Truancy Intervention at the School Level

### I. Underlying Causes of Truant Behavior and Suggested Interventions

Truancy is generally a symptom of an underlying problem. Therefore, in order to effectively address truancy, the underlying problems and causes of the truant behavior must first be identified and resolved. According to a study by the Office of Juvenile Justice and Delinquency Prevention, the causes of truancy can be divided into four broad categories: family factors, school factors, economic influences, and student variables. Community factors, such as economic conditions and differing culturally based attitudes toward education, are included in the four identified areas.

The following is an overview of each of the four categories mentioned in the study, along with suggested interventions. This is not meant to be a complete list of causes or interventions, but a starting point for initiating the intervention process.

#### A. Family Factors

1. Family factors include:
  - a) Lack of guidance or parental supervision
  - b) Domestic violence
  - c) Drug or alcohol abuse in the home
  - d) Lack of awareness of the school's attendance policies and the state's attendance laws
  - e) Ambivalent attitudes about the importance of education
2. Suggested interventions:
  - a) Inform parents of available counseling services and parent education classes offered in the community that will assist them in working with their child to alleviate factors contributing to truancy. Consider whether they may need individual or family counseling, drug or alcohol counseling, or parenting skills classes.
  - b) Encourage parents to assume greater responsibility for ensuring regular attendance by their child.
  - c) Conduct workshops to educate parents about the compulsory attendance and educational neglect laws. Make sure that parents have a clear understanding of their legal obligations and what can happen if they do not make their child attend school.
    - (1) If convicted for violating South Carolina's compulsory school attendance laws, parents can be fined up to \$50 for each day

their child is absent or put in jail for up to 30 days for each unexcused absence. S.C. Code Ann. §59-65-20.

- (2) Parents can be charged with educational neglect if the school has made efforts to ensure the child's regular attendance and those efforts fail because of the parents' refusal to cooperate. S.C. Code Ann. §20-7-490(2).

## **B. Economic Influences**

1. Economic influences include:
  - a) Poverty
  - b) Homeless youth
  - c) Working students
  - d) Single-parent homes
  - e) High rate of mobility or relocation of the family
  - f) Parents who work multiple jobs
  - g) Lack of adequate transportation
  - h) Lack of affordable childcare
2. Suggested interventions:
  - a) Adopt alternative schedules for high school students who are working to encourage and accommodate regular school attendance.
  - b) Connect homeless families with service providers who can help them obtain financial, social, and medical assistance.
  - c) Assign a case manager to work with the family to obtain services and counseling needed to address the truancy.
  - d) Work with community-based organizations and agencies that could offer a continuum of services for truant children and their families.
  - e) Encourage student participation in organized educational, recreational, and social activities conducted in the community.

## **C. School Factors**

1. School factors include:
  - a) School size which can lead to feelings of alienation and disassociation
  - b) Overcrowded classrooms
  - c) Attitudes and relations among students, teachers, and administrators
  - d) Limited flexibility in meeting the diverse cultural and learning styles of the students
  - e) Inappropriate enforcement of rules and procedures
  - f) Inconsistent procedures for dealing with truancy
  - g) Lack of meaningful consequences for truant youth

2. Suggested interventions:
  - a) Establish and encourage in-school and out-of-school tutoring and mentoring programs.
  - b) Make use of in-school instead of out-of school suspension.
  - c) Reward student participation with community organizations.

#### **D. Student Variables**

1. Student variables include:
  - a) Academic problems and learning difficulties
  - b) Drug and alcohol abuse
  - c) Lack of understanding of attendance laws
  - d) Poor social skills
  - e) Mental health issues
  - f) Physical health problems
2. Suggested interventions:
  - a) Develop attendance workshops for truant students.
  - b) Make sure that the student has a clear understanding of the school's attendance policies, the compulsory attendance laws, and the implications of violating those laws.
  - c) Assign a case manager to work with the student and the student's family to obtain services and counseling needed to address the truancy.
  - d) Provide students with support such as tutoring and mentoring services.
  - e) Refer the student to the appropriate agencies or organizations in the community for testing, counseling, or social services.

## **II. Developing and Implementing an Effective Intervention Plan**

Every school district in South Carolina is required by Reg. 43-274 to have a policy regarding truancy intervention. Additional requirements of Reg. 43-274 for intervention planning are described below and are followed by suggestions for developing an intervention plan tailored to meet the individual needs of a truant child.

### **A. Identify the Reasons for the Truant Behavior**

This is a critical step in the process. The key to developing an effective intervention plan is to correctly identify the underlying causes of the truant behavior.

Reg. 43-274 requires school officials to make every reasonable effort to meet with the child's parents to identify the reasons for the child's continued absence as soon as a child is determined to be truant.

“Reasonable efforts” to meet with the parents should include telephone calls and home visits, both during and after normal business hours, as well as written messages and e-mails.

*Suggestions:*

1. Take the time necessary to determine why the child is missing school. Again, in order for the intervention plan to be truly effective, it is essential to identify the underlying factors contributing to the truancy.
2. Make sure you have all the background information necessary to develop a plan that is tailored to meet the individual needs of the child and the child’s family.
3. The easiest way to start this process is by meeting with the child and discussing the truancy problem with the child. Try to learn as much as possible from the child by asking questions and letting the child know that you are there to help.
4. Schedule a parent conference at the school.
5. Meet with the child and the child’s parents together to discuss reasons for the child’s absences. Be sure to get as much input from the child and the parents as possible.
6. When appropriate and necessary, make home visits to meet with the family and observe the child’s home environment.
7. Do not rule anything out until you have gathered enough information to make an informed assessment that takes all the circumstances surrounding the child’s life into account.
8. Consider the following:
  - a. Has the child been tested to ensure appropriate placement in school?
  - b. Are there any signs that the child may have a learning disability?
  - c. Has the child been diagnosed with any type of mental illness that could be contributing to the truant behavior?
  - d. Does the child have a drug or alcohol problem?
  - e. Are there any medical problems or health issues that need to be addressed?
  - f. Has the child been diagnosed with any type of illness that could be a contributing factor?
  - g. Does the child have a primary care physician?
  - h. Is the child experiencing any problems with vision?
  - i. Is the child receiving proper dental care for any dental problems the child may have?
  - j. Have there been any recent stressful events in the child’s life?
    - (1) Death or illness of a family member or loved one?
    - (2) Separation of parents?
    - (3) Change in residence?
  - k. Does the child have a problem with a particular teacher or class?
  - l. Is the child being bullied by other students at school?
  - m. Is there a transportation problem contributing to the truancy?

- n. Are there issues at home that need to be addressed?
  - o. Is the child caring for younger siblings?
  - p. Do the parents have a substance abuse problem?
  - q. Are the parents gainfully employed and able to provide the basic necessities for the family?
9. In addition to meeting with the child and the child's parents, check with all the child's teachers to see if they are able to provide any additional insight into the situation.
  10. Utilize the services of the school nurse, guidance counselor, and social worker to help identify why the child is missing school.

## **B. Develop the Intervention Plan**

When a child is determined to be truant, Reg. 43-274 requires school officials to develop a written intervention plan to address the student's continued absence in conjunction with the child and parents. School officials have the option of using a team intervention approach when developing the plan. Team members may include representatives from social services, community mental health, substance abuse and prevention, and anyone else deemed appropriate by the district.

Reg. 43-274 requires the written intervention plan to at least include the following:

1. Designation of a person to lead the intervention team.
2. Reasons for the unlawful absences.
3. Actions to be taken by the parents to resolve the causes of the unlawful absences.
4. Actions to be taken by the student to resolve the causes of the unlawful absences.
5. Documentation of referrals to appropriate service providers and, if available, alternative school and community-based programs.
6. Actions to be taken by intervention team members.
7. Actions to be taken if unlawful absences continue.
8. Signature of the parents or evidence that attempts were made to involve the parents.
9. Documentation of team members' involvement.
10. Guidelines for revising the plan.

### *Suggestions:*

1. When meeting with parents, it is important to treat them with respect and, until proven otherwise, it should be assumed that the parents want their child to be in school. Parents should be approached in a way that creates an atmosphere of concern and shows a willingness on the part of the school to help. This will set the tone for future dealings with the family and will convey to the parents the message that the school places a high priority on their child's good attendance.

2. Parents must be made aware of the vital role that they play in ensuring their child's good attendance. It may be helpful to discuss the importance of receiving an education and how it will provide their child with opportunities for a better life. This will obviously be more of an issue in families where, historically, little value has been placed on education, which should become apparent in the initial meetings with the parents.
3. Be sure to clearly state what is expected of the child and the parents throughout the intervention process. Make sure that the child and parents completely understand what they are required to do and what will happen if they do not comply with those requirements.
4. It may be helpful to develop and implement a contract with the child and parents to improve the child's attendance. (See Appendix Six. )
5. Utilize the services of the school nurse, guidance counselor, and/or social worker to provide family counseling to help address the issues contributing to the truant behavior.
6. Conduct an assessment for social services should the family need additional interventions that the school cannot provide. Make referrals to any appropriate services or resources in the community that may be available to help the family.
7. Address any school transportation problems that may exist. Also, make sure steps are taken to ensure that transportation problems do not prevent the family from accessing recommended community services.
8. Immediate steps should be taken to provide the child with necessary books and working materials if the child's parents are unable to purchase them. Although this does not have to be part of the intervention plan, it is required by law<sup>1</sup> and should be incorporated into the plan if it has not already been done.
9. If the child does not have suitable clothing or shoes, the attendance supervisor should report this to the appropriate social service provider (DSS) in the community. Again, although this is not required to be part of the intervention plan, the law states that it must be done.<sup>2</sup>

