

**PARENT'S GUIDE TO  
TRUANCY  
IN WASHINGTON**



**ACLU**  
Washington



# Parents' Guide to Truancy in Washington

This guide is designed to help parents understand their children's rights in the truancy process. It is not meant to provide legal advice. Students who want to learn more about their rights can also use this guide, but we recommend that they ask a trusted adult or youth advocate to help them through the process.

This guide provides general information regarding students' rights in truancy proceedings in Washington state public schools and juvenile courts. Different rules may apply in private schools, tribal schools and tribal courts.

For more information, look for the ACLU of Washington booklets:

- Parents' Guide to Public School Discipline in Washington
- Parents' Guide to School Board Advocacy in Washington
- Know Your Rights: a Guide for Public School Students in Washington

These are available on the ACLU's web site: [www.aclu-wa.org](http://www.aclu-wa.org).

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## I. INTRODUCTION

All children in Washington state have a constitutionally guaranteed right to an education. They are also legally required to attend school.

A state law, called the “Becca Bill,” requires children between 8 and 18 to attend public school regularly, with few exceptions. The Becca Bill also requires schools and parents to make sure children attend school. When students have repeated unexcused absences, it is called “truancy.”

Students and parents can face serious consequences if a student has too many unexcused absences. Schools can file “truancy petitions” with the juvenile court, and ask the court to take steps to ensure the student comes to school. If students fail to follow court orders in these cases, they can serve time in juvenile detention. Parents can be fined.

Before either a student or parent can be punished, schools are supposed to:

1. Give notice to parents of the student’s absences;
2. Schedule a meeting with the student and parent to discuss the reasons for the absences;
3. Take data-driven steps to resolve problems leading to the student’s absences; and
4. Refer the student to a “community truancy board” that can take actions to reduce absences.

Schools must take each of these steps *before* filing a truancy petition and referring a child to the juvenile court.

Truancy cases can be complicated and intimidating for anyone, and especially for children. If a truancy petition is filed, it is important to seek legal information and advice right away!

This guide provides information about:

- How the truancy process works
- Students’ rights and schools’ obligations under the Becca Bill, and
- Tips for how you can help advocate for your child in the process

*Translations and Interpreters:* If English is not your primary language, you should ask your school for copies of their policies in your language, or for a written or spoken translation of their policies. According to the law, schools should provide interpreters for any conferences related to truancy, if possible. And, if your child is referred to court on a truancy matter, the court should provide you with an interpreter.

*Note:* Whenever this guide refers to a “parent,” it means a parent, guardian, or person having legal custody of a child.

## II. AN OVERVIEW OF THE BECCA BILL'S REQUIREMENT

### A. Who is required to attend school?

The Becca Bill requires children between the ages of 8 and 18 to attend public school fulltime. There are just a few exceptions.

Children can be excused from attending public school if:

- They attend an approved private school
- They are homeschooled
- They attend a certified education center devoted to teaching basic academic skills, or
- They are excused by the school superintendent because they are physically or mentally unable to attend school

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#### *Students Found Outside of School:*

Any child under 18 who is found outside of school during school hours without a valid excuse can be picked up by a school district official or a police officer.

The officer or school official should take the student home, to school, or to a program designated by the school district for truant students.

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Youth who are 16 or older may be excused from attending public school if:

- They are regularly and lawfully employed and the parent agrees that the child should not be required to attend school or the child is legally emancipated
- They have already met graduation requirements, or
- They have received a “certificate of educational competence” by meeting certain requirements, including passing the GED

Children who are 6 or 7 years old are not required to be enrolled in school. If a parent chooses to enroll them, the Becca Bill applies unless:

- The student is temporarily excused by the school district
- The child is formally removed from enrollment before a truancy petition is served, or
- The child attends school part-time to receive supplemental services

### CONSEQUENCES

#### Consequences for Unexcused Absences by 6 and 7 Year Olds

If a 6- or 7-year-old child has 7 unexcused absences in a month or 10 unexcused absences in a school year, the parent can be referred to juvenile court. Parents can face sanctions, including daily fines or community service. But children who are 6 or 7 years old cannot be referred to juvenile court themselves or sanctioned for unexcused absences.

## B. What are excused and unexcused absences?

Each school district has the authority to define excused and unexcused absences. In general, an unexcused absence means a student has missed the majority of an average school day. But schools may also have a more restrictive unexcused absence policy. Days of unexcused absences can add up quickly and lead to legal proceedings with serious consequences.

It is important to understand your school’s policy on excused and unexcused absences. If you understand your school’s policy, you can better:

- Help your child comply, and
- Make sure your child is not improperly counted as unexcused

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### *Get a Copy of Your District's Attendance Policies and Procedures.*

Ask your child's principal or the district office for a copy of your school district's policies and procedures on attendance. Some districts post their policies and procedures online. Schools should also make them readily available at the schools or the district office.

There should be information in your parent/student handbook about your school's attendance policy, but you may find more complete information in your district's policies and procedures.

*Translations:* If English is not your primary language, ask the school for a copy of its policies and procedures in your language. If they do not have one already, ask them to provide you with a written or spoken translation.

Once you have a copy, ask the principal or superintendent for clarification if necessary.

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Most schools will excuse students' absences for:

- Participation in school-approved activities
- Illness
- Family emergencies
- Religious occasions, or
- Educational opportunities

Schools generally require a *note or a phone call from the parent, in advance if possible*, to excuse absences.

