



SMITH COUNTY UNIFORM TRUANCY PLAN

Enacted pursuant to Texas Education Code § 25.0916

Smith County Uniform Truancy Plan

Approved and Adopted: March 7, 2017

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FOREWORD

This plan is adopted in accordance with the Texas Education Code 25.0916, entitled *Uniform Truancy Policies in Certain Counties*.

This Smith County Uniform Truancy Plan has three goals:

- To outline the minimum standards of truancy prevention required by new state legislation;
- To allow each school district to consider each case individually and take into consideration what is in the child or parent's best interest to improve attendance and minimize court involvement; and
- To clearly outline school requirements and court procedures for filing truant conduct related cases with the Court.

The prosecutors under the new law are the gatekeepers to access the court system. Parents and Schools will no longer be allowed to use the court system as the primary disciplinarian. When assessing truant conduct, prosecutors will first ask, "Was there any reasonable way the school administration could have solved this case at the school?" If so, no case will be filed.

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COUNTY WIDE PLAN CHAPTER 1 The School District's Role

Texas Education Code § 25.0915 states in part:

1. A school district shall adopt truancy prevention measures designed to:
 - (1) Address student conduct related to truancy in the school setting before the student engages in conduct described by Texas Family Code § 65.003(a); and
 - (2) Minimize the need for referrals to truancy court for conduct described by Texas Family Code § 65.003 (a).

The County Wide Plan begins with the school districts. Each school district and charter school district must create a plan to prevent truancy. Each District or Charter School's plan is unique to its setting but should as a minimum include the below elements:

Element 1. Each School District Plan must identify ways to get to know its own students. The district must have good contact information for each student and it must be regularly updated. See Section "Get to know your students" for ideas.

Element 2. Each School District Plan must address how the district will notify a student's parent in writing at the beginning of the school year about the law regarding truancy. This can be done through the student/parent handbook; a letter home or any means that works for the District.

Element 3. Each School District Plan must include compliance with Texas Education Code § 25.095 (b) that requires the school to send a Notice of Unexcused Absence to the parent once the student has accumulated three unexcused absences. The notice must inform the parent again that it is the parent's duty to monitor the student's school attendance and require the student to attend school and that the student is subject to truancy prevention measures under Texas Education Code § 25.0915. The notice must request a conference between school officials and the parent to discuss the absences. Please *see examples or Notices of Absences sample letters on pages 16 & 17.*

- Each School District Plan must have a way to ensure the parent and or guardian has received the letter.
- Each School District Plan must indicate the steps to be taken once the district becomes aware through its tracking process that the parent has not received the Notice of Absence letter. For example: If it was mailed and the mail came back, then the district needs to follow up with a residence check.
- The School District Plan should explain how to document all contact with student and or parent. For example: create a file (paper or electronic) for all students whose parents were sent a letter and continue to put all documents related to school attendance intervention and prevention in this file.

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Element 4. Each School District Plan should explain what will take place during the parent and or parent and student conference where the Truancy Prevention Measures Plan (Texas Education Code § 25.0915 (a-1)) is created. *Please see page 6 for suggestions.*

Element 5. Each School District Plan must include documentation of any meeting. Specifically what the school promises; what the parent promises; and what the student promises. Any plan must include review dates and notes: daily, weekly, or bi-weekly on the plan.

Element 6. Each School District Plan must document success or failure of any remedial measure.

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Get to know your students

In order to work with students and keep them in school, it is important to know who they are. Below are some suggestions to help schools know their students.

1. At the beginning of the school year or as circumstances change, go over the below with the parent and record the responses:
 - Ask for preferred language.
 - Explain the County Truancy Plan to Parent.
 - Make sure school has a copy of the Texas DL or ID and DOB.
 - Make sure school has at least two emergency contact numbers for the student.
 - Ask for names of two best friends of student and their contact numbers.
 - If there is a Power of Attorney then the school must request a copy and keep it on file.
 - Ask parent to provide at least two methods in which to contact them.