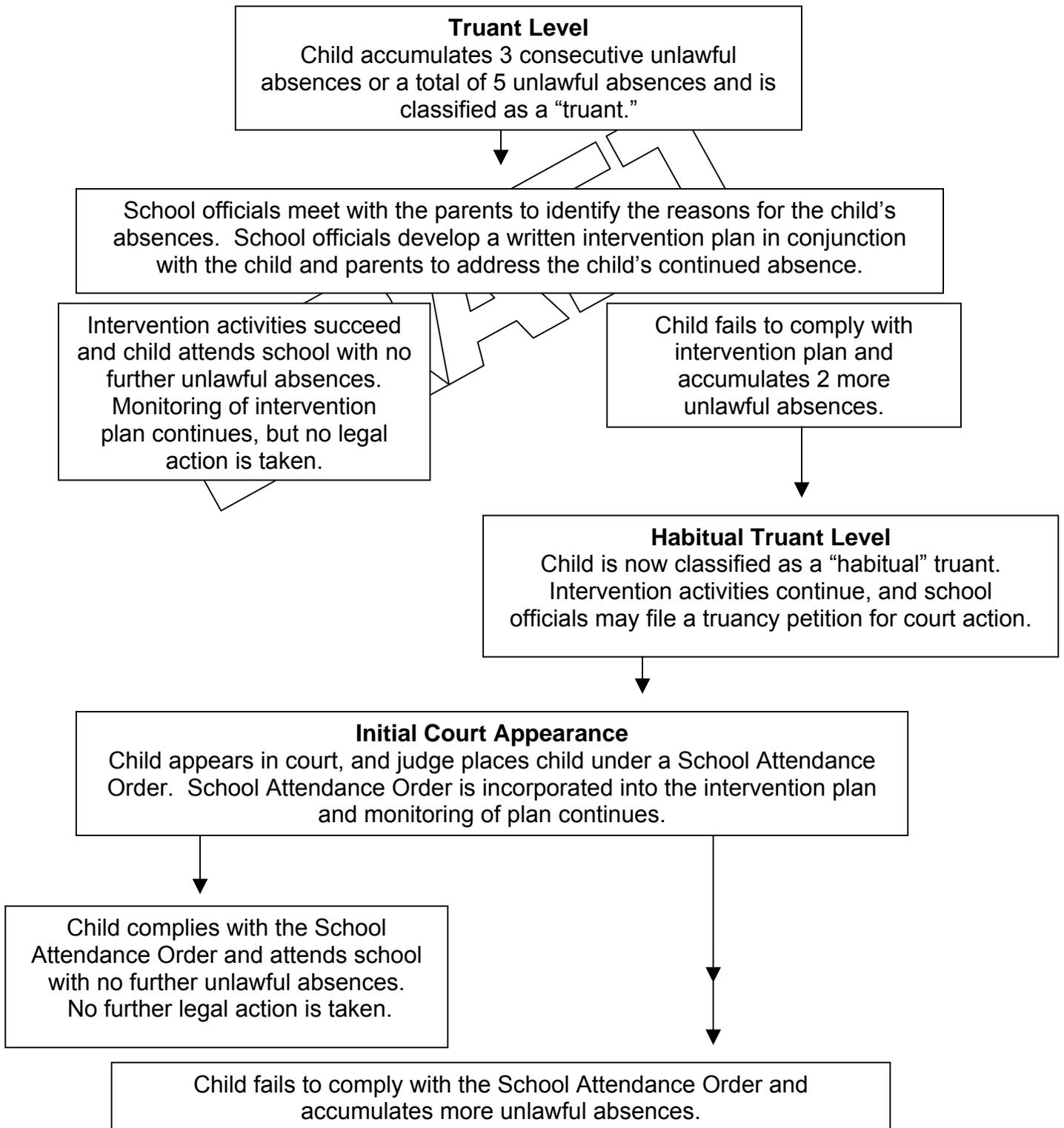
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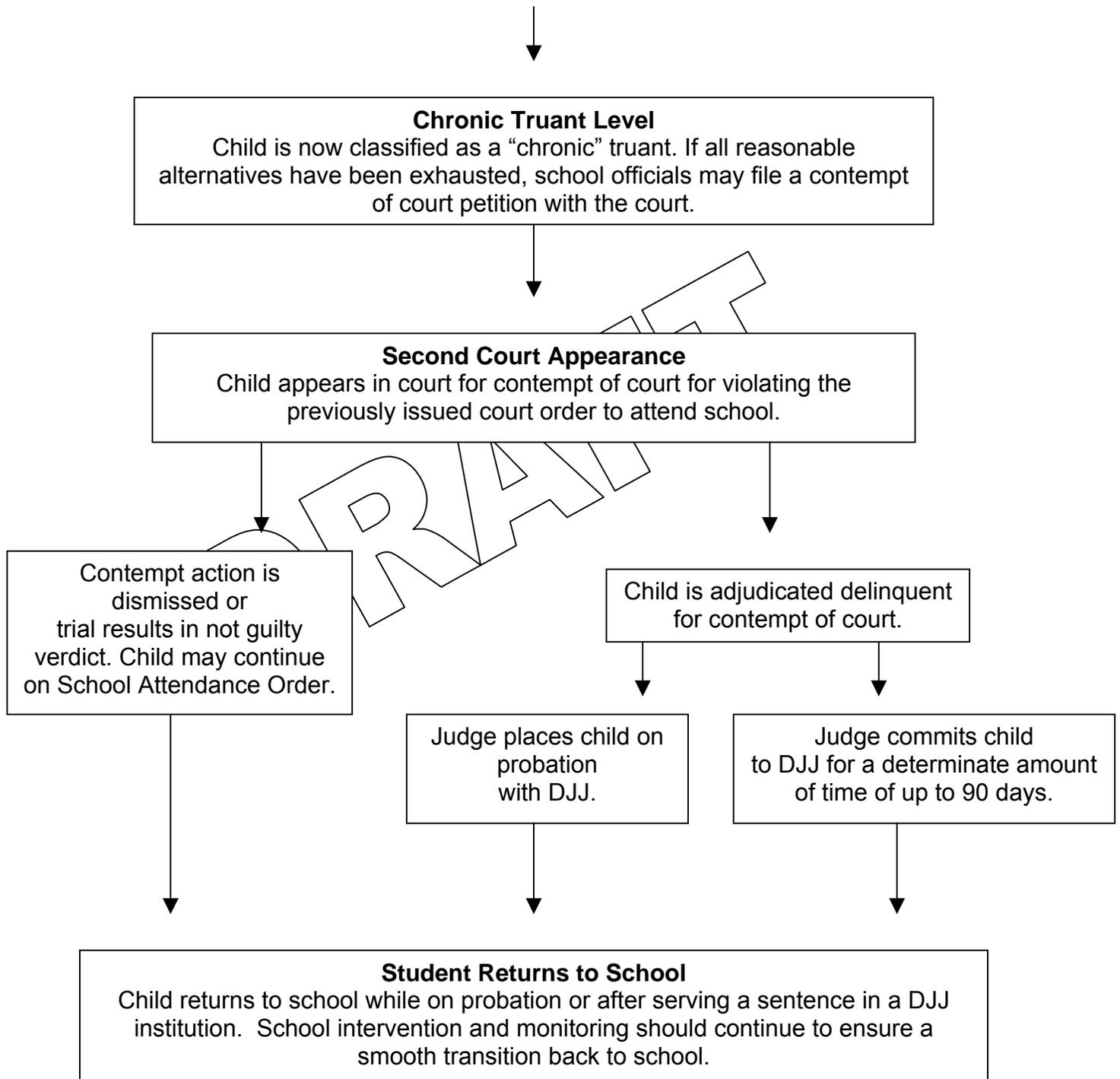
<sup>1</sup>S. C. Code Ann. §59-65-270 (1990)

<sup>2</sup> Id.

# Part Four: Family Court Referrals and Judicial Intervention

## I. Flow Chart of a Court Referral for Truancy





## II. Initiating a Referral to Family Court for Truancy

## **A. Petition for a School Attendance Order**

School officials should never refer a child to family court to be placed under an order to attend school prior to “completing the written intervention planning” required by Reg. 43-274(C).

If the intervention plan is not successful and further inquiry by school officials fails to cause the child or parents to comply with the written intervention plan, or if the child or parents refuse to participate in the intervention and the child accumulates two or more additional unlawful absences, the student is considered to be a “habitual” truant. At this point, school officials may determine that the child needs intervention by the family court and may file an initial truancy petition against the child.

The referral must include a copy of the intervention plan and specify any corrective action regarding the child or parents that the district recommends the court adopt. The referral should also specify any other available programs or alternatives identified by the school district.

The written intervention plan and documentation of non-compliance with the plan must be attached to the truancy petition requesting court intervention and served on the child and parents.

## **B. Petition for Contempt of Court**

If the child continues to accumulate unlawful absences after having been placed under a school attendance order, the child is considered to be a “chronic” truant. At this point, if other community alternatives and referrals fail to remedy the attendance problem, school officials may refer the child back to family court for violating the previous court order. However, the school and district must exhaust all reasonable alternatives prior to petitioning the family court to hold the child or the parents in contempt of court.

Any petition for contempt of court must be accompanied by all school intervention plans existing to this point for the child and family and must include a written report that indicates the corrective actions that were attempted by the school district, identifies any graduated sanctions or alternatives to incarceration available to the court, and includes a recommendation from the school on action the court should take should the child or parents be found in contempt of court.

*Requirements of school officials for referring truant children to court are found in Reg. 43-274(D).*

## **III. The Family Court Process for Children Charged with Truancy and Contempt of Court**

A child should not be prosecuted for truancy until it has been determined that the parents have met their obligation to keep the child in school. If the parents have not made a bona fide attempt to keep the child in school, the court may proceed against the parents instead of the child.<sup>1</sup>

The following is an overview of the process that takes place if a child is referred to family court for violating the compulsory attendance law, is placed under a court order to attend school, subsequently violates that order, and as a result, is referred back to court for violating the order. This process may vary to some degree from county to county.

### **A. Initial Family Court Hearing for Violation of the Compulsory School Attendance Law**

If a child is referred to family court for violating the compulsory school attendance law, the child and the parents will be required to appear before the family court judge on a specified date for the initial truancy hearing. At this hearing, the judge will usually place the child and parents under a school attendance order. The judge will also explain that if the child accumulates any additional unlawful absences, the child could be brought back to court and may be committed to a DJJ institution.

If the child complies with the court order, there will be no further intervention by the court. However, if the child violates the court order, the child may be charged with contempt of court and required to return to the family court.

### **B. Contempt of Court Hearing**

#### **1. Intake**

If the child is charged with contempt of court, the child and the parents will be notified in writing of the date and time they are scheduled for intake with the DJJ community specialist at the local DJJ county office. The role and function of intake is to independently assess the circumstances and needs of children referred for possible prosecution in the family court.<sup>2</sup>

During the intake process, the DJJ community specialist will collect background information from the child and the parents, request the parents to sign releases for school and medical records, and explain the court proceedings to the child and the parents. The information gathered at intake, along with school records, past involvement in the juvenile justice system, and other available information, will be used by the DJJ community specialist to make a recommendation to the

solicitor as to whether or not to prosecute and to the court for its consideration and determination of the disposition of the case.<sup>3</sup>

#### **2. Notice of Hearing**

The child or the child's parents will receive written notice requiring them to appear in family court at a specified time for the court hearing. Since the contempt of court hearing may result in commitment to a DJJ institution in which the child's freedom is curtailed, the child or the parents must be given written notice of the factual allegations that will be considered at the hearing.<sup>4</sup> The notice must be given as soon as practicable and sufficiently in advance to permit preparation for the hearing. The notice must also advise the child or the parents of their right to be represented by an attorney and that, if they are unable to hire an attorney, an attorney will be appointed to represent them.