The following are some things to watch for in your school's attendance policy:

### **How Attendance Is Recorded**

Sometimes mistakes are made when absences are recorded. If your child is late for class, or for some reason does not get counted even if he or she is on time, be sure that your child is not marked as unexcused for the day.

- Ask the teacher and attendance officer to correct any mistakes in your child's attendance record.

### **Tardiness/Missing a Class**

Schools may count students as having an unexcused absence when they are tardy a certain number of times, or if they miss even part of a school day. Tardies and missed classes can add up quickly!

- Be sure you and your child are aware of your school's policy.
- Make sure your child is able to get to class on time.
- Find out if your child is missing just one or two classes, or the whole day.

### **Family or Community Events**

Schools often will not excuse all absences requested by a parent, *even if you call or send a note*. For example, many schools will not excuse absences if they would cause a serious negative effect on the student's educational progress.

- If there are regular family or community events that you will want your child to participate in, try talking to the school far in advance.
- Make arrangements so that your child can be excused for those events and still keep up in class.

### **Doctor's Notes**

School policies may require a note from a doctor if a student misses a certain number of days due to illness.

- If your child is sick, and it is not possible for you to get a doctor's note, talk to the school about it.
- Ask the school to accept a note from you instead.

Remember, each school's policies may be different. So it is important to read and understand your school's policies on excused and unexcused absences!

### **C. Can a student be disciplined for unexcused absences?**

Schools are allowed to discipline students for unexcused absences (that is, impose a penalty or punishment), but not all of them do this.

However, *no student may be suspended from school for unexcused absences unless:*

- The school has provided the parent notice of the absences in writing. If the parent's primary language is different than English, the notice must be written in the parent's primary language



- The school has scheduled a conference with the parent and the student to discuss the reasons for the absences, and
- The school has taken appropriate steps to eliminate or reduce the absences

For more information about the rights of parents and students in school discipline proceedings, check out the ACLU's *Parents' Guide to School Discipline in Washington*, available at our website: [www.aclu-wa.org](http://www.aclu-wa.org).

#### **D. What penalties apply to parents, and what defenses do they have?**

Schools can file a truancy petition against parents if they believe the parents have not taken reasonable steps to make sure their child attends school.

If a truancy petition is filed against you (the parent), you have the right to a hearing. At the hearing, you have the rights to call witnesses and present other evidence, to question the school's witnesses and to be represented by an attorney at your own expense.

If the court finds that a parent has violated the Becca Bill, the parent can be *fined up to \$25 for each day* the child is absent without excuse. Courts can also order parents to do *community service* instead of paying a fine.

Parents can defend themselves against a truancy petition by showing that they took reasonable steps to try to get their child to attend school.

Parents can also defend themselves by showing that the school did not perform its duties as required under the Becca Bill. The school's duties include: (1) giving proper notice to parents of the unexcused absences; (2) scheduling a conference to discuss attendance; and (3) taking appropriate steps to eliminate or reduce absences (such as revising the student's class schedule or providing special services). Any fines can be suspended if:

- The parent agrees to participate with the school in a supervised plan to improve the child's attendance, or
- The parent agrees to attend a conference with the school to discuss the causes of the child's absences

— POINTS TO REMEMBER —

- Children between the ages of 8 and 18 are required to attend public school regularly, with few exceptions.
- Be sure you and your child understand your school's policy on excused and unexcused absences!
- Some schools discipline students for unexcused absences. But no student can be suspended unless the school has taken several prior steps to address the problem.
- Parents can face sanctions for their child's unexcused absences.

### **III. SCHOOLS' LEGAL OBLIGATIONS UNDER THE BECCA BILL**

The Becca Bill lists several steps that schools must take when a student has unexcused absences.

Schools must:

1. After 1 unexcused absence: give the parent notice of the student's absence.
2. After 3 unexcused absences in a month: schedule a conference with the parent and student to talk about the reasons the student has missed school and make a plan. For elementary school students,
3. After talking with the parent and student: take appropriate steps to eliminate or reduce the student's absences.
  - If the student is in middle or high school, the school must give an assessment to determine the student's needs and next steps. This can be the Washington Assessment of the Risks and Needs of Students (WARNS).
  - If the student has an individualized education plan or 504 plan because of a disability, the school has to convene a meeting of the team that developed the plan.
  - If the school suspects that the student has a disability, the school must inform the parent of the right to obtain an evaluation to determine whether the student is eligible for special education services, accommodations, or related services.

4. After 5 unexcused absences in a month: enter into an agreement with the parent and student, refer the student to a community truancy board or file a truancy petition with the juvenile court.
5. After 7 unexcused absences in a month or 10 in a school year,: file a truancy petition with the juvenile court. When the court gets the petition, it will generally “stay” or pause the case and refer the student and parent to a community truancy board. If the community truancy board can’t reach an agreement with the student and parent, or if the agreement is violated, then juvenile court will restart the case.

### **A. Provide Parents Notice of Absences**

After a student’s *first* unexcused absence in any month, the school is required to give notice to the parent either in writing or by phone.

The school must inform the parents about the student’s unexcused absence and of potential consequences for additional unexcused absences.

Some schools use automated telephone messaging machines to leave messages at home. Other schools use form letters.