2. At the beginning of the school year or as circumstances change, ask if there is anything the school should be aware of such as:
 - Chronic illness—get documentation from doctor and make sure the nurse is involved at the outset.
 - Is there a drug problem? – maybe not with the student but in the household that could affect the student.
 - Was the student bullied in the past? --- get details of the bullying.
 - Is the student employed? – Why is he/she working – what are their hours?
 - Are there transportation issues as far as getting the child to school?
 - Are the parent and student homeless?
 - Is there a problem with peer pressure and the student?
 - Is the student pregnant? When are the appointments? – try to schedule after school. Pregnancy is not a reason to stay home unless there are complications accompanied by a doctor's note.
 - Is the student a father or soon to be father? Is he responsible for taking the mother of his child to the doctor? Can the school work with the father to accommodate appointments?
 - Are the parents divorced or in the midst of a divorce? – does this hamper school attendance?
 - Have there been deaths of family or relatives that may impact school attendance?
 - Outline to the parents all courses the student and in some cases the parent may be required to attend in the event of truancy.

3. At registration or shortly thereafter warn the parents of the consequences if the student has unexcused absences.

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Suggestions for what to address during the parent and/or student conference

Before anything else, welcome and list who is at the meeting.

- Explain the purpose of the meeting is to create a 45 day Truancy Prevention Plan.
- Ask outright what is keeping the student from school.
- Make sure each student and parent knows how many credits he/she has; what is needed for graduation.
- Be able to avoid power struggles with parent and students.
- Know what services are available through the school, and outside agencies.
- Be able to identify signs of depression, drug usage, gang involvement, anger, lack of manners, grief, new location adjustment, lack of self-respect for possible referral.
- Know and explain the alternatives to regular school and when they are appropriate including, charter school programs, online courses, GED programs, etc.
- Make your contract terms clear and short. Use words everyone understands.
- Remind families of the schools policy regarding tardiness.

The notes from the conference should be kept together with the file on the student for the agreed upon review and possibly for court. A check mark that a conference took place is not enough when referring to court. The prosecutors want to know what took place during the conference. The person who conducts the conference and follows up with the plan should be the witness in court.

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Requirements when referring a student to court

Requirements and Expectations:

- 1.) Any school district wishing to file an affidavit towards a petition for truant conduct in Smith County, must first meet with the prosecuting agency and adhere to any additional requirements before a petition will be filed. Failure to do so will result in the case being automatically remanded back to the school.
- 2.) Going through the judicial process for truant behavior is considered to be a partnership between the prosecution and the school district in an effort to assist and address the underlying issues surrounding the student's truant conduct. The representative from the school who has active knowledge of the student, their circumstances, behavioral history, and absences are required to sign an affidavit for truant conduct, supplement any additional information requested by the prosecutor, and attend all court hearings and/or trial. The representative must be willing and able to elicit testimony in open court and serve as the liaison for further requests by the prosecutor to the school. The required affidavit will be provided to the school district at the initial meeting with the prosecuting agency.
- 3.) Forum shopping will not be tolerated. Any school district located within Smith County, but outside Tyler City Limits, shall refer any truant cases to the Smith County District Attorney's Office. Any school district located within Tyler City Limits, shall refer any truant conduct cases to the Tyler Municipal Court. Failure to do so will result in the case being automatically remanded back to the school.
- 4.) Per Texas Education Code § 25.0915(a-3), the school district shall not refer any students to truancy court if the school determines that the student's truancy is the result of:
 - (a) pregnancy;
 - (b) being in the state foster program;
 - (c) homelessness; or
 - (d) being the principal income earner for the student's family.

The prosecutor who screens these cases will be looking for:

1. A complete and properly filled out Affidavit Referral of Truant Conduct to the prosecutorial agency.
2. A copy of the 3 day warning letter signed by the parent or notes as to how the school determined the letter was received.
3. If the letter wasn't received what additional steps did the school take to notify the parent.
4. A copy with notes of what happened at the parent conference and Truancy Prevention Measures Plan.
5. Copies of results of reviews of the plan.
6. Current attendance of the student.

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7. Statement certifying that the school applied the truancy prevention measures and that they failed to meaningfully address the student's school attendance and specify whether the student is eligible for or receives special education services.
8. Name of person who conducted conferences with parent and student and who is expected to testify in court.
9. Something indicating that the school has recently verified the address submitted with the paperwork. The address must be complete with zip code and a phone number (if available). A suggestion for verifying an address is to have the parent who is on a plan include their address and phone number on every excuse submitted to the attendance office.
10. Any additional information as outlined in prior meetings with the prosecutorial agency.

