

**FAILURE TO ATTEND SCHOOL
PARENT CONTRIBUTING TO NONATTENDANCE
AND OTHER OFFENSES
COMMITTED BY JUVENILES**

SOME NEW AND SOME REVIEW

FAILURE TO ATTEND SCHOOL

Who may be admitted to school:

On September 1st:

At least 5 years of age and under 21
or

At least 21 years of age and under 26
for the purpose of completing the
requirements for a high school diploma

ED 25.001

FAILURE TO ATTEND SCHOOL

Requirements for enrollment

- Parent or guardian must enroll student
- School must record name, address, date of birth of person enrolling
- Student must be identified by legal surname on documents

Presenting false documents: tampering with governmental record

Using gov't record to establish residency is Class C misdemeanor

ED 25.002; ED 25.0021; ED 37.10

FAILURE TO ATTEND SCHOOL

Who is required to attend school:

6 years old - and younger than 18 years old

Younger than 6 and previously enrolled in 1st grade

18 year old who voluntarily enrolls or attends

Enrollment revoked for 5 unexcused absences in semester

Considered trespasser - Class C misdemeanor

ED 25.085

FAILURE TO ATTEND SCHOOL

Who is not required to attend school:

- Child in private or parochial school

 - Home schooling is private school

- Child in special education program

- Child infeasible because of physical or mental condition

- Child who is 17 and taking GED course

- Child who is 17 and has a diploma or equivalent

- Child who is 16 and is attending GED course

- Child who is 16 enrolled in Job Corps

- Child enrolled in Tx Academy of Math and Science

- Child enrolled in Tx Academy of Leadership in Humanities

- Child enrolled in Tx Academy of International Studies

ED 25.086

HB 5 Relating to public school accountability Effective 9-1-2013

Minimum Attendance for Class Credit or Final Grade

- Student in any grade from K - 12 may not receive credit or final grade for a class unless attended for 90% of days class offered
- Student attending 75% but less than 90% may get credit or final grade if student completes instructional plan approved by principal

Judge must consent to credit or final grade if student is under jurisdiction of the justice court

ED 25.092

FAILURE TO ATTEND SCHOOL

Excused absences:

Permissive

Any acceptable cause

6-12th grade to sound Taps

11-12th grade to visit college/university - 2 days

Service as early voting clerk - 2 days (SB 553,
effective 6-14-2013)

FAILURE TO ATTEND SCHOOL

Excused absences:

Mandatory

Religious holy days

Required court appearance

To apply for citizenship

Naturalization ceremony

Election clerk - 2 days

Child in custody of DFPS for services or court ordered visitation (SB 1404, effective 6-14-2013)

Health care for student or student's child (HB 455, effective 6-14-2013)

Visit with military parent (SB 260, effective 6-14-2013)

Applies to all students required to attend, even over 18

FAILURE TO ATTEND SCHOOL

Peace officer serving as attendance officer:

Must apply truancy prevention measures

If measures fail:

File complaint against child 12 - 17

or

File complaint against parent

May take student into custody with parent's permission

May take child into custody to return child to school with probable cause to believe child is in violation of compulsory attendance

FAILURE TO ATTEND SCHOOL

Attendance officer who is not peace officer:

Must apply truancy prevention measures

If measures fail:

File complaint against child 12 - 17
and

File complaint against parent

Escort student from any location to school when
requested by parent

ED25.091

HB 1009 Relating to School Marshals

Effective 6-14-2013

SCHOOL MARSHAL

- Appointed by Trustees of ISD or governing body of open enrollment charter school
- Not more than 1 marshal per 400 students for each campus
- May carry handgun per regulations
- Must put handgun in locked, secure safe within immediate reach if duties involve contact with students
- May use only frangible ammunition
- May access handgun only when deadly force justified
- Identity of marshal is confidential

ED 37.0811

FAILURE TO ATTEND SCHOOL

School District must adopt Truancy Prevention Measures designed to:

- Address conduct related to truancy
- Minimize filing of complaints for failure to attend school

Court required to dismiss complaint if not accompanied by certification that measures applied and a statement as to special education services (SB 393, SB 1114, effective 9-1-2013)

FAILURE TO ATTEND SCHOOL

Warning notices:

Required in writing at beginning of school year

Required when child accumulates 3 absences

Remind parent of duty

Remind parent of possible prosecution

Request a conference

ED 25.095

FAILURE TO ATTEND SCHOOL

Mandatory action:

Absent 10 or more days/6 month period in same school year:

Must file "failure to attend school" within 10 days of the 10th absence and/or

File "parent contributing to nonattendance"

Court required to dismiss complaint that is not filed within 10 school days of the 10th absence

ED 25.0951

FAILURE TO ATTEND SCHOOL

Permissive action:

Absent 3 or more days or parts of days in 4 week period:

May file "failure to attend school"
and/or

May File "parent contributing to
nonattendance"

ED 25.0951

SB 393, SB 1419, and HB 1093 CASE MANAGER PROGRAM

Court may employ case manager:

- To provide services to juveniles before the court
- With consent, to provide services prior to case being filed
 - Prevention services to at risk child
 - Intervention services for misconduct before case filed
- To assist in administering juvenile docket

Governed by Code of Ethics

Rules for educational pre-service and in-service training

Periodic review by commissioners court

Case manager reports information to assist judge

Judge required to consult with case manager

CP 45.056

CASE MANAGER PROGRAM

Harris County Commissioners Court requires defendant convicted of fine-only misdemeanor in justice court to pay juvenile case manager fee not to exceed \$5 as cost of court

SB 1419, effective 9-1-2013 TRUANCY PREVENTION AND DIVERSION FUND (cost implemented 1-1-2014)

A person convicted in a justice court of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, is required to pay a \$2 court cost to fund

County may retain 50% of the funds for purpose of operating or establishing a juvenile case manager program

CP 102.0174; CP 102.015

FAILURE TO ATTEND SCHOOL

Offense:

Individual 12 years of age and younger than 18 years of age

Required to attend school

Fails to attend school:

- on 10 or more days or parts of days within 6-month period in same school year, or
- on 3 or more days or parts of days within 4-week period

ED 25.094

FAILURE TO ATTEND SCHOOL

On filing the complaint:

Submit affidavit of probable cause

Submit statement from school:

- certifying school applied truancy prevention measures
- certifying measures failed to address attendance
- specifying if student eligible for or receives special education services

(SB 393) Court required to dismiss complaint that is not accompanied by required certifications

ED 25.0915

JURISDICTIONAL LIMITATIONS

Unless the court has implemented a juvenile case manager program, the court must waive jurisdiction if child has two prior convictions for fine only misdemeanors, other than traffic

If the court has implemented a juvenile case manager program, the court may waive original jurisdiction

If the court or another court has dismissed a complaint for lack of capacity, the court must waive original jurisdiction (SB 393)

REPORTING REQUIREMENTS

Court must notify juvenile court of the pending complaint

Court must notify juvenile court of final disposition

FA 51.08;

SB 393 CAPACITY TO COMMIT OFFENSE

Presumption:

Person 10 years of age but younger than 15 years of age is incapable of committing a misdemeanor punishable by fine-only, other than an offense under a juvenile curfew order

To refute presumption:

Prosecutor must prove to court by preponderance of evidence that child had sufficient capacity to understand conduct was wrong at time committed (not that child knew act was a crime or legal consequences)

PE 8.07

SB 393 DISMISSAL FOR LACK OF CAPACITY

On court's own motion

On motion of prosecutor

On motion of defendant or parent

Notice to state

Court must dismiss case if court determines there is probable cause to believe child:

- lacks capacity to understand criminal proceedings or assist in defense, or
- lacks substantial capacity to appreciate wrongfulness of conduct or to conform conduct to law

PE 8.08

FAILURE TO ATTEND SCHOOL

Venue:

Justice Court in any precinct in the county in which the individual resides or in which the school located

Municipal court in city in which the individual resides or in which school located

ED 25.094

Affirmative defenses:

One or more absences alleged:

Were excused by school official

Were excused by court

Were involuntary

But only if there is an insufficient number of unexcused absences remaining to constitute an offense

Court's decision to excuse does not affect ability of school to determine whether to excuse for another purpose

ED 25.094

SECURING APPEARANCE

(SB 1114, applies to offense committed before, on or after 9-1-2013)

ARREST: Warrant may not be issued for arrest of a person for a Class C misdemeanor under the Education Code committed when the person was younger than 17 years of age

ED 37.085

For Failure to Attend, court may issue order directing peace officer to take student into custody

ED 25.094

DUTIES OF PEACE OFFICER

On taking student into custody for failure to attend school:

- Notify parent of action and reason
- Release student to parent or responsible adult on promise to bring student to court
- Bring student to court ED 25.094

Officer who has probable cause that child violated compulsory attendance, may take child into custody to return the child to school campus ED 25.091

May bring child to principal or designee who agrees to assume responsibility for rest of school day
FA 52.02

SUMMONS FOR PARENT

Court must issue summons to parent

Direct parent personally to appear and bring child

Warn that parent may be required to attend class for students at risk of dropping out of school, enforceable by contempt

Failure of parent to appear is Class C misdemeanor

CP 45.054

RIGHT TO EXPUNCTION for FTAS

Court must inform student and parent in open court, of expunction rights:

- After 18th birthday
- Only one conviction for failure to attend school
- Apply to court with \$30 fee