If your primary language is not English, the school should provide these notices in your language. If you receive a message or a letter in English, call the school to ask for a translation.

- If you receive a message or a form letter regarding your child’s absences, be sure to *call the school to get more information*.
- Make sure your child’s *excused* absences have not been improperly marked as *unexcused*.

For example, if your child was out sick and you forgot to call the school, the absence may be marked as unexcused. When you receive notice of an unexcused absence, be sure to call the school. Explain the reason for the absence and make sure the record is corrected to show it was excused.

### **B. Schedule a Conference with Parents**

*For elementary school children:* If a student in elementary school has 5 or more excused absences in a month or 10 or more excused absences in a year, the school must schedule a conference with parents to discuss the reason for the absence and talk about whether the child needs additional supports.

*For all children:* After 2 unexcused absences in any month, the school is required to schedule a conference with the student and parent at a time reasonably convenient for everyone.

The purpose of the conference is to:

- Try to figure out why your child has been absent, and
- Come up with a plan to address the causes of the absences

*It is very important to try to attend this conference!* Ask the school to schedule it for a time and date that works for you.

It may be your best opportunity to find out how often and why your child is missing school. You can also begin working with the school to help your child avoid additional unexcused absences.

If you cannot make it to the school, you might ask the school to meet you at your home or some other location. Or you can ask to have the conference over the telephone.

If your primary language is different than English, the school should provide an interpreter for the conference if possible. Be sure to let the school know as far in advance as possible that you will need one.

*Even if you cannot make it to a conference, the school is required to meet with your child.* At that meeting, the school should:

- Ask your child about why he or she has been absent
- Propose steps the school can take to help your child get to school regularly, and
- Report back to you about what was discussed

If you did not make it to the conference:

- Ask the school to give you a written summary of what was discussed.
- Ask for a copy of any agreements that were proposed.

*Before your child signs any agreement relating to attendance, you should be sure it is fair and reasonable.* If you need more time to review it and discuss it with your child, ask the school for time to review it *before* signing. The agreement should include:

- A specific description of steps the school will take to help your child reduce absences, and
- A timeline for reviewing whether the plan for reducing absences is working

Attendance agreements should not include any conditions that will be impossible for your child to meet. Even if you and the school want to see “perfect attendance” (meaning no more unexcused absences) as the ultimate goal, try to include specific short-term goals in the agreement so that your child can be rewarded for progress.

If your child is ultimately referred to court, you can show the judge the steps that you and your child took to try to reduce unexcused absences. If you or your child did not attend a scheduled conference, you should be prepared to explain the reason for this.

### **C. Take Appropriate Steps to Eliminate or Reduce Absences**

After talking with you and your child about the causes of your child’s absences, the school is required to take appropriate steps to eliminate or reduce the absences.

There are a number of things schools can do to help students get to school regularly and on time.

The Becca Bill itself lists several general examples of steps that might be appropriate, including:

- Adjusting the child’s school program or school or course assignment
- Providing more individualized or remedial instruction
- Providing appropriate vocational courses or work experience
- Referring the child to a community truancy board, if available
- Requiring the child to attend an alternative school or program, or
- Assisting the parent or child to obtain extra services that might eliminate or lessen the causes for the absences

These are just general examples. They are not the only steps a school can take to help your child. Each child’s situation is different. The school should work with you and your child to determine what specific steps are appropriate in your case.

## 1. Possible Reasons for Your Child's Absences

To determine what might work for your child, the school should start by asking about the reasons for your child's absences.

*When your child first starts missing school, it is important to talk with your child about it.*

There might be problems at school, at home or with peers that are keeping your child from attending school regularly.

One of the most common reasons students miss school is because they have gotten behind in school and feel unable to catch up.

Students might be afraid of being called on if they do not know the answers. They might feel frustrated if they cannot follow the class. Students also often miss school if they have special education needs that are not being met.

Many students explain that they miss school because they feel alienated at school, or are being harassed or bullied by peers or a teacher.

Stress from family or health issues, peer relationships, or drug or alcohol use may also be contributing to your child's absences.

There are things schools can do to help address each of these problems.

Talk with your child's teachers, the school counselor and/or the principal to see if they can help identify possible reasons why your child has been missing school.

### TRIBES' ATTENDANCE PROGRAMS

Several Native American Tribes in Washington have their own attendance laws and programs. Tribes and Urban Indian groups may provide additional support and services for tribal member students and parents. Those services might include:

- academic help
- family and community services
- counseling

Students and parents might also be subject to tribal court proceedings relating to school attendance. Check with your Tribe and school to learn more about available programs.

## TALKING WITH YOUR CHILD ABOUT ABSENCES

It might be difficult for a child to explain why he or she does not want to go to school. There might be things going on that your child does not feel comfortable talking about.

- Consider whether there is a counselor at school or in the community that your child will feel comfortable talking to.
- Let your child know there are ways to try to resolve the problem. Knowing that there are options may give your child the confidence to speak up.

a student has difficulties with some skills and not others, or for certain behavior problems.

And schools are required by law to take appropriate steps to protect students from harassment based on race, ethnicity, sex or sexual orientation.

Schools can also help connect you and your child with services to address mental health, substance abuse, or other health or home-related issues. If transportation is the problem, the school may be able to help figure out reliable transportation options.