### **3. Preparation for Hearing**

Once appointed or hired, the child's attorney will set up an appointment to meet with the child and the child's parents to prepare for the court hearing. The attorney will explain the court proceedings to the child and parents and prepare any available defenses to the contempt of court charge.

### **4. Hearing Proceedings**

The following individuals will be present at the contempt hearing: the child, the child's parents, the child's attorney, the prosecutor, school officials, the DJJ community specialist, and the judge.

Juveniles are afforded many of the due process rights afforded to adults in criminal trials, including the right to written notice of charges, right to counsel, right to confront evidence and cross-examine witnesses, and the privilege against self-incrimination. The child and parents must be expressly informed of their right to be represented by an attorney and must be specifically required to consider whether they do or do not waive that right.

The child has the option of either admitting to being in willful violation of the court order and pleading guilty to contempt of court or requesting a trial. In either situation, the juvenile case is processed in two phases: (1) the adjudicatory phase where the child's guilt or innocence is determined, and (2) the dispositional phase where the court imposes its sentence or disposition if the child was found guilty. Following the adjudication, the judge may proceed directly to disposition and sentence the child, or the judge may order that the child undergo an evaluation in which case the disposition hearing will be set for a later date. (For an explanation of post-adjudicatory evaluations, see Section IV.)

If the child enters a guilty plea:

- (1) The prosecutor will read out the petition and indicate to the judge that the child wishes to plead guilty.

- (2) The judge will then ask the child a series of questions to ensure that the child is aware of his or her due process rights, understands the implications of pleading guilty, and is pleading guilty freely and voluntarily. The judge will then make a ruling as to whether or not he or she accepts the guilty plea.
- (3) If the judge accepts the child's guilty plea, the DJJ community specialist may be asked to read the child's school records (grades, attendance, and disciplinary), report on the child's prior court history and behavior in the home (as reported by the parents), and make a recommendation to the court for its consideration and determination of the disposition of the case.
- (4) The prosecutor will also make a recommendation to the court and may ask the judge to hear from the school attendance officer involved in the case.
- (5) The child's attorney will speak on the child's behalf, explain any mitigating circumstances, and present a recommendation for the judge to consider.
- (6) The judge may ask further questions of the child or the child's parents.
- (7) The judge may then impose its sentence, order an evaluation, or order other instructions as deemed appropriate. (See Section IV for a list of possible family court dispositions.)

If the child does not plead guilty and goes forward with a trial, the judge will hear all the evidence presented at the trial and determine whether the child is guilty or innocent.

If a child is determined to be guilty, whether by a plea or trial, a disposition hearing will be held. The disposition may immediately follow the adjudication or be scheduled at a later date after any court ordered evaluation has been completed. When determining the sentence at the disposition hearing, the judge will consider evaluation reports, seriousness of the charge, school records, the child's behavior at home, special needs and disabilities of the child, and the child's prior court history.

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<sup>1</sup> S.C. Code of Laws Ann. §59-65-70 (1990)

<sup>2</sup> S.C. Code of Laws Ann. §20-7-7405 (Supp. 2004)

<sup>3</sup> *Id.*

<sup>4</sup> S.C. Code of Laws Ann. §20-7-7415(D) (Supp. 2004)

<sup>5</sup> *In re Gault*, 387 U.S. 1 (1967)

<sup>6</sup> S.C. Code of Laws Ann. §20-7-7415(D) (Supp. 2004)

#### **IV. Possible Family Court Dispositions for a Child Adjudicated Delinquent for Violating a Court Order to Attend School**

If a child is adjudicated delinquent (i.e., found guilty) for violating a previous court order, the family court judge will make a ruling as to what the sentence or “disposition” should be for the child. The dispositional powers of the family court are authorized by the South Carolina Code of Laws Section 20-7-7805 et seq. and are listed in full in Appendix Two, under “Dispositional Powers.”

After a child is adjudicated delinquent, the presiding judge may order the child to undergo an evaluation prior to sentencing. If an evaluation is ordered, the disposition hearing will be set at a later date, pending completion of the evaluation. The judge may order the child to undergo either a community evaluation or a residential evaluation.

- If ordered to undergo a **community evaluation**, the child will remain at home or in a suitable alternative placement for the evaluation period, which is usually 40 to 90 days. The child will visit the DJJ county office and meet with a psychologist who will administer a series of tests. An evaluator will also gather background information from the child’s parents and interview the child. This information will be compiled into a single report that is submitted to the judge prior to the disposition hearing.

The child is under the authority of the court during the evaluation period, and if the child violates the terms and conditions of the Community Evaluation, the child may be sent to a DJJ institution for a residential evaluation.

- If ordered to undergo a **residential evaluation**, the child will be sent to a DJJ Reception and Evaluation center for up to 45 days. The child will receive a physical, meet with a psychologist, take a series of tests, and attend school Monday through Friday. The teachers, the assigned social worker, the psychologist, and the residential staff will each report on the child. The social worker will interview the child’s parents in person or by telephone. This information will be compiled into a single report that is submitted to the judge prior to the disposition hearing.

The following is an overview of the more common dispositions ordered for children adjudicated delinquent for violating a court order:

## **A. Probation**

1. Probation is a sentence that releases an adjudicated child into the community, subject to stated conditions, instead of committing the child to a DJJ institution.
2. The judge may place a child on probation for any amount of time, up until the child's 18th birthday.
3. Probation must not be ordered as punishment, but as a measure for the protection, guidance, and well-being of the child and the child's family. Utilizing the social resources of the community, probation methods must be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character.
4. The judge may order various conditions of probation including regular school attendance; participation in a community mentor program; cooperation with a referral to individual or family counseling, drug or alcohol counseling, or inpatient treatment; participation in community service; abiding by a set curfew; and cooperating with other restrictions or conditions the court may deem appropriate.

#### **B. Suspension or restriction of driver's license**

1. The judge may suspend or restrict a child's driver's license until the child is 17 years old.
2. If the court suspends a child's driver's license, the child must submit the license to the court, and the court shall forward the license to the Department of Motor Vehicles (DMV) for license suspension.
3. If the court restricts a child's driver's license, the court may restrict the child's driving privileges to driving only to and from school or to and from work or as the court considers appropriate. Upon the court restricting a child's driver's license, the child must submit the license to the court and the court shall forward the license to DMV for reissuance of the license with the restriction clearly noted.

#### **C. Commitment to DJJ**

1. A child, who is at least 12, may be committed to a DJJ correctional institution or to a secure evaluation center operated by DJJ for a determinate period not to exceed ninety days. The commitment order must acknowledge that the child has been advised of all due process rights afforded to a child offender and that the court has received information from the appropriate agency that has reviewed the facts and circumstances causing the child to be before the court.
2. A child committed for a determinate period may not be confined with a child who has been determined by DJJ to be violent.

## **Appendix One**

# South Carolina Code of Regulations

## R. 43-274

**Title of Regulation:** Regulation No.: R 43-274  
**STUDENT ATTENDANCE** Effective Date: 11/28/03

### State Board Regulation: 43-274. Student Attendance

#### A. Lawful and Unlawful Absences

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

1. Lawful absences include but are not limited to
  - a. absences caused by a student's own illness and whose attendance in school would endanger his or her health or the health of others,
  - b. absences due to an illness or death in the student's immediate family,
  - c. absences due to a recognized religious holiday of the student's faith, and
  - d. absences due to activities that are approved in advance by the principal.
2. Unlawful absences include but are not limited to
  - a. absences of a student without the knowledge of his or her parents, or
  - b. absences of a student without acceptable cause with the knowledge of his or her parents.
3. Suspension is not to be counted as an unlawful absence for truancy purposes.

#### B. 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.

1. 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.

2. Habitual Truant

A “habitual” truant is a child, ages 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.

3. 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.

### C. Intervention Plans

1. 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.
2. Once a child is determined to be truant as defined in Section B(1), 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).
3. The intervention plan must include but is not limited to
  - a. Designation of a person to lead the intervention team. The team leader may be someone from another agency.
  - b. Reasons for the unlawful absences.
  - c. Actions to be taken by the parent(s) or guardian(s) and student to resolve the causes of the unlawful absences.

- d. Documentation of referrals to appropriate service providers and, if available, alternative school and community-based programs.
  - e. Actions to be taken by intervention team members.
  - f. Actions to be taken in the event unlawful absences continue.
  - g. Signature of the parent(s) or guardian(s) or evidence that attempts were made to involve the parents(s) or guardian(s).
  - h. Documentation of involvement of team members.
  - i. Guidelines for making revisions to the plan.
4. 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.

#### **D. 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. § 59-65-50 (1990), 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. § 20-7-490 (2)(c)(Supp. 2002).

##### **1. 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).

##### **2. 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.

**E. 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.

**F. 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.

**G. Approval of Absences in Excess of Ten Days and Approval of Credit**

**1. 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.

**2. High School Credit (omitted)**

**H. Reporting Requirements**

The State 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.

**I. Guidelines**

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

## Appendix Two

# South Carolina Statutes

*The following statutes are from the South Carolina Code of Laws,  
updated through the 2005 Session of the General Assembly.*

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## COMPULSORY ATTENDANCE

- **§ 59-65-10. Responsibility of parent or guardian; notification by school district of availability of kindergarten; transportation for kindergarten pupils.** (A) All parents or guardians shall cause their children or wards to attend regularly a public or private school or kindergarten of this State which has been approved by the State Board of Education or a member school of the South Carolina Independent Schools' Association or some similar organization, or a parochial, denominational, or church-related school, or other programs which have been approved by the State Board of Education from the school year in which the child or ward is five years of age before September first until the child or ward attains his seventeenth birthday or graduates from high school. A parent or guardian whose child or ward is not six years of age on or before the first day of September of a particular school year may elect for their child or ward not to attend kindergarten. For this purpose, the parent or guardian shall sign a written document making the election with the governing body of the school district in which the parent or guardian resides. The form of this written document must be prescribed by regulation of the Department of Education. Upon the written election being executed, that child or ward may not be required to attend kindergarten. (B) Each school district shall provide transportation to and from public school for all pupils enrolled in public kindergarten classes who request the transportation. Regulations of the State Board of Education governing the operation of school buses shall apply.
- **§ 59-65-20. Penalty for failure to enroll or cause child to attend school.** Any parent or guardian who neglects to enroll his child or ward or refuses to

make such child or ward attend school shall, upon conviction, be fined not more than fifty dollars or be imprisoned not more than thirty days; each day's absence shall constitute a separate offense; provided, the court may in its discretion suspend the sentence of anyone convicted of the provisions of this article.