Court must expunge despite prior conviction:

- Student present diploma or GED before 21st birthday

Deferred disposition expunged under CP 55

CP 45.054; CP 45.055; CP 45.051

ALLOWABLE ORDERS:

- Attend school without unexcused absences
- Attend prep class for GED if court determines student is too old to do well in classroom
- Student take the GED if at least 16 years old
- Attend special program:
 - alcohol and drug abuse
 - rehabilitation
 - counseling/self-improvement
 - self-esteem/leadership
 - work and job skills
 - parenting/parental responsibility
 - manners
 - violence avoidance
 - sensitivity
 - advocacy and mentoring
- Reasonable community service
- Tutorial program
- Attend class for student's at risk of dropping out, with parent
- Order DPS to suspend/deny license not to exceed 365 days

DISMISSAL

Complaint for FTAS must be dismissed if:

- Defendant complied with conditions imposed
- Defendant presents diploma or GED

**HB 2058 Relating to high school equivalency exam
Effective 6-14-2013**

ED 7.111

Allows 18 year old to take high school equivalency
examination online

**SB 393 applies to sentencing that commences before,
on or after 9-1-2013 CONVICTION**

Judge may allow defendant to choose to discharge by:

- Performing community service
- Attending tutoring program
- Paying fine and costs immediately, at some later date, or at designated intervals

Election must be in writing, signed by defendant and parent

Election must be maintained as court record

Court may waive fine and costs if defendant indigent

SB 393 Senate concurred in House amendments on 5-23-2013

HB 528 Passed by Senate on 5-22-2013 (eff. 1-1-2014)

- **SB 393** All records and files relating to a child who is convicted of and has satisfied the judgment for, or who has received a dismissal after deferral of disposition for a fine-only misdemeanor offense, other than traffic, including those held by law enforcement, and information stored by electronic means or otherwise from which a record or file could be generated, are confidential and may not be disclosed to the public. SB 393
-
- **HB 528** All records and files relating to a child who is charged with, is convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition for a fine-only misdemeanor offense, other than traffic, including those held by law enforcement, and information stored by electronic means or otherwise from which a record or file could be generated, are confidential and may not be disclosed to the public.

PARENT CONTRIBUTING TO NONATTENDANCE

Warning issued

Parent, with criminal negligence, fails to require child to attend school

Child has required number of absences

Must recite acts constituting criminal negligence

Affirmative defense:

Absence was excused by school official

Absence should be excused by court

PARENT CONTRIBUTING TO NONATTENDANCE

Allowable Orders

- Provide personal services to charitable or educational institution
- Attend program for students with unexcused absences

OTHER OFFENSES COMMITTED BY JUVENILES

JURISDICTION

Court must waive jurisdiction:

- two or more fine-only misdemeanor convictions
- no case manager program

Court must waive jurisdiction over child younger than 17 years of age charged with "electronic transmission of certain visual material depicting minor"

If court or another court previously dismissed a complaint for lack of capacity under PE 8.08

FA 51.08

OTHER OFFENSES COMMITTED BY JUVENILES

REPORTING

Court must notify juvenile court of pending complaint and of final disposition

CAPACITY TO COMMIT OFFENSE

Presumption that child 10 - 14 years of age cannot commit a fine only misdemeanor - other than juvenile curfew offense

FA 51.08

OTHER OFFENSES COMMITTED BY JUVENILES

(SB 393) SCHOOL OFFENSE

- Class C misdemeanor, other than traffic
- Committed by child enrolled in public school
- Committed on property under control of ISD

ED 37.141

Peace officer may not issue a citation to a child enrolled in a public school for a Class C misdemeanor committed on property under control of ISD, other than traffic

ED 37.143

Provisions control over any other law applied to an offense committed on school property

SCHOOL OFFENSE

(SB 1114) Peace officer may not issue a citation or file a complaint for conduct by a child younger than 12 years of age that occurred on school property or a vehicle owned or operated by county or ISD

Peace officer may not issue a field release citation in place of taking a child into custody for a fine-only offense committed by a child younger than 12 years on school property or a vehicle owned by county or ISD

(SB 1114) SCHOOL OFFENSE

Peace officer who files a complaint for conduct committed by a child 12 years of age or older that occurred on school property or on a vehicle owed or operated by county or ISD, must submit:

- offense report
- a statement by a witness to the conduct
- a statement by a victim of the conduct, if any

The prosecuting attorney may not proceed to try an offense unless the peace officer has provided the documents

CP 45.058

SCHOOL OFFENSE

(SB 393) COMPLAINT FOR SCHOOL OFFENSE

Must be sworn to be a person with personal knowledge of the facts giving rise to probable cause

Must be accompanied by statement from school employee stating if child eligible or receiving special services