## YOUR CHILD'S RIGHTS

You can learn more about students' rights at school in the ACLU of Washington's publication, *Know Your Rights – A Guide for Public School Students in Washington*, available at our website: [www.aclu-wa.org/know-your-rights](http://www.aclu-wa.org/know-your-rights)

## 2. Things the School Can Do to Help

The Becca Bill requires schools to take appropriate steps to help your child eliminate or reduce unexcused absences, before they refer your child to the juvenile court. And several other state and federal laws require schools to provide your child with an appropriate education.

Our state constitution requires schools to provide each student with a basic education. That includes appropriate remedial services, bilingual education and special education services.

Schools are also required by federal and state law to provide an appropriate education to students with physical, mental or learning disabilities. Extra services are available, at no cost to you, even if

The following list includes examples of things a school could do to help your child. Talk with your child and the school staff to see if these might be appropriate for your child.

- *Academic help:* give make-up assignments, individual tutoring or other assistance to help your child catch up in class.
- *Credit retrieval:* provide options for earning credits through online courses or extra classes at school, if your child has fallen behind in credits needed to graduate.
- *Bilingual instruction:* evaluate your child for transitional bilingual classes. Provide additional tutoring in English if your child has already moved out of the school's bilingual or English as a Second Language class.
- *Special education:* provide an evaluation to determine if your child qualifies for special education services. Review and modify an existing Individualized Education Plan; include transportation services if appropriate. For more information about special education services and evaluations, see TeamChild's Education Advocacy Manual, available at their Web site: <http://teamchild.org/resources.html>.
- *504 plan:* provide an evaluation at your request if you suspect your child has a disability that interferes with learning. A "504 plan" can be created to help accommodate your child's disability. For more information see TeamChild's Education Advocacy Manual, available at their Web site: <http://teamchild.org/resources.html>.
- *Protection from harassment or bullying:* take appropriate steps to protect your child from harassment or bullying from other students or school staff.
- *Collaboration with local tribal programs:* cooperate with local Tribes on existing attendance programs or in developing new programs. Refer students to Tribal resources.
- *School environment:* make improvements to the overall school environment. Make sure different cultures are respected and reflected in the curriculum, and that all students feel welcome and supported.
- *Support for homeless students:* provide transportation, connect your child to available services. Be flexible so that your child can remain in school while dealing with loss of a fixed home or a transitional housing situation.
- *Counseling:* provide counseling services at school, or connect your child to mental health, substance abuse or other counseling services in the community.



- *Family services:* provide functional family therapy, or wraparound mental health, behavioral health, or other family services.
- *Alternative placement for youth:* refer the youth to a HOPE center (housing for homeless youth) or crisis residential center.
- *Revised course schedule:* help your child choose new or additional classes that are engaging and relevant.
- *Transportation arrangements:* help your child find regular, reliable transportation options. Make changes in your child's class schedule if your child is unable to get to school on time.
- *Career or college planning:* connect your child with an adult mentor who can assist your child in identifying goals, designing a career or college plan, and mapping out the steps needed to get there.
- *Extra-curricular programs:* encourage your child to get involved in an extra-curricular activity that will provide opportunities to connect with peers and explore new interests.
- *Community connections:* help connect you and your child with community groups committed to helping students, such as volunteer tutoring programs, Indian Education or Migrant Education parent groups, or youth services.
- *Family services:* connect you and your child with available services to help resolve conflicts or address needs in the home that might be affecting your child's attendance.

*You can ask for any of these things at any step in the truancy process.*

The school should continue to take appropriate steps to help reduce or eliminate your child's absences both before and after a petition is filed.

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### *Working Effectively with the School*

When you meet with school staff to talk about your child's attendance, be ready to explain your concerns. Identify specific steps you hope the school will take to help address any problems. Also, ask for their thoughts on why your child is missing school and what might help resolve the problem.

As you develop a plan to reduce absences:

- Involve your child in developing the plan
  - Make sure it is realistic
  - Put it in writing so you can refer back to it later, and
  - Set a date to meet with the school again to make sure the plan is working
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Resolving the issues leading to your child's absences will likely take time. You will probably need to adjust the plan as you go along. If your child develops a habit of missing school, it can be difficult to break out of it. By working with the school staff from the earliest sign of a problem, you will have a better chance at keeping your child engaged in school.

If your child is doing better, but slips up once or twice, encourage him or her to keep trying. The school and the court may ask for perfect attendance (no more unexcused absences), but they should acknowledge your child's efforts if he or she is making progress.]

### — POINTS TO REMEMBER —

- Be sure to talk with your child right away if he or she is missing school.
- Find out if there are problems at school that are keeping your child from attending.
- The school should work with you and your child to address those problems.
- As you develop a plan for helping your child get to school regularly, be sure to include specific, short-term goals.
- Be sure any attendance agreement is fair and reasonable before signing it!
- Be ready to adjust the plan as you go along.