- **§ 59-65-30. Exceptions.** The provisions of this article do not apply to:
  - (a) A child who has been graduated from high school or has received the equivalent of a high school education from a school approved by the State Board of Education, or member school of South Carolina Independent Schools' Association, or a private school in existence at the time of the passage of this article;
  - (b) A child who obtains a certificate from a psychologist certified by the State Department of Education or from a licensed physician stating that he is unable to attend school because of a physical or mental disability, provided there are no suitable special classes available for such child in the school district where he resides;
  - (c) A child who has completed the eighth grade and who is determined by the court to be legally and gainfully employed whose employment is further determined by such court to be necessary for the maintenance of his home;
  - (d) [Reserved]
  - (e) A student who has a child and who is granted a temporary waiver from attendance by the district's attendance supervisor or his designee. The district attendance supervisor may grant a temporary waiver only if he determines that suitable day care is unavailable. The student must consult with the district supervisor or his designee in a timely manner to consider all available day care options or the district shall consider the student to be in violation of this chapter.
  - (f) A child who has reached the age of sixteen years and whose further attendance in school, vocational school, or available special classes is determined by a court of competent jurisdiction to be disruptive to the educational program of the school, unproductive of further learning, or not in the best interest of the child, and who is authorized by the court to enter into suitable gainful employment under the supervision of the court until age seventeen is attained. However, prior to being exempted from the provisions of this article, the court may first require that the child concerned be examined physically and tested mentally to assist the court to determine whether or not gainful employment would be more suitable for the child than continued attendance in school. The examination and testing must be conducted by the Department of Youth Services or by any local agency which the court determines to be appropriate. The court shall revoke the exemption provided in this item upon a finding that the child fails to continue in his employment until reaching the age of seventeen years.
  
- **§ 59-65-50. Nonattendance reported to court having jurisdiction of juveniles.** If the board of trustees of a school district or its designee is unable to obtain the school attendance of a child in the age group specified in

Section 59-65-10, the board or its designee shall report such nonattendance in writing to the juvenile court or such other court in the county as may have jurisdiction of juveniles but exclusive of magistrate's courts notwithstanding the provisions of Section 22-3-540; provided, that no one except the board of trustees or its designee shall have the authority to institute the proceedings herein.

- **§ 59-65-60. Procedure upon receipt by court of report of nonattendance.**

(a) Upon receipt of such report, the court may forthwith order the appearance before such court of the responsible parent or guardian and if it deems necessary, the minor involved, for such action as the court may deem necessary to carry out the provisions of this article.

(b) The court may, after hearing upon ten days notice, order such parent or guardian to require such child to attend school and upon failure of such parent to comply with such order may punish such parent or guardian as by contempt, provided, that punishment for such contempt cannot exceed fifty dollars or thirty days imprisonment for each offense.

The procedure herein provided shall be alternative to the penalties provided in Section 59-65-20.
- **§ 59-65-70. Court empowered to declare child delinquent.** If the court determines that the reported absence occurred without the knowledge, consent or connivance of the responsible parent or guardian or that a bona fide attempt has been made to control and keep the child in school, the court may declare such child to be a delinquent and subject to the provisions of law in such cases.
- **§ 59-65-80. Enrollment or attendance of expelled or suspended child not authorized.** Nothing herein shall be construed as granting authority to require enrollment or attendance of a child who has been or may be expelled or suspended by the board of trustees of the district or any other person acting with authority from the board of trustees.
- **§ 59-65-90. Rules and regulations.** The State Board of Education shall establish regulations defining lawful and unlawful absences beyond those specifically named in this article and additional regulations as are necessary for the orderly enrollment of pupils so as to provide for uniform dates of entrance. These regulations shall require: (1) that school officials shall immediately intervene to encourage the student's future attendance when the student has three consecutive unlawful absences or a total of five unlawful absences and (2) that the district board of trustees or its designee shall promptly approve or disapprove any student absence in excess of ten days. As used in this section, "intervene" means to identify the reasons for the child's continued absence and to develop a plan in conjunction with the student and his parent or guardian to improve his future attendance.

Provided, However, That nothing within this section shall interfere with the Board's authority to at any time refer a child to a truancy prevention program or to the court pursuant to Section 59-65-50.

#### ATTENDANCE SUPERVISORS

- **§ 59-65-240. Census of children not enrolled in public schools; list submitted to attendance supervisor.** Within thirty days after the opening date of each school year of each public school district in the State in which a public school is being operated, the trustees or other governing board thereof shall make or cause to be made a complete census of all children of school age therein, that is, between the years of seven and sixteen years, inclusive, who have not enrolled in such school district or in some other district during the thirty-day enrollment period. The names, ages, places of residence and names of the parents or guardians of such children of school age not enrolled shall be forthwith filed with the county superintendent of education, who shall thereupon consolidate all of such names of children in alphabetical order into one list and certify the list to the attendance supervisor of the county.
- **§ 59-65-250. Cooperation between attendance supervisors and county and district agencies and the like.** The county attendance supervisor whose salary shall be paid from State funds and such other attendance supervisors as may be employed by the county or school districts therein shall cooperate with the social and civic organizations and agencies of the county or district, as well as with the trustees of the several school districts in the county.
- **§ 59-65-260. Duties of attendance supervisor relating to nonattending children.** The attendance supervisor shall, upon receiving the list of nonattending children from the county superintendent of education, contact as rapidly as possible the parents or guardians of such nonattending children with the object in mind of interesting nonattending children in school work, and influencing them by means of persuasion to attend school regularly. All principals shall report to such attendance supervisor on continuous absences which appear to be unwarranted, and the attendance supervisor shall make an earnest effort to have enrolled and keep enrolled all children of school age in the county.
- **§ 59-65-270. Procurement of books, clothing and shoes for nonattending children.** In the event that any nonattending children reported to the attendance supervisor shall be unable to procure books, that fact shall be reported to the trustees and county superintendent of education, and steps shall be taken immediately to provide the necessary books and working material. In the event that such nonattending children shall not have suitable clothing or shoes, and the parents or guardians of such children are financially unable to provide the same, such condition shall be reported by the attendance supervisor to the social and civic organizations of such county for

such action in the premises as to such social and civic organizations shall seem meet and proper.

- **§ 59-65-280. Acceptance of cash, clothing, shoes, books and similar articles from organizations and county or community agencies.** The attendance supervisor shall accept and receive from the social or civic organizations and agencies of the county or community all cash, clothes, shoes, books, materials and similar articles as may be provided, and shall supply them to the nonattending school children of the county who are unable or whose parents or guardians are unable financially to provide such articles.

#### DROPOUT PREVENTION AND RECOVERY

- **§ 59-65-470. Wil Lou Gray Opportunity School to have access to list of dropouts.** To enable the Wil Lou Gray Opportunity School to inform dropouts of the school's academic and vocational training programs, the school is authorized to contact the attendance supervisors or principals at the various high schools or school districts of this State at reasonable intervals for the purpose of receiving access to the names and addresses of students reported by the supervisors and principals to be dropouts, and the attendance supervisors and principals must supply this information to the Wil Lou Gray Opportunity School.

#### EDUCATIONAL NEGLECT

- **§ 20-7-490(2).** "Child abuse or neglect", or "harm" occurs when the parent, guardian, or other person responsible for the child's welfare: (c) fails to supply the child with adequate food, clothing, shelter, or education as required under Article 1 of Chapter 65 of Title 59, supervision appropriate to the child's age and development, or health care though financially able to do so or offered financial or other reasonable means to do so and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate. For the purpose of this chapter "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under state law;

#### MANDATORY REPORTING OF ABUSE AND NEGLECT, INCLUDING EDUCATIONAL NEGLECT

- **SECTION 20-7-510. Persons required or permitted to report; method; confidentiality.** (A) A physician, **nurse**, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services, mental

health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, **school teacher, counselor, principal, assistant principal**, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, police or law enforcement officer, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, or a judge must report in accordance with this section when in the person's professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 20-7-490.

(B) If a person required to report pursuant to subsection (A) has received information in the person's professional capacity which gives the person reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child's welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child's welfare, the reporter must make a report to the appropriate law enforcement agency.

(C) Except as provided in subsection (A), any person who has reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report in accordance with this section.

(D) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the county where the child resides or is found.

Where reports are made pursuant to this section to a law enforcement agency, the law enforcement agency shall notify the county department of social services of the law enforcement's response to the report at the earliest possible time.

Where a county or contiguous counties have established multicounty child protective services, pursuant to Section 20-7-650, the county department of social services immediately shall transfer reports pursuant to this section to the service.

(E) The identity of the person making a report pursuant to this section must be kept confidential by the agency or department receiving the report and must not be disclosed except as provided for in this chapter.

When the department refers a report to a law enforcement agency for a criminal investigation, the department must inform the law enforcement agency of the identity of the person who reported the child abuse or neglect. The identity of the reporter must only be used by the law enforcement agency to further the criminal investigation arising from the report, and the agency must not disclose the reporter's identity to any person other than an employee of the agency who is involved in the criminal investigation arising from the report. If the reporter testifies in a criminal proceeding arising from the report, it must not be disclosed that the reporter made the report.

When a law enforcement agency refers a report to the department for an investigation or other response, the law enforcement agency must inform the department of the identity of the person who reported the child abuse or neglect. The department must not disclose the identity of the reporter to any person except as authorized by Section 20-7-690.

(F) When a report is referred to the department for an investigation or other response, the department must determine whether previous reports have been made regarding the same child or the same subject of the report. In determining whether previous reports have been made, the department must determine whether there are any suspected, indicated, or unfounded reports maintained pursuant to Section 20-7-650 regarding the same child or the same subject of the report.

(G) If the department does not conduct an investigation as a result of information received pursuant to this section, the department must make a record of the information and must classify the record as a Category IV unfounded report in accordance with Section 20-7-650. The department and law enforcement are authorized to use information recorded pursuant to this subsection for purposes of assessing risk and safety if additional contacts are made concerning the child, the family, or the subject of the report.

- **SECTION 20-7-560** A person required to report a case of child abuse or neglect or a person required to perform any other function under this article who knowingly fails to do so, or a person who threatens or attempts to intimidate a witness is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

#### ENTICING ENROLLED CHILD FROM ATTENDANCE IN SCHOOL.

- **SECTION 16-17-510.** It is unlawful for a person to encourage, entice, or conspire to encourage or entice a child enrolled in any public or private elementary or secondary school of this State from attendance in the school or school program or transport or provide transportation in aid to encourage or entice a child from attendance in any public or private elementary or secondary school or school program.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than two years, or both.

Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, a first or second offense must be tried exclusively in magistrate's court. Third and subsequent offenses must be tried in the court of general sessions.

#### PARENTAL INVOLVEMENT IN THEIR CHILDREN'S EDUCATION

- **SECTION 59-28-110.**  
It is the purpose of the General Assembly in this chapter to:

- (1) heighten awareness of the importance of parents' involvement in the education of their children throughout their schooling;
- (2) encourage the establishment and maintenance of parent-friendly school settings; and
- (3) emphasize that when parents and schools work as partners, a child's academic success can best be assured.

