

Truancy Pre-Hearing

Family Code Chapter 65
Subchapter A

School sends referral to truancy court. Must be within 10 days of 10th absence unless prevention measures succeeding.
FC 65.051; EC 25.0951

Truancy court refers truant conduct to prosecutor to review and determine whether or not to file a petition.
FC 65.051/FC 65.052

See Truancy Court Adjudication Hearing Flow Chart for information from hearing to disposition

Prosecutor informs school and court if not filing a petition.
FC 65.053(b)

Petition is filed with Truancy Court (no filing fee).
FC 65.054(a)-(e)

Cannot be filed if referral fails to meet Ed. Code 25.0915 requirements.
FC 65.053(c)

Cannot be filed more than 45 days after last absence.
FC 65.055

Court shall order destruction of records that are held by court or by prosecutor if prosecutor decides not to file a petition after review.
FC 65.203

Court shall dismiss the petition if:

- If the court determines that probable cause exists to believe that the child has a mental illness;
- Truancy prevention measures and/or special ed certification missing;
- Elements of truant conduct not properly alleged;
- Referral not timely filed; or
- Referral is substantially defective.

EC 25.0951(c); FC 65.065

Court sets hearing. must not be scheduled on or before the 10th day from date petition filed.
FC 65.055(b)

Court summons parent/guardian, child, & any other person necessary, with a copy of the petition. Served personally, registered mail or certified mail, at least 5 days before hearing.
FC 65.057

Truancy Adjudication Hearing

Family Code Chapter 65
Subchapter A

Interpreter *must* be appointed for individuals that do not understand and/or speak English, as well as for deaf individuals, including the parent/guardian. *FC 65.013*

After petition filed, child may answer, orally or in writing, at or before the hearing. If child doesn't answer, general denial is presumed. *FC 65.060*

If child and guardian are present, court proceeds with hearing. *FC 65.062*

If child is not present, court **must** reset hearing. *FC 65.062(a)*

Child is present but guardian is not, court may proceed. *FC 65.061(a)*

Child entitled to a jury trial. *FC 65.101(b)(6)*
Trial by jury unless waived. *FC 65.101(c)*

Court may appoint guardian ad litem if parent or guardian isn't present or ad litem or attorney if court believes guardian is incapable of making decisions. *FC 65.061(a)*

Child may put on evidence, including affirmative defenses. *FC 65.101(e), 65.003*

State puts on evidence (must prove beyond reasonable doubt). *FC 65.010*

If found to be engaged in truant conduct, court orders appropriate remedial actions (found in *FC 65.102(a)*) Court must pronounce those actions in child's presence and must put them in writing. *FC 65.102(a)*

Court or jury (jury must be unanimous) determines, beyond reasonable doubt, engaged in truant conduct. *FC 65.101(h)*

If child was not found to be engaged in truant conduct, court must dismiss the case. *FC 65.101(h)*

Court must advise of right to appeal. *FC 65.102(c)(1)*

Court must advise about procedure for sealing record. *FC 65.102(c)(2)*

Court may enter an order against a parent or other person. *FC 65.105(a)-(c)*

Court may order \$50 court cost paid by child, parent, or other responsible person but **only** if able to pay. *FC 65.107(a)*

CAUSE NO. _____

IN THE MATTER OF

§

IN THE TRUANCY COURT

§

§

§

PRECINCT _____

_____,
A CHILD

§

§

§

_____ COUNTY, TEXAS

TRUANT CONDUCT CASE REMEDIAL ORDER

The court **FINDS** that _____, Respondent, has engaged in truant conduct.

The court **ORDERS** Respondent to:

- ☐ attend school without unexcused absences;
- ☐ attend a high school equivalency examination preparation class;
- ☐ take the high school equivalency examination administered under Education Code Section 7.111 (*applicable only if Respondent is at least 16 years of age*);
- ☐ attend the following nonprofit program that the court finds to be in the best interest of Respondent:
 - ☐ alcohol program;
 - ☐ training in parenting, including parental responsibility;
 - ☐ drug abuse program;
 - ☐ training in manners;
 - ☐ rehabilitation program;
 - ☐ training in violence avoidance;
 - ☐ sensitivity training;
 - ☐ counseling, including self-improvement counseling;
 - ☐ training in self-esteem and leadership;
 - ☐ training in advocacy and mentoring;
 - ☐ work and job skills training;
 - ☐ other: _____;

☐ complete ____ hours (*not more than 50 total hours, not more than 16 hours per week*) of community service on a project acceptable to the court: _____
_____;

☐ participate in a tutoring program, provided by Respondent's school, covering Respondent's classes for _____ hours.

☐ **The court ORDERS the Department of Public Safety (DPS) to:**

☐ **suspend** Respondent's driver's license or permit until _____ (*insert date no more than 180 days or until the end of the school year, whichever is later*).

☐ **deny the issuance** of a driver's license or permit to the Respondent until _____ (*insert date no more than 180 days or until the end of the school year, whichever is later*).

After allowing an opportunity to be heard and considering the Respondent's ability to pay \$50.00, the court:

☐ **WAIVES** the court cost, finding that Respondent, Respondent's parent, or other person responsible for Respondent's support is not financially able to pay the \$50 court cost.

☐ **FINDS** that the person listed below is financially able to pay the \$50 court cost and **ORDERS** that the court cost be paid by:

☐ Respondent's parent:
_____.

☐ Other person responsible for Respondent's support:
_____.

☐ Respondent.

Orders Affecting Parents and Others in this matter: ☐ **ARE** ☐ **ARE NOT** being issued by the court. Such Orders if any, shall reference the cause number of this case and this Remedial Order.

This Remedial Order shall be in effect until _____, **20**____ (*no more than 180 days or until the end of the school year, whichever is later*).

ISSUED AND SIGNED on _____, 20____.

JUSTICE OF THE PEACE, PRECINCT _____
_____ COUNTY, TEXAS

Scenario 1

Tina is a 16-year-old student. She has missed 16 days, and says the main reason that she is missing is that she has a three-month-old child at home, and so she isn't getting as much sleep and sometimes the baby is sick.

Scenario 2

Audrey is a 14-year-old student. She has missed her first two classes 12 and 15 times, and says that she is having an impossible time falling asleep and can't get up in the morning. Her mom is a single parent and has to be at work at 7 AM, and so is unable to ensure Audrey is awake before leaving for work.

Scenario 3

Billy is a 17-year-old student. He is in 10th grade, and has stopped going to school, because he feels like it's a waste of time because he's almost 18 and still two years from graduation. He says he doesn't want to do the GED because "tests suck."

Scenario 4

Amara is a 15-year-old student. She has stopped going to school because she says she is suffering from depression and anxiety, largely triggered by relentless bullying at school. She says she has suicidal ideation whenever she goes to school, and there is nowhere to hide from the bullying.

Scenario 5

Trina is a 16-year-old student. She has missed 18 days. Her parents are often too hungover to take her to school the next day and tell her school is a stupid waste of time and that she should just get a job and start working. She has a mild disability that prevents her from walking the 4 miles to school, and buses aren't available.

Scenario 6

Alishia is a 12-year-old student. She has missed large chunks of 14 days. She has a friend group that often decides to leave school during the day and go hang out at one of their houses. On a couple of occasions, they have consumed alcohol and/or marijuana at these meetups.