### **D. Enter an Agreement or Refer to a Community Truancy Board**

If a student reaches 5 unexcused absences in a month, the school must either:

- Enter into an agreement with the student and parent regarding school attendance
- Refer the student to a community truancy board, if one exists in the district, or
- File a truancy petition with the juvenile court against the student, the parent or both

### **Community Truancy Boards**

Community truancy boards are groups of community members who work with juvenile courts and school districts to remove the barriers to regular attendance. Starting in the 2017-2018 school year, every school district over 300 students has to enter into an agreement with the local juvenile court to administer a community truancy board. Smaller districts have to develop a plan for providing truancy

interventions, and can either use community truancy boards or other coordinated interventions developed with juvenile court. If a student is referred to a truancy board, the board should work with the student, parent and the school to get the student back in school. The board might assist the parent and student in getting resources at school or in the community. If students continue to be absent after meeting with the truancy board, they can be referred to the juvenile court. But, even after a case is referred to the juvenile court, the court will pause the case and send it back to the community truancy board to see if they can develop an agreement.

If you have questions about whether there is a community truancy board in your area, or how it functions, try contacting your principal or your district office for more information.

### Attendance Agreements

Some schools ask students and parents to sign attendance agreements before they refer the student to juvenile court. If the school asks you or your child to sign an agreement relating to your child's attendance, check to be sure it:

- Accurately states your child's attendance record. Make sure excused absences were not mistakenly counted as unexcused
- Identifies specific steps the school will take to help eliminate or reduce your child's unexcused absences
- Includes a clear timeline for actions that the school will take. Be sure there is also a timeline for reviewing the agreement to make sure it is working, and
- Is fair and reasonable

### STUDENTS WITH DISABILITIES

If your child is receiving special education services, make sure any attendance agreement is consistent with your child's Individualized Education Plan ("IEP")!

If a child is missing school without excuse, it may be a warning sign that an IEP needs to be revised or is not being implemented properly.

If your child is not currently receiving special education services, but might have a mental, physical or learning disability that is interfering with school attendance, this is the time to ask the school to arrange for an evaluation! Schools must provide evaluations at no cost to you.

If you have questions about the rights of students with disabilities, or about your child's right to be evaluated for a disability, look for more information in TeamChild's Education Advocacy Manual, available at their website: <http://teamchild.org/resources.html>.

You should be able to talk with your child's teachers, counselor, school attendance officer or principal before signing any agreement relating to attendance. If a particular teacher or counselor will be responsible for helping your child, make sure they are aware of the agreement and are willing to be helpful.

Before your child signs any agreement, you should be sure it is fair and reasonable. Even if you and the school want to see "perfect attendance" (meaning no more unexcused absences) as the ultimate goal, remember to include specific short-term goals in the agreement so that your child can be rewarded for progress.

If necessary, ask for more time to consider the agreement before you sign it.

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*Watch out for "Agreements" That Are Meant to Be Court Orders!*

Schools often ask students and parents to sign attendance agreements both before and after a truancy petition is filed.

If a school asks you to sign an agreement after a petition is filed, it is generally not asking you to sign an ordinary agreement. Typically, it is asking you to agree to something that will become a court order.

To see if an agreement is meant to be a court order, look to see if there is a place for the judge to sign. The paperwork may look like a court order, with your child's and possibly your name with a case number toward the top of the front page.

If you and your child sign a court order:

- The court will be able to enforce it by imposing sanctions on your child
- Those sanctions can include up to 7 days in juvenile detention

Because of the potentially serious consequences, it is best to seek legal advice before agreeing to any court order. See the section below on Agreed Court Orders for more information.

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If for some reason you do not reach an agreement with the school, the school has the option of filing a truancy petition after 5 unexcused absences in month.

## E. File a Truancy Petition

If a student reaches 7 unexcused absences in a month or 10 in a school year, the school can file a truancy petition with the juvenile court. The school can file a truancy petition against the student, the parent or both.

Schools file truancy petitions in order to get the juvenile court involved in the truancy case. Once the court is involved, the court can use its power over the student, the parent or both, to try to make the student go to school regularly.

### **Watch carefully for notice of a truancy petition!**

When a school district files a truancy petition with the court, it must also send you and your child a copy of the petition by certified mail, return receipt requested. If the certified mailing is not successful, or the return receipt is not signed by the addressee, then the school must deliver the petition to you and your child in person.

*Translations:* If English is not your primary language, you should receive a notice written in your primary language. If not, contact the school to ask for a written translation.

*Once you get a copy of the petition, read it carefully!*

Check to see if you and your child are both included on the petition. If you are, your names should both be listed as “respondent” on the petition. You should find the names of the respondents on the front page of the petition, usually in the top left corner.

### **WHAT IS A TRUANCY PETITION?**

A truancy petition is a written notification to the court from a school district. Truancy petitions must allege that:

- The child has had unexcused absences
- Actions taken by the school district have not been successful in substantially reducing the child’s absences, and
- Court intervention and supervision are necessary to reduce the child’s absences from school

The petition must also include specific facts that support those allegations. Those might include the dates when the child was absent, dates when the school gave the parent notice of those absences, and descriptions of the specific steps the school took to try to reduce absences.

If you and your child are both named on the petition, it is important to understand that you and your child each have your own individual rights. Those rights include:

- The right to notice of the petition and of any hearings
- The right to a hearing where you can present testimony and other evidence, call witnesses and question the school's witnesses, and
- Before your child can be sent to detention, the right to have an attorney appointed for him or her

Because children can face serious consequences in truancy proceedings, it is a good idea to seek legal advice once you receive notice of a truancy petition.