- **SECTION 59-28-120.** The Governor shall require state agencies that serve families and children to collaborate and establish networks with schools to heighten awareness of the importance of parental influence on the academic success of their children and to encourage and assist parents to become more involved in their children's education.

- **SECTION 59-28-130. Parental involvement plans; recognition of improvement; establishing criteria for staff training.**

The State Board of Education shall:

- (1) require school and district long-range improvement plans required in Section 59-139-10 to include parental involvement goals, objectives, and an evaluation component;
- (2) recognize districts and schools where parental involvement significantly increases beyond stated goals and objectives; and
- (3) establish criteria for staff training on school initiatives and activities shown by research to increase parental involvement in their children's education.

- **SECTION 59-28-140. Design of parental involvement and best practices training programs; incorporation into teacher and principal preparation programs.**

The State Superintendent of Education shall:

- (1) design parental involvement and best practices training programs in conjunction with higher education institutions and the pre-K through grade 12 education community, including parental program coordinators, which shall include:
  - (a) practices that are responsive to racial, ethnic, and socio-economic diversity, and are appropriate to various grade-level needs;
  - (b) establishment and maintenance of parent-friendly school settings;
  - (c) awareness of community resources that strengthen families and assist students to succeed; and
  - (d) other topics appropriate for fostering partnerships between parent and teacher;
- (2) work collaboratively with the Commission on Higher Education to incorporate parental involvement training into teacher preparation and principal preparation programs consistent with the training provided in subsection (1) of this section.

- **SECTION 59-28-150. State Superintendent of Education activities to promote parental involvement.**

The State Superintendent of Education shall:

- (1) promote parental involvement as a priority for all levels from pre-K through grade 12, with particular emphasis at the middle and high school levels where parental involvement is currently least visible;
- (2) designate a Department of Education staff position whose specific role is to coordinate statewide initiatives to support school and district parental involvement;
- (3) collect and disseminate to districts and schools practices shown by research to be effective in increasing parental involvement at all grade levels;
- (4) provide parental involvement staff development training for district and school liaisons, as needed;
- (5) provide technical assistance relating to parental involvement training to districts and schools;
- (6) sponsor statewide conferences on best practices;
- (7) identify, recommend, and implement ways to integrate programs and funding for maximum benefit to enhance parental involvement;
- (8) enroll the Department of Education as a state member of national organizations which promote proven parental involvement frameworks, models, and practices and provide related services to state and local members;
- (9) promote and encourage local school districts to join national parental involvement organizations; and
- (10) monitor and evaluate parental involvement programs statewide by designing a statewide system which will determine program effectiveness and identify best practices and report evaluation findings and implications to the General Assembly, State Board of Education, and Education Oversight Committee.

▪ **SECTION 59-28-160. Local school board of trustees activities.**

Each local school board of trustees shall:

- (1) consider joining national organizations which promote and provide technical assistance on various proven parental involvement frameworks and models;
- (2) incorporate, where possible, proven parental involvement practices into existing policies and efforts;
- (3) adopt policies that emphasize the importance, strive to increase and clearly define expectations for effective parental involvement practices in the district schools;
- (4) provide for all faculty and staff, no later than the 2002-2003 school year, parental involvement orientation and training through staff development with an emphasis on unique school and district needs and after that, on an ongoing basis as indicated by results of evaluations of district and school parental involvement practices and as required by the State Board of Education;
- (5) provide incentives and formal recognition for schools that significantly increase parental involvement as defined by the State Board of Education;

- (6) require an annual briefing on district and school parental involvement programs including findings from state and local evaluations on the success of the district and schools' efforts; and
- (7) include parental involvement expectations as part of the superintendent's evaluation.

▪ **SECTION 59-28-170. School district superintendent activities.**

(A) Each school district superintendent shall consider:

- (1) designating staff to serve as a parent liaison for the district to coordinate parental involvement initiatives and coordinate community and agency collaboration to support parents and families;
- (2) requiring each school to designate a faculty contact for parental involvement efforts to work collaboratively with the district coordinator and network with other school faculty contacts;
- (3) requiring each school principal to designate space within the school specifically for parents which contains materials and resources on the numerous ways parents and schools can and should partner for a child's academic success; and
- (4) encouraging principals to adjust class and school schedules to accommodate parent-teacher conferences at times more convenient to parents and, to the extent possible, accommodate parents in cases where transportation and normal school hours present a hardship.

(B) Each school district superintendent shall:

- (1) include parental involvement expectations as part of each principal's evaluation;
- (2) include information about parental involvement opportunities and participation in the district's annual report; and
- (3) disseminate to all parents of the district the expectations enumerated in Section 59-28-180.

▪ **SECTION 59-28-180. Parent expectations.**

Parent involvement influences student learning and academic performance; therefore, parents are expected to:

- (1) uphold high expectations for academic achievement;
- (2) expect and communicate expectations for success;
- (3) recognize that parental involvement in middle and high school is equally as critical as in elementary school;
- (4) ensure attendance and punctuality;
- (5) attend parent-teacher conferences;
- (6) monitor and check homework;
- (7) communicate with the school and teachers;
- (8) build partnerships with teachers to promote successful school experiences;
- (9) attend, when possible, school events;
- (10) model desirable behaviors;
- (11) use encouraging words;
- (12) stimulate thought and curiosity; and

(13) show support for school expectations and efforts to increase student learning.

## DISPOSITIONAL POWERS OF THE COURT

▪ **§ 20-7-7805. Adjudication.**

(A) When a child is found by decree of the court to be subject to this article, the court shall in its decree make a finding of the facts upon which the court exercises its jurisdiction over the child. Following the decree, the court by order may:

(1) cause a child concerning whom a petition has been filed to be examined or treated by a physician, psychiatrist, or psychologist and for that purpose place the child in a hospital or other suitable facility;

(2) order care and treatment as it considers best, except as otherwise provided in this section and may designate a state agency as the lead agency to provide a family assessment to the court. The assessment shall include, but is not limited to, the strengths and weaknesses of the family, problems interfering with the functioning of the family and with the best interests of the child, and recommendations for a comprehensive service plan to strengthen the family and assist in resolving these issues.

The lead agency shall provide the family assessment to the court in a timely manner, and the court shall conduct a hearing to review the proposed plan and adopt a plan as part of its order that will best meet the needs and best interest of the child. In arriving at a comprehensive plan, the court shall consider:

(a) additional testing or evaluation that may be needed;

(b) economic services including, but not limited to, employment services, job training, food stamps, and aid to families with dependent children;

(c) counseling services including, but not limited to, marital counseling, parenting skills, and alcohol and drug abuse counseling; and

(d) any other programs or services appropriate to the child's and family's needs.

The lead agency is responsible for monitoring compliance with the court-ordered plan and shall report to the court as the court requires. In support of an order, the court may require the parents or other persons having custody of the child or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter to do or omit to do acts required or forbidden by law, when the judge considers the requirement necessary for the welfare of the child. In case of failure to comply with the requirement, the court may proceed against those persons for contempt of court;

(3) place the child on probation or under supervision in the child's own home or in the custody of a suitable person elsewhere, upon conditions as the court may determine. A child placed on probation by the court remains under the authority of the court only until the expiration of the specified term of the child's probation. This specified term of probation may expire before but not after the eighteenth birthday of the child. Probation means casework services

during a continuance of the case. Probation must not be ordered or administered as punishment but as a measure for the protection, guidance, and well-being of the child and the child's family. Probation methods must be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community. As a condition of probation, the court may order the child to participate in a community mentor program as provided for in Section 20-7-7808. The court may impose monetary restitution or participation in supervised work or community service, or both, as a condition of probation. The Department of Juvenile Justice, in coordination with local community agencies, shall develop and encourage employment of a constructive nature designed to make reparation and to promote the rehabilitation of the child. When considering the appropriate amount of monetary restitution to be ordered, the court shall establish the monetary loss suffered by the victim and then weigh and consider this amount against the number of individuals involved in causing the monetary loss, the child's particular role in causing this loss, and the child's ability to pay the amount over a reasonable period of time. The Department of Juvenile Justice shall develop a system for the transferring of court-ordered restitution from the child to the victim or owner of property injured, destroyed, or stolen. As a condition of probation the court may impose upon the child a fine not exceeding two hundred dollars when the offense is one in which a magistrate, municipal, or circuit court judge has the authority to impose a fine. A fine may be imposed when commitment is suspended but not in addition to commitment,

(4) order the child to participate in a community mentor program as provided in Section 20-7-7808;

(5) commit the child to the custody or to the guardianship of a public or private institution or agency authorized to care for children or to place them in family homes or under the guardianship of a suitable person. Commitment must be for an indeterminate period but in no event beyond the child's twenty-first birthday;

(6) require that a child under twelve years of age who is adjudicated delinquent for an offense listed in Section 23-3-430(C) be given appropriate psychiatric or psychological treatment to address the circumstances of the offense for which the child was adjudicated; and

(7) dismiss the petition or otherwise terminate its jurisdiction at any time on the motion of either party or on its own motion.

(B) Whenever the court commits a child to an institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and the institution or agency shall give to the court information concerning the child which the court may require. Counsel of record, if any, must be notified by the court of an adjudication under this section, and in the event there is no counsel of record, the child or the child's parents or guardian must be notified of the adjudication by regular mail from the court to the last address of the child or the child's parents or guardian.

(C) No adjudication by the court of the status of a child is a conviction, nor does the adjudication operate to impose civil disabilities ordinarily resulting from conviction, nor may a child be charged with crime or convicted in a court, except as provided in Section 20-7-7605(6). The disposition made of a child or any evidence given in court does not disqualify the child in a future civil service application or appointment.

▪ **§ 20-7-7807. Suspension or restriction of driver's license.**

(A) If a child is adjudicated delinquent for a status offense or is found in violation of a court order relating to a status offense, the court may suspend or restrict the child's driver's license until the child's seventeenth birthday.

*((B) Omitted / Not applicable)*

(C) If the court suspends the child's driver's license, the child must submit the license to the court, and the court shall forward the license to the Department of Motor Vehicles for license suspension. However, convictions not related to the operation of a motor vehicle shall not result in increased insurance premiums.

(D) If the court restricts the child's driver's license, the court may restrict the child's driving privileges to driving only to and from school or to and from work or as the court considers appropriate. Upon the court restricting a child's driver's license, the child must submit the license to the court and the court shall forward the license to the Department of Motor Vehicles for reissuance of the license with the restriction clearly noted.