ED 37.146

SCHOOL OFFENSE

(SB 393) PROSECUTING ATTORNEY

A prosecuting attorney may adopt rules for filing of complaints for school offenses

- in order to determine probable cause
- to review circumstances and allegations in complaint
- to see that justice is done

ED 37.147

(SB 393) GRADUATED SANCTIONS

ISD that commissions peace officers may develop graduated sanctions before complaint filed for:

disorderly conduct (a)(1)(2)(3)(4)(5)

disruption of class

disruption of transportation

May require:

warning letter to child/parent

behavior contract signed by child/parent

referral to counseling/other services

performance of school-based community service

- ED 37.144

DISORDERLY CONDUCT, DISRUPT CLASS/TRANSP

For Disrupt transportation

Disrupt Class

Disorderly conduct

- (a)(1) abusive language
- (a)(2) offensive gesture
- (a)(3) unreasonable odor
- (a)(4) threat
- (a)(5) unreasonable noise

the graduated sanctions, if any, that were imposed before complaint filed

(Graduated sanctions are not required for (a)(6) fighting)

ED 37.146

SCHOOL OFFENSE

DISORDERLY CONDUCT

- (a)(1) abusive language
- (a)(2) offensive gesture
- (a)(3) unreasonable odor
- (a)(5) unreasonable noise
- (a)(6) fight with another

Elements of offense do not apply to a student younger than 12 years of age and the conduct occurred at a public school campus during regular school hours

(Elements of offense does apply to (a)(4) threat)

"Public place" includes a public school campus or school grounds

PE 42.01

SCHOOL OFFENSE

DISRUPTION OF CLASS

Except a person younger than 12 years of age, a person commits an offense if the person intentionally disrupts the conduct of classes or other school activities on school property or on public property within 500 feet of school property.

SB 393, Senate concurred May 23, 2013

- A person other than a primary or secondary grade student enrolled in the school, commits an offense if the person intentionally disrupts the conduct of classes or other school activities on school property or on public property within 500 feet of school property. It is an exception that, at the time the person engaged in conduct prohibited under that subsection, the person was a student in the sixth grade or a lower grade level.*

SB 1114, Passed House May 20, 2013

SCHOOL OFFENSE DISRUPTION OF CLASS

- "Disrupting the conduct of classes or other school activities" includes:
 - (A) emitting noise of an intensity that prevents or hinders classroom instruction;
 - (B) enticing or attempting to entice a student away from a class or other school activity that the student is required to attend;
 - (C) preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend; and
 - (D) entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or the use of loud or profane language, disrupting class activities.
- January 28, 2006
- "Public property" includes a street, highway, alley, public park, or sidewalk.
 - "School property" includes a public school campus or school grounds on which a public school is located and any grounds or buildings used by a school for an assembly or other school-sponsored activity.
- Read section 4.6 in chapter 2.

DISRUPTION OF TRANSPORTATION

- *Except a person younger than 12 years of age, a person other than a primary or secondary grade student commits an offense if the person intentionally disrupts, prevents, or interferes with the transportation of children (i) to or from school on a school vehicle or (ii) to or from an activity sponsored by a school on a school vehicle.*
- **SB 393 Senate concurred on May 23, 2013.**
- *A person other than a primary or secondary grade student commits an offense if the person intentionally disrupts, prevents, or interferes with the transportation of children (i) to or from school on a school vehicle or (ii) to or from an activity sponsored by a school on a school vehicle.*
- *It is an exception that, at the time the person engaged in conduct prohibited under that subsection, the person was a student in the sixth grade or a lower grade level.*
- **SB 1114 Passed the House on May 20, 2013.**

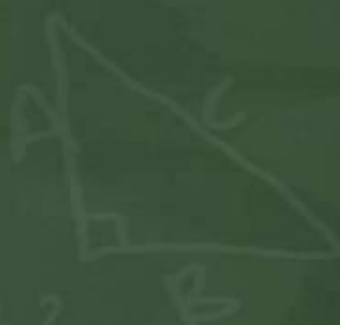
A bus driver transporting students to or from school or school activity may send student to principal's office to maintain effective discipline on bus;

Principal must employ appropriate discipline management techniques consistent with code of conduct

SB 1541, Effective 6-14-2013 ED 37.0022

$$A^2 + B^2 = C^2$$

? Mass of the
rocket M?
? weight in
pounds? / 16 / 2.2?
2.2? 0.05398 kg
? Area of the
rocket? A?
pi r^2?



1. In the first place we
have granted to God, and
by this our present charter
confirmed for us and our
heirs forever that the
English Church shall be
and their heirs, of us and
our heirs forever.

January 28, 2006

HOMEWORK

1. Read section 4.6 in chapter 2.
Quiz Thursday