— POINTS TO REMEMBER —

- You have the right to be notified by phone or in writing of your child's absences.
- The school must schedule a meeting with you to discuss the reasons for your child's absences.
- Schools must take steps to help reduce your child's absences before referring your child to juvenile court.
- Take your time before you or your child signs any agreement with the school!
- Try to work with your child's teachers, counselors and principal to make sure any agreement is fair and reasonable.
- Watch out for "agreements" that are meant to be court orders!

## IV. WHAT TO EXPECT IF A TRUANCY PETITION IS FILED

The truancy process varies from county to county and district to district. But schools must always comply with their obligations under the Becca Bill. And your child always has the right to “due process,” that is, fairness in juvenile court proceedings.

The next sections describe practices that are common in several districts and juvenile courts, including:

- Notice of the first hearing date
- “Stay” of the petition and referral to a community truancy board
- Arrest warrants
- Agreed court orders
- Truancy classes
- Contested fact-finding hearings

If you have not gone through the truancy process before, consider contacting other parents, community advocates or the juvenile court administrator for information about how the process works in your district and county.

### A. Should You Get an Attorney?

It is a good idea to seek the advice of an attorney if your child is facing a truancy proceeding. Court proceedings can be complex and intimidating for anyone, and especially for children. And your child has many important rights at stake.

Under the Becca Bill, students do not have the right to have an attorney appointed to represent them at the initial truancy fact-finding hearing.

Students do have the right to have an attorney appointed to represent them at any contempt hearing in a truancy case.

That means that when a truancy petition is first filed, you will either have to pay for an attorney yourself, or find free legal representation to assist in responding to the petition.

Because there are so many important rights at stake in truancy cases, it is a good idea to seek the advice of an attorney when you first receive notice of a truancy petition.

An attorney can help you and your child:

- Understand and protect your child's rights
- Gather and present evidence on your child's behalf
- Question the school's witnesses and object to evidence
- Negotiate with the school on your child's behalf

A student's absences are often a warning sign of problems at school. Your child may not be receiving appropriate educational services, including remedial services, special education services or bilingual education. Your child may be facing bullying or harassment.

An attorney can help make sure your child is receiving appropriate services at school. An attorney can also help protect your child's right to due process, or fairness in the proceedings, and can try to make sure your child does not end up spending time in juvenile detention instead of school.

Generally, you should contact an attorney sooner rather than later when a problem arises. If you have not done so already, you should seek legal advice once you get notice that the school has filed a truancy petition, and before you agree to any court order.

You may consult with an attorney for advice at any time without notifying the district. You should be able to bring an attorney to attend school conferences to discuss your child's absences. If you do, it is best to give the principal or other school staff advance notice that you will be bringing an attorney.

### WHAT'S AT STAKE IN A TRUANCY CASE?

There are many important rights at stake in a truancy case, including:

- Your child's right to an education
- Your child's right to due process – or fairness in court proceedings, and
- Your child's right to physical liberty – to be free from incarceration



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### *If You Cannot Afford an Attorney*

You may be able to get an attorney free of cost to assist you in responding to a truancy petition.

The Northwest Justice Project (“NJP”) and TeamChild offices around the state may provide attorneys for qualifying low-income families in truancy proceedings. They may be able to assist you before and during the fact-finding hearing. However, because each county has attorneys who are assigned to represent students at truancy contempt proceedings, the NJP and TeamChild will generally not provide representation at truancy contempt hearings.

To contact the NJP, TeamChild and other legal services providers throughout the state, you can call CLEAR, the NJP’s statewide legal advice and referral service, at 1.888.201.1014. You can find additional information about NJP and CLEAR at their Web site: [www.nwjustice.org](http://www.nwjustice.org). You can find additional information about TeamChild at their website: [www.teamchild.org](http://www.teamchild.org).

You can also contact the ACLU for information about your child’s rights in the truancy process. Due to limited resources, we are generally not able to provide representation in individual cases, but we may be able to provide you with some information and advice. You can reach us at 206.624.2180 or through our website: [www.aclu-wa.org](http://www.aclu-wa.org).

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If you will have to retain an attorney at your own expense, some factors to consider in deciding whether the expense is worthwhile include:

- How complex the situation is
- Whether your child is facing other issues, such as harassment, school disciplinary sanctions, or criminal prosecution
- Whether the laws relating to disabilities and special education are involved
- How comfortable you are expressing yourself independently
- Whether the school staff are willing to work with you to resolve the issues outside of the court process, and
- Whether you can locate someone to represent you at a suitable cost

Instead of an attorney, a nonattorney advocate might be able to assist you through the truancy process. These may include special education advocates, community service providers, or other youth

advocates. They may be able to help you work with the school before a petition is filed, or serve as a witness at the truancy hearing.

## **B. Notice of the First Hearing Date**

When the court receives a truancy petition, it may set a date and time for a hearing. The school or court must send you and your child notice of the hearing date. It must also notify you and your child of your right to present evidence at the hearing.

*Translation and Interpreters:* If you receive a notice written in English, and it is not your primary language, call the court to ask for a written or oral translation. If the notice comes from the school, call the school to ask for a translation. The court should provide an interpreter, at no cost to you, for all court hearings.

Courts will generally require your child to be present at all hearings. If you are named on the petition, the court will probably also require you to be present at all hearings. Even if you are not named on the petition, you may be asked to be present at all hearings.

If you receive notice of a court hearing, it is very important that you and your child appear for the hearing on time!