▪ **§ 20-7-7810. Commitment.**

(A) A child, after the child's twelfth birthday and before the seventeenth birthday or while under the jurisdiction of the family court for disposition of an offense that occurred prior to the child's seventeenth birthday, may be committed to the custody of the Department of Juvenile Justice which shall arrange for placement in a suitable corrective environment. Children under the age of twelve years may be committed only to the custody of the department which shall arrange for placement in a suitable corrective environment other than institutional confinement. No child under the age of seventeen years may be committed or sentenced to any other penal or correctional institution of this State.

(B) All commitments to the custody of the Department of Juvenile Justice for delinquency as opposed to the conviction of a specific crime may be made only for the reasons and in the manner prescribed in Sections 20-7-400, 20-7-410, 20-7-460, 20-7-750, 20-7-760, 20-7-1520, and this article, with evaluations made and proceedings conducted only by the judges authorized to order commitments in this section. When a child is committed to the custody of the department, commitment must be for an indeterminate sentence, not extending beyond the twenty-first birthday of the child unless sooner released by the department, or for a determinate commitment sentence not to exceed ninety days.

(C) The court, before committing a child as a delinquent or as a part of a sentence including commitments for contempt, shall order a community

evaluation or temporarily commit the child to the Department of Juvenile Justice for not more than forty-five days for evaluation. A community evaluation is equivalent to a residential evaluation, but it is not required to include all components of a residential evaluation. However, in either evaluation the department shall make a recommendation to the court on the appropriate disposition of the case and shall submit that recommendation to the court before final disposition. The court may waive in writing the evaluation of the child and proceed to issue final disposition in the case if the child:

(1) has previously received a residential evaluation or a community evaluation and the evaluation is available to the court;

(2) has been within the past year temporarily or finally discharged or conditionally released for parole from a correctional institution of the department, and the child's previous evaluation or other equivalent information is available to the court; or

(3) receives a determinate commitment sentence not to exceed ninety days.

(D) When a child is adjudicated delinquent or convicted of a crime or has entered a plea of guilty or nolo contendere in a court authorized to commit to the custody of the Department of Juvenile Justice, the child may be committed for an indeterminate period until the child has reached age twenty-one or until sooner released by the Board of Juvenile Parole under its discretionary powers or released by order of a judge of the Supreme Court or the circuit court of this State, rendered at chambers or otherwise, in a proceeding in the nature of an application for a writ of habeas corpus. A juvenile who has not been paroled or otherwise released from the custody of the department by the juvenile's nineteenth birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections. If not sooner released by the Board of Juvenile Parole, the juvenile must be released by age twenty-one according to the provisions of the child's commitment; however, notwithstanding the above provision, any juvenile committed as an adult offender by order of the court of general sessions must be considered for parole or other release according to the laws pertaining to release of adult offenders.

(E) A juvenile committed to the Department of Juvenile Justice following an adjudication for a violent offense contained in Section 16-1-60 or for the offense of assault and battery of a high and aggravated nature, who has not been paroled or released from the custody of the department by his seventeenth birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections. A juvenile who has not been paroled or released from the custody of the department by his nineteenth birthday must be transferred to the custody and authority of the Youthful Offender Division of the Department of Corrections at age nineteen. If not released sooner by the Board of Juvenile Parole, a juvenile transferred pursuant to this subsection must be released by his twenty-first birthday according to the provisions of his commitment. Notwithstanding the above provision, a juvenile committed as an adult offender by order of the court of

general sessions must be considered for parole or other release according to the laws pertaining to release of adult offenders.

(F) Notwithstanding subsections (A) and (E), a child may be committed to the custody of the Department of Juvenile Justice or to a secure evaluation center operated by the department for a determinate period not to exceed ninety days when:

(1) the child has been adjudicated delinquent by a family court judge for a status offense, as defined in Section 20-7-6605, excluding truancy, and the order acknowledges that the child has been afforded all due process rights guaranteed to a child offender;

(2) the child is in contempt of court for violation of a court order to attend school or an order issued as a result of the child's adjudication of delinquency for a status offense, as defined in Section 20-7-6605; or

(3) the child is determined by the court to have violated the conditions of probation set forth by the court in an order issued as a result of the child's adjudication of delinquency for a status offense, as defined in Section 20-7-6605, including truancy.

Orders issued pursuant to this subsection must acknowledge:

(a) that the child has been advised of all due process rights afforded to a child offender; and

(b) that the court has received information from the appropriate state or local agency or public entity that has reviewed the facts and circumstances causing the child to be before the court.

A child committed under this section may not be confined with a child who has been determined by the department to be violent.

## Appendix Three

# Requirements of the Juvenile Justice Delinquency Prevention Act of 1974 as Amended

The federal Juvenile Justice and Delinquency Prevention (JJDP) Act was passed by Congress in 1974 and reauthorized in 2002. To be eligible to participate in the JJDP Act and receive JJDP funds, states are required to develop and adhere to policies, practices, and laws which:

- (1) deinstitutionalize status offenders (DSO), such as truants and runaways, and non-offenders, like abused and neglected children;
- (2) separate adults and juveniles in secure institutions (sight and sound separation);
- (3) eliminate the practice of detaining or confining juveniles in adult jails and lockups for more than a maximum of six hours; and
- (4) address efforts to reduce the disproportional representation of minority youth in secure facilities, where such conditions exist.

These four core requirements have been the major focus of states' federally funded efforts under the JJDP Act. States in compliance with the Act are eligible to receive funding for various juvenile justice and delinquency prevention programs and services.

The DSO mandate provides that juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult (i.e., a status offense, including truancy) shall not be placed in secure detention or secure correctional facilities. One exception to the DSO mandate is the "valid court order" exception. Under the "valid court order" exception, juveniles who are charged with or who have committed a violation of a valid court order (such as a school attendance order) are excluded from the DSO mandate. 42 U.S.C. 5633(a)(11).

In order to qualify for the "valid court order" exception, a court order used for the purpose of committing a status offender to a secure facility must be issued by a family court judge to a juvenile who was brought before the court and made subject to such order, and who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States. 42 U.S.C. 5603(16).

## Appendix Four

# Due Process Rights of Children Involved in Juvenile Delinquency Proceedings

The 14th Amendment of the United States Constitution requires that no state shall deprive any person of life, liberty, or property, without due process of law. Although juveniles are not afforded all due process rights that are available to adults in criminal trials, they are afforded several key rights during the adjudicatory stage of juvenile delinquency proceedings. These rights include, for example, the right to written notice of charges, right to counsel, right to confront evidence and cross-examine witnesses, and the privilege against self-incrimination. See *In re Gault*, 387 U.S. 1, (1967), and *In re Winship*, 397 U.S. 358, (1970). Juveniles, like adults, are also constitutionally entitled to proof beyond reasonable doubt when they are charged with violation of criminal law. *In re Winship*, 397 U.S. 358, (1970).

South Carolina law also specifically addresses a juvenile's due process rights to counsel and notice. Section 20-7-7415(D) of the S.C. Code of Laws states that: "In a case where the delinquency proceedings may result in commitment to an institution in which the child's freedom is curtailed, the child or the child's parents must be given written notice with particularity of the specific charge or factual allegations to be considered at the hearing. The notice must be given as soon as practicable and sufficiently in advance to permit preparation. The child or the child's parent or guardian also must be advised in the notice of their right to be represented by counsel and that, if they are unable to employ counsel, counsel will be appointed to represent them. In the hearing, the parent and child also must be expressly informed of their right to counsel and must be specifically required to consider whether they do or do not waive the right of counsel."

# Appendix Five

## MODEL STUDENT ATTENDANCE INTERVENTION PLAN

*The purpose of the Student Attendance Intervention Plan is to identify the reason(s) for a student's truancy, document the previous steps taken by the school to address the student's truancy problem, and develop the plans necessary to improve the student's future attendance.*

**Conference Date:** \_\_\_\_\_

### Identification Information

Student's Name: \_\_\_\_\_

DOB: \_\_\_\_\_

School: \_\_\_\_\_

ID#: \_\_\_\_\_

Address: \_\_\_\_\_

Parent/Legal Guardian: \_\_\_\_\_

Home Phone: ( ) \_\_\_\_\_

Cell Phone: ( ) \_\_\_\_\_

Work Phone: ( ) \_\_\_\_\_

Emergency Phone: ( ) \_\_\_\_\_

**Student Attendance History** (*days absent, past problems, previous schools, etc.*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*South Carolina law requires schools to take measures to assist the student and his/her family in resolving an attendance problem. Documentation of these interventions is necessary and should include dates as well as comments. The following school personnel should be utilized in the intervention process:*

**Designated Intervention Team Leader:** \_\_\_\_\_

### Intervention Planning Participants:

- Parent/Guardian (1): \_\_\_\_\_
- Parent/Guardian (2): \_\_\_\_\_
- Teacher: \_\_\_\_\_
- Social Worker: \_\_\_\_\_
- School Nurse: \_\_\_\_\_
- Counselor: \_\_\_\_\_
- Principal: \_\_\_\_\_
- Special Education Case Coordinator (if applicable): \_\_\_\_\_
- Psychologist: \_\_\_\_\_
- School Attendance Supervisor: \_\_\_\_\_
- Other: \_\_\_\_\_

I. **What is the nature of the student's attendance problem?** (please check all that apply)

**Transportation Issue**

- Too far to go
- No money for transportation
- No reliable means of getting to school

**Academic/School Issue**

- Problems with teacher or other school personnel
- Poor academic performance
- School discipline
- Suspended from school

**Social Issue**

- Gender intimidation
- Gang activity
- Financial issues
- Difficult peer relationships
- Bullying
- Personal Relationships

**Safety Issue**

- Surrounding neighborhood not safe
- School not safe
- Gangs
- School problem

**Home Issue**

- Tending to younger siblings
- Parent/Guardian not well
- Physical, sexual abuse in home
- Substance abuse in home
- Homeless
- Domestic violence
- Runaway
- Date violence
- Neglect
- Student is also a parent

**Health Issue**

- Pregnancy
- Lacking medical care/immunizations
- Medical problems
- Substance abuse
- Disability
- Mental Illness

Other:

**Student Characteristics:**

- Low Achievement
- Low Attendance
- High Failure Rate
- Parenthood
- Credit Deficiencies
- Discipline Referral
- Drug/Alcohol Problem
- Health-Related Issues

Please specify the details of the attendance problem(s) checked above and describe any applicable problems not listed above:

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II. **Collaborative recommendations of the student, parent/guardian, and school personnel to solve the attendance problem:**

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

III. **Actions to be taken by the parent(s)/guardian(s) to resolve the causes of the unlawful absences:**

- \_\_\_\_\_

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**IV. Actions to be taken by the student to resolve the causes of the unlawful absences:**

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**V. Actions to be taken by intervention team members:**

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**VI. Actions to be taken in the event unlawful absences continue:**

- \_\_\_\_\_
- \_\_\_\_\_

**VII. Referrals have been made to the following service providers and alternative school and community-based programs:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**VIII. The next meeting to review progress of attendance improvement recommendations will be held on \_\_\_\_\_**

**IX. Weekly attendance will be monitored by: \_\_\_\_\_**

\_\_\_\_\_  
 Plan Approval Date

\_\_\_\_\_  
 Student's Signature

\_\_\_\_\_  
 Parent/Guardian's Signature

\_\_\_\_\_  
 School Official's Signature

\_\_\_\_\_  
 Parent/Guardian's Signature

***Attachment: Guidelines for making revisions to this plan***

# Appendix Six

## STUDENT CONTRACT TO IMPROVE ATTENDANCE

Good attendance is critical to academic achievement. The school is responsible for working with each student and his/her family to encourage excellent school attendance. This contract is an agreement between the student, the school, and the family to improve school attendance.