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Chapter 2 The Truant Conduct Prosecutor's Role

Once the school determines they will send the truant child to court, a procedure must be followed.

- The school must submit the documents listed on the following page to the appropriate prosecutorial agency who will review and decide whether or not the case will be filed in a truancy court.
- Once the documents are submitted, the appropriate prosecutorial agency will review and:
 1. Refer the case to a pre-trial diversion program;
 2. Accept the case and file a petition to have it heard;
 3. Send the case back to the school for more information/documentation; or
 4. Decline the case.
- The school will be notified of the prosecutorial agency's decision in a timely manner.
- Prosecutorial discretion. It is important to note that truant conduct prosecutors are authorized to exercise their discretion, Texas Family Code § 65.053 states, in relevant part:

The prosecutor may, in the prosecutor's discretion, determine whether to file a petition with the truancy court requesting an adjudication of the child for truant conduct.

- Thorough documentation is a must. A school district filing a case with the court should thoroughly document every encounter with the child, every encounter with the child's parent or guardian, and home visit. The notes should include as much detail as possible, indicating the who, what, when, where, and why of every conversation or meeting. This will provide as much detail as possible to the prosecutor.
- Every effort should be made to include community resources prior to filing a case with the court. Truant conduct prosecutors will be looking for indications as to which community resources were leveraged, over what period of time these resources were used, and any other relevant details that outline the steps taken to collaborate with these resources prior to filing a case with the court.
- Truant conduct prosecutors will need the cooperation of the school and its truancy prevention officials. These are the school officials with the most intimate knowledge of the circumstances surrounding and pertaining to the truant conduct at question. Their attendance at any court setting is vital to the State's case and without their attendance and willingness to testify, the State may not have sufficient evidence to prove truant conduct.

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DOCUMENTATION REQUIRED FOR A TRUANT CONDUCT PACKET

1. A complete and properly filled out Affidavit Referral of Truant Conduct.
2. A copy of the 3 day warning letter signed by the parent or notes as to how the school determined the letter was received.
3. A copy with notes of what happened at the parent conference and Truancy Prevention Measures Plan.
4. Copies of results of reviews of the plan.
5. Current attendance of the student.
6. Statement certifying that the school applied the truancy prevention measures and that they failed to meaningfully address the student's school attendance and specify whether the student is eligible for or receives special education services. A form letter to this effect will be provided by the prosecuting offices.
7. The name of the school official who conducted conferences with parent and student and who is expected to testify in court. It is advised that the same person conduct, or at least be present, at both of these events.
8. A statement indicating that the school has recently verified the address submitted with the paperwork. This is important for service of the summons on the parent and child.
9. Any additional information as outlined in prior meetings with the prosecutorial agency.

Truant Conduct Prosecutor Contact Information

**Smith County
Smith County Criminal District Attorney's Office
Civil Division**

Phillip Smith
Assistant District Attorney
Truant Conduct Prosecutor, Precincts 1, 2, & 3
Phone: (903) 590-4632
Email: psmith@smith-county.com

Thomas Wilson
Assistant District Attorney
Truant Conduct Prosecutor, Precincts 4 & 5
Phone: (903) 590-4629
Email: twilson@smith-county.com

**The City of Tyler
City Attorney's Office
Prosecution Office**
Dustin Wilson
Phone: (903) 531-1161
Email: dswilson@tylertexas.com

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The following entities have promulgated this plan pursuant to Texas Education Code § 25.0916:

CITY OF TYLER

SMITH COUNTY, TEXAS

Edward Broussard
City Manager

Nathaniel Moran
County Judge

ATTEST:

ATTEST:

City Secretary

County Clerk

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The following entities have read and agree to follow this plan:

FOR THE SCHOOLS:

Tyler Independent School District

Lindale Independent School District

Whitehouse Independent School District

Bullard Independent School District

Chapel Hill Independent School District

Arp Independent School District

Troup Independent School District

Winona Independent School District

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The following entities have read and agree to follow this plan:

FOR THE COURTS:

Justice of the Peace, Precinct 1

Justice of the Peace, Precinct 2

Justice of the Peace, Precinct 3

Justice of the Peace, Precinct 4

Justice of the Peace, Precinct 5

City of Tyler Municipal Court

City of Bullard Municipal Court

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The following entities have read and agree to follow this plan:

APPROVED AS TO CONTENT:

D. Matt Bingham
Smith County Criminal District Attorney

APPROVED AS TO FORM AND CONTENT:

Deborah Pullum
City Attorney, City of Tyler, Texas

APPROVED AS TO FORM*:

Phillip Smith
Assistant District Attorney
Smith County Criminal District Attorney's Office
Civil Division

*By law, the Smith County District Attorney's Office (SCDAO) may only advise or approve contracts or legal documents on behalf of its clients. SCDAO may not advise or approve a contract or legal document on behalf of other parties. The review of this document was conducted solely from the legal perspective of the client. SCDAO approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

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COPY OF CONFERENCE / WARNING LETTER TO PARENT (ENGLISH)

_____ XX, 20XX

Mr. _____

Ms. _____

Address: _____

Tyler, Texas 757__

RE: Student: _____

Date of Birth: _____

Dear Mr. and Mrs. _____:

I am sure you are aware of how important it is that you child receive a quality education. However, you may be unaware that it is your duty to monitor your child's attendance and make sure he/she is in school each and every day, in class and on time. Failure to do so could result in a criminal case being filed against you in Truancy Court. In addition if your child is 12 years old and younger than 19 he/she is subject to truancy prevention measures and could be referred to a Truancy Court.

School records at _____ High School for the _____ grade indicate that your child, _____, has had unexcused absences on:

08/24/15 08/25/15 08/26/15

Please consider this letter a warning. Should your child receive additional unexcused absences, a criminal charge may be filed against you, the parent, and prosecuted by the District Attorney's office.

Please contact us immediately upon receipt of this letter to schedule a conference with school administration to discuss your child's unexcused absences. Failure to schedule a conference may result in filing a criminal charge in Justice of the Peace (JP) court and may serve as evidence of failure to require attendance.

Respectfully,

Assistant Principal
Smith County, Texas
Contact Person:

Contact:

Name: _____

Address: _____

If you work and cannot attend a conference during school hours, please call and arrange an evening conference or a phone conference.

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COPY OF CONFERENCE / WARNING LETTER TO PARENT (SPANISH)

_____ XX, 20XX

Sr. _____

Sra. _____

Domicilio: _____

Tyler, Texas 757_____

Ref: Alumno _____

Fecha de Nacimiento: _____

Estimados Sr. y Sra. _____:

Estoy seguro que ustedes están conscientes qué tan importante es que su hijo reciba una educación de calidad. Sin embargo, es posible que usted desconozca que es su deber vigilar la asistencia a clases de su hijo/a y asegurarse de que se presente a clases diariamente y a tiempo. El no hacerlo puede tener como resultado que se presenten cargos criminales contra usted ante la Corte de Absentismo Escolar. Además, si su hijo cuenta con 12 años de edad y es menor de 19 años, su hijo/a está sujeto/a a que se apliquen medidas de prevención y que sea referido/a a la Corte de Absentismo Escolar.

El expediente de ____° grado de la Preparatoria _____ indica que su hijo(a), _____ faltó a la escuela sin justificación válida en las siguientes fechas:

08/24/15 08/25/15 08/26/15

Por favor considere esta carta como una notificación oficial. Si su hijo vuelve a faltar injustificadamente a la escuela, es posible que la escuela presente cargos criminales contra usted y puede ser procesado por la Oficina del Fiscal de Distrito.

Por favor comuníquese inmediatamente con nosotros después de recibir esta carta, para hacer una cita con la administración para discutir las ausencias injustificadas de su hijo/a.

El no programar dicha conferencia puede tener como resultado que se presenten cargos ante la Corte del Juez de Paz y este hecho puede ser usado como evidencia de no exigir la asistencia de su hijo/a a clases.

Respetuosamente

Subdirector

Condado de Smith, Texas

Contacto:

Nombre: _____

Domicilio: _____

Si usted trabaja y no puede atender la conferencia durante el horario escolar, por favor llame para planear una conferencia en la tarde or por telefono.