## **C. “Stay” and Referral to Community Truancy Board**

In most cases, when the court receives a truancy petition, it will first enter a “stay” that pauses the case, and will refer the student and family to a community truancy board. The community truancy board is made up of community members who will meet with students and families to try to understand the barriers to school attendance and help develop strategies that the school, parent, and student can use to make sure the student attends school.

Community truancy boards will try to work out an agreement with the parent, student, and school that includes promises to take certain steps to make sure the student attends schools. If the community truancy board cannot reach an agreement with the parent or student, or if the parent or student violate the agreement, the case will be sent back to juvenile court.

Some small school districts may not have community truancy boards – the law allows districts with fewer than 300 students to set up alternative intervention programs with the juvenile court. If you live in a district without a community truancy board, the court may proceed with your case without a stay.

## D. Arrest Warrants

If your child has received proper notice of a hearing and fails to appear, the court may issue a warrant directing the police to arrest your child.

If a warrant is issued, your child can be arrested by the police and held in juvenile detention until the next court day. If your child is arrested on Friday, that means he or she could end up spending all weekend in juvenile detention.

- If you or your child did not get notice of the hearing in time, or if you missed a hearing for some other reason, call the court.
- Ask whether a warrant has been issued for your child's arrest.

If a warrant has been issued, you should seek legal advice immediately!

- Ask the court whether an attorney has been appointed to represent your child.
- If an attorney has been appointed, your child should contact that attorney immediately.
- If an attorney has not been appointed, ask the court for the contact information for the juvenile public defender in your county, or for attorneys who handle truancy contempt hearings. Try contacting that attorney for help.

An attorney may be able to assist your child by arranging for your child to voluntarily appear at court and cancel, or “quash,” the warrant. If the warrant is quashed, your child should not be arrested or held in juvenile detention.

## E. Agreed Court Orders

*Whenever a school files a truancy petition, the student has the right to a hearing before the juvenile court. At the hearing, the school is required to prove that the student was truant and that the school fulfilled its obligations under the Becca Bill.*

*However, schools often ask students and parents to agree to a truancy court order without having a hearing. If you and your child agree to the school's proposed order, it will also be signed by the court, and will become an “agreed court order.”*

### CAUTION — ARREST WARRANTS!

If your child fails to appear for a truancy hearing, the court may issue a warrant for your child's arrest.

If a school district representative or other person asks you and your child to agree to a court order, they are asking you to give up many of your rights. That includes the right to a hearing where the school would be required to prove that it took all steps required by the Becca Bill before filing the petition.

Depending on where you live and where your child attends school, you and your child may be asked to agree to a truancy court order:

- During a meeting at school
- At the courthouse in a waiting area or conference room, or
- At the courthouse, after participating in a “truancy class”

### WHAT IS AN “AGREED COURT ORDER”?

An “agreed court order” is a court order that has been agreed to by all parties and signed by the judge.

Generally, one party proposes the terms for an order, and if the other party agrees to it, the court may sign the order without holding a hearing.

In some counties, school officials will ask parents and students to agree to proposed truancy court orders during a meeting held at school.

In other counties, school district representatives meet with parents and students at the juvenile court before the hearing. They may meet you in a waiting room outside the courtroom, or in a room set aside for meetings between parents, students and school representatives.

And in other counties, all parents and students scheduled for a hearing on the same day are asked to attend a truancy class together. After the class, they are asked to sign agreed court orders. See the section below on Truancy Classes for more information on what to expect.

#### *1. Understanding the Terms of Proposed Orders*

When a school or court official asks you to sign a truancy court order, they will usually be asking you to agree that the following things are true:

- Your child has been absent without a valid excuse
- The school district properly informed you of your child’s unexcused absences
- The school district scheduled a meeting with you and your child to analyze the causes of the absences, and
- The school district took appropriate steps to eliminate or reduce your child’s absences

They will also usually ask you to agree to the following steps:

- The court will assume “jurisdiction” or authority over your child (which may last until your child’s 18th birthday)
- The court will order your child to attend school on a regular basis and have *no* more unexcused absences or tardies, and
- The court will have the authority to impose sanctions, including time in juvenile detention, if your child has any additional unexcused absences or otherwise violates the court order

In some cases, you might also be asked to agree to have your child submit to testing for drugs or alcohol.

Also, if you (the parent) are named on a petition, you might be asked to agree that you have failed to take reasonable steps to get your child to school regularly.

If you and your child agree to a proposed truancy court order, and it is signed by the court, *your child can face severe sanctions for violating the order*. Those sanctions can include time in *juvenile detention*.

If you are named on the truancy petition and court order, *you can also face potential sanctions*. Those sanctions can include *fines of up to \$25 for each day* that your child is absent without excuse.

## *2. Taking Time to Consider the Proposed Terms*

Your child can face severe consequences if he or she violates a truancy court order. When you or your child signs an agreed truancy court order, you give up many important rights. So it is important to take the time to consider whether or not you want to agree.

The school district representative or a court employee might encourage you to resolve things quickly by signing a proposed court order. They might warn you that you will have to wait a long time for a hearing if you do not sign the order. But it is important to take the time to read through the school’s proposed order very carefully before signing it.

If you or your child is asked to agree to a proposed truancy court order:

- Take the time to understand its terms.
- Consider seeking legal advice!