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

Student Name: \_\_\_\_\_ DOB: \_\_\_\_\_ Grade: \_\_\_\_\_

School: \_\_\_\_\_ ID#: \_\_\_\_\_

1. My attendance problem is \_\_\_\_\_  
\_\_\_\_\_

2. I agree to do the following to resolve my attendance problem:

A. I will make every effort to be in school every day.

B. I understand that the school will contact my parent/guardian every time I am absent or tardy.

C. I will get to school on time everyday.

D. I will attend all of my classes

E. I will have each teacher initial my attendance card daily.

F. I will have no disciplinary problems in school.

3. I understand that if I breach this contract:  
\_\_\_\_\_  
\_\_\_\_\_

4. We (student, parent/guardian and school) agree that attendance plan will be checked:

Daily

Weekly

5. We (student, parent/guardian and school) will meet again to review that student's attendance

plan on: \_\_\_\_\_

Date

Time

Room #/Location

\_\_\_\_\_  
Student Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Parent/Guardian Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
School Attendance Coordinator Signature

\_\_\_\_\_  
Date

# Appendix Seven

## Model Petitions and Court Orders

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Petition for Violation of Compulsory Attendance Law

School Attendance Order

Petition for Violation of School Attendance Order

Violation of Probation / Contempt of Court Order

DRAFT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF \_\_\_\_\_ )  
 )  
THE BOARD OF TRUSTEES FOR THE )  
SCHOOL DISTRICT OF \_\_\_\_\_ COUNTY )  
BY AND THROUGH ITS DULY AUTHORIZED )  
DESIGNEE, \_\_\_\_\_ )  
SCHOOL NAME \_\_\_\_\_ )

IN THE FAMILY COURT  
\_\_\_\_ JUDICIAL CIRCUIT

Docket Number: \_\_\_\_\_

PETITIONER,  
-vs-  
\_\_\_\_\_ )

PETITION  
FOR  
COMPULSORY SCHOOL ATTENDANCE

RESPONDENT(S)  
IN THE MATTER OF:  
\_\_\_\_\_ )

DOB: \_\_\_\_\_ (AGE) \_\_\_\_\_ )  
\_\_\_\_\_ )

Your Petitioner would show this Court the following:

(1) Petitioner is the duly authorized designee of the Board of Trustees for the School District of \_\_\_\_\_ County for the purpose of advising the Family Court of the non-attendance of school students who are at least five (5) years of age by September first of any school year but not yet seventeen (17) years of age, under the provisions of the S.C.Code Ann. § 59-65-10, et seq.

(2) Respondent(s) is/are the parent(s) or guardian(s) of the following child(ren) in the age group specified above: \_\_\_\_\_ DOB: \_\_\_\_\_ Respondent(s) and the above-named child are citizens and residents of \_\_\_\_\_ County, South Carolina.

(3) The above-named child has not regularly attended school as required by S.C.Code Ann. § 59-65-10, as is more fully shown by the attendance records and written intervention plan attached to this Petition and incorporated herein by reference, as required by S.C. State Board of Education Regulation 43-274.

(4) Petitioner fears further school non-attendance and non-compliance with the intervention plan of the above-named child and is informed and believes this Court has the authority, under S.C.Code Ann. § 59-65-60, to require Respondent(s), and their child if

necessary, to appear at a hearing, and to order the Respondent(s) to require the child(ren) to attend school, under penalty of contempt.

WHEREFORE, your Petitioner prays this Court:

(1) Set and hold a hearing, upon ten days notice to Respondent(s), to inquire into the matters alleged in this Petition;

(2) Require Respondent(s) to attend such hearing and to bring with them to Court the above-named child(ren);

(3) Order Respondent(s) to require their above-named child to attend school regularly as required by law, under penalty of contempt; and,

(4) Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

**DRAFT**

\_\_\_\_\_ County School District

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_, 200\_

\_\_\_\_\_, South Carolina

SWORN and subscribed before me this

\_\_\_\_\_ Day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
Notary Public of South Carolina



3. That the above-named juvenile has had \_\_\_\_\_ unexcused absences thus far during the school year beginning \_\_\_\_\_ and ending \_\_\_\_\_.

IT IS THEREFORE ORDERED THAT school officials develop an intervention plan, pursuant to S.C.Code Ann. § 59-65-90 and State Board of Education Regulation 43-274 to identify reasons for the above-named child's continued absences and to improve future attendance.

IT IS FURTHER ORDERED THAT the above-named child attend school regularly, with no further unexcused absences, class cuts, tardies, suspensions, or discipline referrals.

IT IS FURTHER ORDERED THAT \_\_\_\_\_, Parent/Guardian of the child, make reasonable efforts to ensure that the child attend school regularly with no further unexcused absences, class cuts, tardies, suspensions, or discipline referrals.

IT IS FURTHER ORDERED THAT school officials shall report any known violation of this order to the Family Court.

AND IT IS ORDERED.

\_\_\_\_\_  
FAMILY COURT JUDGE

\_\_\_\_\_, 200\_\_

\_\_\_\_\_, South Carolina

**Parent/Guardian:** You are hereby notified that you have the right to have an attorney if another hearing is scheduled regarding any violation of this Order, and that one will be provided for you if you are determined to be indigent.

You are further notified that you can be fined up to Fifty Dollars (\$50.00) and/or sentenced to up to thirty (30) days in jail for each unexcused absence which is in violation of this Order.

**Child:** You are hereby notified that a violation of this Order may result in another hearing before this Court and your being placed in a secure facility maintained by the Department of Juvenile Justice.

\_\_\_\_\_  
Parent/Guardian

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

\_\_\_\_\_  
Child

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

\_\_\_\_\_  
Parent/Guardian

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

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF \_\_\_\_\_ )  
 )  
THE BOARD OF TRUSTEES FOR THE )  
SCHOOL DISTRICT OF \_\_\_\_\_ COUNTY )  
 )  
BY AND THROUGH ITS DULY AUTHORIZED )  
DESIGNEE, \_\_\_\_\_ )  
SCHOOL NAME \_\_\_\_\_ )

IN THE FAMILY COURT  
\_\_\_\_\_ JUDICIAL CIRCUIT

Docket Number:

PETITIONER,

PETITION  
FOR VIOLATION OF  
SCHOOL ATTENDANCE ORDER

-vs-

RESPONDENT (S)

IN THE MATTER OF:

DOB: \_\_\_\_\_ AGE: \_\_\_\_\_

Your Petitioner would show this Court the following:

(1) Petitioner is the duly authorized designee of the Board of Trustees for the School District for the purpose of advising the Family Court of the non-attendance of school students who are at least five (5) years of age by September first of any school year but not yet seventeen (17) years of age, under the provisions of the S.C.Code Ann. § 59-65-10, et seq.

(2) Respondent(s) is/are the parent(s) or guardian(s) of the following child(ren) in the age group specified above: \_\_\_\_\_ DOB: \_\_\_\_\_. Respondent(s) and the above-named child are citizens and residents of \_\_\_\_\_ County, South Carolina.

(3) The above-named child and/or parent or guardian has not complied with the School Attendance Order issued by this court on \_\_\_\_\_. This noncompliance is more fully shown by the attendance records and intervention plan attached to this Petition and incorporated herein by reference, as required by S.C. State Board Regulation 43-274.

(4) Petitioner fears further school non-attendance and non-compliance with the intervention plan of the above-named child and is informed and believes this Court has the

authority, under S.C.Code Ann. § 59-65-60 to require Respondent(s), and their child if necessary, to appear at a hearing and to show cause why the Respondent(s) or their child should not be held in Contempt of Court.

WHEREFORE, your Petitioner prays this Court:

- (1) Set and hold a hearing, upon ten days notice to Respondent(s), to inquire into the matters alleged in this Petition;
- (2) Require Respondent(s) to attend such hearing and to bring with them to Court the above named child;
- (3) Determine whether these allegations are true and whether the Respondent(s) or the child should be held in Contempt of Court; and,
- (4) Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

DRAFT

\_\_\_\_\_ County School District

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_, 200\_\_

\_\_\_\_\_, South Carolina

SWORN and subscribed before me this

\_\_\_\_\_ Day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
Notary Public of South Carolina

STATE OF SOUTH CAROLINA )  
COUNTY OF \_\_\_\_\_ )

IN THE FAMILY COURT  
\_\_\_\_\_ JUDICIAL CIRCUIT

Docket Number: \_\_\_\_\_

IN THE INTEREST OF:

**COMMITMENT ORDER FOR  
VIOLATION OF PROBATION  
or CONTEMPT OF COURT**

\_\_\_\_\_

STATUS OFFENSE

A Child Under the Age  
of Seventeen (17) Years

And

\_\_\_\_\_  
Parent/Guardian of Child

DATE OF HEARING: \_\_\_\_\_

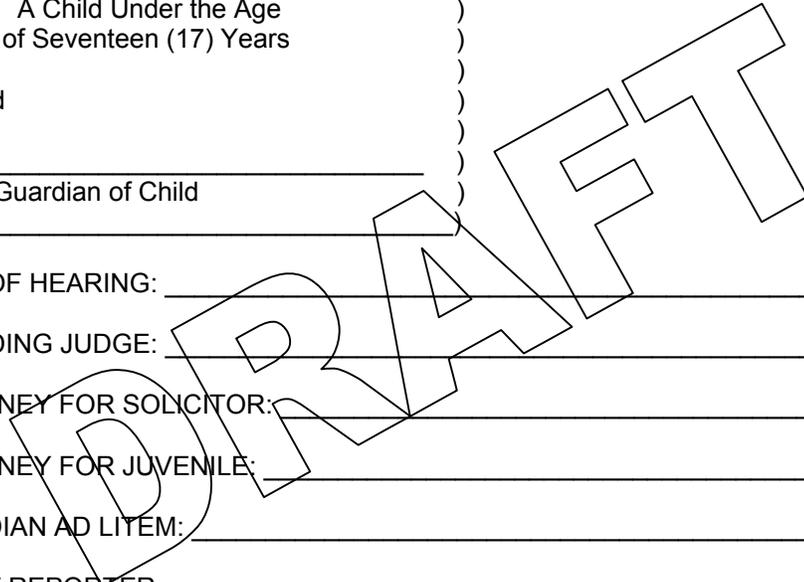
PRESIDING JUDGE: \_\_\_\_\_

ATTORNEY FOR SOLICITOR: \_\_\_\_\_

ATTORNEY FOR JUVENILE: \_\_\_\_\_

GUARDIAN AD LITEM: \_\_\_\_\_

COURT REPORTER: \_\_\_\_\_



This matter comes before the Court on a verified petition filed by \_\_\_\_\_,  
alleging that the above named child did violate a previous Order of the Court.

Previously, an adjudicatory hearing for the status offense of truancy was held on  
\_\_\_\_\_. Present, at the hearing were the Assistant Solicitor, the  
child, the Parent/Guardian of the juvenile, and the Attorney representing the juvenile. As a result  
of the hearing, the child was placed under a School Attendance or Probation Order dated  
\_\_\_\_\_.

The matter is now before the Court for a hearing on \_\_\_\_\_ pursuant to a  
verified Petition filed by \_\_\_\_\_ alleging that the above-named child did  
violate the previous Order of this Court. Present at the hearing were the Assistant Solicitor, the  
child, and \_\_\_\_\_, who is the child's Parent or Guardian.

From the record in this action and the evidence presented at the hearing, THIS COURT  
FINDS AND CONCLUDES AS FOLLOWS:

1. That this court has jurisdiction over the parties and subject matter of this action, and that venue is proper.
2. That the above-named child, his/her attorney, and parent or legal guardian of the child were given notice of the possible consequences should the child violate the previous order of this Court.
3. That the above-named child did willfully violate the order of this Court dated \_\_\_\_\_  
in the following manner: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
4. That based on a written report from the Department of Juvenile Justice or school district there is no less restrictive alternative appropriate to meet the needs of the above-named child other than secure confinement.

IT IS THEREFORE ORDERED THAT THE ABOVE-NAMED CHILD:

- A. (\_\_\_\_\_) be committed to a secure evaluation center operated by the Department of Juvenile Justice for the purpose of an evaluation for a period not to exceed 45 days.  
Upon return from the evaluation center, the child shall be detained until a dispositional hearing or further order of this Court.

OR

- B. (\_\_\_\_\_) be committed to the custody of the Department of Juvenile Justice for a determinate period of \_\_\_\_\_ days.  
(\_\_\_\_\_) IT IS FURTHERED ORDERED THAT upon release from the determinate sentence, the child be placed on probation for the term of \_\_\_\_\_.

THE CONDITIONS OF PROBATION ARE AS FOLLOWS:

1. You shall report to your Probation Counselor as often as you are told to.
2. You shall keep all appointments with other agencies to which you may be sent by the Court or by your Probation Counselor.

3. You shall have no unexcused absences from school, obey the rules of your school, and do your school work to the best of your ability.
4. You shall cooperate with your parents and obey their rules or the rules of the home in which you live.
5. You shall cooperate with your Probation Counselor.
6. You shall be home by a certain hour every night. The hour you are to be home shall be set by the Court, or by your Probation Counselor in conjunction with your parents.
7. You shall not be with any person who is committing a crime or breaking the law.
8. You shall not commit any crimes or break any laws.
9. You shall not use any type of illegal drugs or drink any form of alcoholic beverages.
10. You shall not have in your possession any type of weapon which could be used to hurt another person.

Other conditions of probation: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_.

ANY VIOLATION OF THIS ORDER MAY CONSTITUTE CONTEMPT AND MAY RESULT IN THE CHILD'S COMMITMENT TO THE DEPARTMENT OF JUVENILE JUSTICE FOR A PERIOD UP TO NINETY (90) DAYS.

AND IT IS SO ORDERED.

\_\_\_\_\_  
 FAMILY COURT JUDGE

\_\_\_\_\_, 200\_\_  
 \_\_\_\_\_, South Carolina

## Appendix Eight

# Resources

### Useful Websites

- **South Carolina Department of Education**

[www.myschools.com](http://www.myschools.com)

Information provided by the South Carolina Center for Truancy and Dropout Prevention can be found under programs / truancy on this web site.

- **Truancy Prevention: Empowering Students, Schools and Communities**

<http://ojjdp.ncjrs.org/truancy/>

Truancy costs students more than their education. It costs them their future. The Office of Juvenile Justice and Delinquency Prevention (OJJDP), Office of Justice Programs, U.S. Department of Justice, and the Office of Safe and Drug-Free Schools (OSDFS), U.S. Department of Education, developed this Web site to collect and disseminate truancy-related information and resources. The partnership between OJJDP and OSDFS reflects a shared objective of keeping youth engaged in school and on the path to responsible adulthood.

Because truancy is a complex problem requiring a comprehensive response, educators, law enforcement agencies, courts, communities and families all play a part in truancy prevention. This Web site focuses on partnership-building strategies designed to help children reach their fullest potential.

- **National Dropout Prevention Center/Network (Clemson University)**

<http://www.dropoutprevention.org/>

The **mission** of the **National Dropout Prevention Center/Network** is to serve as a research center and resource network for practitioners, researchers, and policymakers to reshape school and community environments to meet the needs of youth in at-risk situations so these students receive the quality education and services necessary to succeed academically and graduate from high school.

The National Dropout Prevention Center/Network (NDPC/N) was begun in 1986 to serve as a clearinghouse on issues related to dropout prevention and to offer strategies designed to increase the graduation rate in

America's schools. Over the years, the NDPC/N has become a well-established national resource for sharing solutions for student success. It does so through its clearinghouse function, active research projects, publications, and through a variety of professional development activities.

- **National Center for School Engagement**

<http://www.truancyprevention.org/>

Truancy prevention is critical to ensure the success of children in school. The National Center for School Engagement was established as a result of more than a decade of educational research conducted by the Colorado Foundation for Families and Children. NCSE makes many resources available on this site concerning school attendance, attachment, and achievement. NCSE provides trainings, technical assistance, research and evaluation to school districts, law enforcement agencies, and courts, as well as state and federal agencies.

- **International Association for Truancy and Dropout Prevention**

<http://www.iatdp.org/>

The International Association for Truancy and Dropout Prevention was developed to assist administrators, teachers, and parents in school truancy and dropout prevention methods; train educators and other professionals in the most effective programs and methods for truancy and dropout prevention; develop programs and strategies to address school attendance problems, and professionalize truancy and dropout prevention efforts.

## **Children's Law Office Publications**

The following publications can be accessed on the Children's Law Office website at <http://childlaw.sc.edu>:

- Creative Sentencing in Juvenile Court
- Guide for Handling Status Offender Cases in Family Court
- The Bench Trial in Juvenile Court
- Training & Resource Manual for Attorneys Representing Juveniles
- Training & Resource Manual for Juvenile Prosecutors
- Judges' Quick Reference Guide to Juvenile Court in South Carolina

## Appendix Nine

# Child Protection System

The purpose of the child protection system is to ensure the safety of children and to provide supportive intervention to reduce the occurrence of maltreatment. The Department of Social Services (DSS) is responsible for investigating reports of abuse or neglect when the suspected perpetrator is the child's parent or guardian, or person responsible for the child's welfare.

### Investigation of Reports

Within 24 hours of receipt of a report of suspected abuse or neglect, DSS will begin an investigation and will see the child. DSS rates the risk of harm to the child to decide a response time. Based upon the nature of the report, if DSS determines the child is at high risk, the investigating caseworker will respond in a shorter amount of time. DSS refers reports of sexual abuse to law enforcement within 24 hours. DSS must also refer other reports that involve violations of criminal law to law enforcement.

DSS will notify the parent or guardian as soon as possible after initiating the investigation. Parents have a right to information contained in the report, except for the identity of the reporter. During the investigation, DSS may interview the child and other children in the home outside the presence of their caregivers. The agency is specifically authorized to interview children at school. DSS may also inspect the child's residence, as well as obtain copies of school, medical, or other records concerning the child. Because of its obligation to preserve and reunify families whenever possible, DSS may implement a safety plan with a family that is being investigated. The safety plan is a temporary agreement between the child's family and DSS that is designed to prevent removal of the child from the home.

DSS has 45 days to complete its investigation by deciding whether to indicate or unfound the report. However, upon a showing of good cause, this period of time may be extended for 15 days. If the investigation yields a preponderance of evidence to support a finding of abuse or neglect, DSS indicates the report and coordinates services to correct the causes for the abuse or neglect. If, for any reason, the investigation does not yield a preponderance of evidence to support a finding of abuse or neglect, DSS must unfound the report.

For cases that are indicated, DSS may coordinate services for the family without court involvement (a treatment case), or the department may file a complaint in family court seeking the court's involvement in the implementation of a plan of services.

When there is to be court involvement, DSS may coordinate services for families without removing the child from the home (an intervention case) or may ask the family court to remove a child and order protective services (a removal case). In all child maltreatment cases brought before the family court, a guardian ad litem will be appointed to represent the best interest of the child.

## Family Court Hearings

Following is a brief explanation of the various types of hearings held in child maltreatment cases that are brought before the family court:

**Intervention.** DSS files a complaint in family court, and an intervention hearing is held within 35 days. If the court finds that the child was abused or neglected, DSS provides services to the family under the authority of the court, but the child remains in the home.

**Emergency Protective Custody.** Some children who are in DSS custody were removed from their homes because a law enforcement officer or family court judge believed their lives, health, or physical safety were in imminent and substantial danger. After a child is taken into emergency protective custody, the child is placed with DSS and DSS begins an investigation. A hearing is held within 72 hours of emergency removal to determine whether the removal was proper and whether the child should temporarily remain in DSS custody.

**Removal.** Children who have been abused or neglected but are not in imminent and substantial danger may also be placed in foster care. The removal process begins with DSS filing a complaint in family court which asks the court to remove the child from the parent's home and order protective services. A hearing is held within 35 days to determine whether the child has been abused or neglected, whether the child should be placed in DSS custody, and what protective services should be provided to the family.

**Permanency Planning.** Permanency planning hearings are required for every child who is in foster care for 12 months. At the permanency planning hearing, the court decides whether to return a child to his or her parent, place the child in the custody of a relative (or non-relative), or terminate parental rights. The court can order another permanent plan if compelling reasons exist.

**Termination of Parental Rights.** The process of terminating parental rights begins with the filing of a complaint asking the court to terminate rights. Legal rights between a parent and a child may be severed when there is at least one statutorily defined reason to terminate parental rights and the termination is in the best interest of the child.