Your child can face very serious consequences if he or she is unable to live up to the terms of an agreed truancy court order.

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*What might happen if you decide not to sign the order, or if you ask for more time to consider it?*

If you or your child decides not to sign the school's proposed order, the court should schedule a contested fact-finding hearing. At that hearing, the court will hear evidence from both sides. Based on that evidence, it should determine whether your child has been truant and whether the school has complied with its obligations.

In many counties, the court will schedule the hearing for a different day. But in some counties, the school or the court might insist that you begin a hearing right away.

If the school or the court insists on starting the hearing that same day, and you are not prepared, try to ask the court for more time. Explain why you need more time, and propose a different date for the hearing. You may want more time to:

- Get a copy of the original truancy petition to make sure it was completed properly
- Gather evidence, including doctor's notes, medical records, or notes from teachers or counselors
- Speak with potential witnesses, including teachers, school counselors or health care professionals, or
- Seek the advice and representation of an attorney

It might help if you can assure the court that you and your child will begin taking steps to improve attendance immediately.

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### *3. Negotiating Better Terms for an Agreed Order*

Your child always has the right to a hearing to contest the school's truancy petition. Your child does not have to give up that right by signing a proposed order. But you and your child can try to negotiate with the school to come up with fair terms for an agreed court order so that you can resolve the petition without a hearing.

*If the school has not met its legal obligations under the Becca Bill, you can:*

- Ask the school to dismiss the truancy petition
- Ask the school to remove references to the petition from your child's records, and

- Make sure the school will not file a truancy petition again until it takes the steps required by the Becca Bill

If you believe *there are steps the school could take* to help get your child to school, you can:

- Ask the school to postpone the hearing and take those steps
- Ask the school to get the court's approval to postpone the hearing without signing any order, and
- Ask the school to agree separately, in writing, to take specific steps to help reduce your child's absences
- If the terms of the agreement seem unreasonable or unfair, you can:
- Try to negotiate with the school
- Ask the school to agree to take particular steps that you think will be helpful
- Ask the school to set reasonable goals for improving attendance, and
- Make sure any new agreements regarding steps the school will take are included in the order, in writing, before you or your child signs it!

You and your child should not agree to any conditions that your child will not be able to meet. Your child can face severe consequences for violating those conditions.

## **F. Truancy Classes**

In some counties, parents and students are asked to attend a "truancy class" before the first truancy hearing.

You and your child may be asked to meet in a room at the courthouse with other parents and children who are scheduled for truancy hearings on the same day.

The class might be taught by a court employee, a county prosecutor or a school district representative. They will likely explain the Becca Bill and talk about truancy in general. They should also explain what your rights are in the process.

You should feel free to ask questions. But, you should not feel pressured to ask questions in front of the entire group. You should also be able to ask the instructor after the class is completed.

After the truancy class, you and your child might be asked to agree to a proposed truancy court order.

In some counties, you might be encouraged to meet individually with a school district representative. In others, a court employee or probation officer might ask all parents to sign proposed court orders without meeting individually with a school district representative.

You may be told that you will have to wait for a long time for a hearing, or come back again later if you refuse to sign the proposed order. But remember, your child can face very serious consequences if he or she signs the order and is not able to live up to it.

It is important to take the time to fully understand any proposed order *before* either you or your child signs it.

Read the previous section on *Agreed Court Orders* for information and tips on how to respond if you are asked to sign a proposed truancy court order.

## **G. Contested Cases**

Your child has the right to challenge any truancy petition and to have a “contested fact-finding hearing.” If you (the parent) are named on the petition, you also have the right to challenge the petition and to a contested fact-finding hearing. If you believe there is something wrong with the petition or with the process, you should consider exercising these rights.

A “contested fact-finding hearing” is a hearing in front of a judge or commissioner where the school will be required to present evidence to prove that your child has been truant and that it has complied with its obligations. Your child will have the chance to question the school’s witnesses and present his or her own evidence. Read the next section for more information about *What to Expect at a Truancy Fact-finding Hearing*.



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### *What if My Child Insists on Having a Hearing?*

It is important to remember that your child has the right to a hearing in any truancy case. Because your child is the person named on the petition, it is your child's independent right.

If you and your child are both named on a truancy petition, you are separate parties in the case. You each have your own individual rights. You can also each face sanctions. In some cases, your interests may be in conflict with your child's interests. You might disagree with your child about the reasons for the absences. You might disagree about the best way to reduce the absences. If you and your child disagree about whether to have a hearing, remember it is your child's right to insist on a hearing.

To be sure your child's rights are protected, it is important to seek legal advice before the hearing.

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### — POINTS TO REMEMBER —

- If you receive notice of a court hearing, it is very important that you and your child appear for the hearing on time.
- If your child fails to appear for a truancy hearing, the court may issue a warrant for your child's arrest.
- If a school files a truancy petition, your child has the right to challenge it at a fact-finding hearing.
- If you (the parent) are named on the petition, you also have a right to challenge the petition and to a fact-finding hearing.
- When the school asks you to sign an agreed truancy order, it is asking you and your child to give up many of your rights, including the right to a hearing.
- Take your time before signing any agreed order!
- You can try to negotiate with the school to make sure any agreed order is fair and reasonable.

## V. WHAT TO EXPECT AT A TRUANCY FACT-FINDING HEARING

If either you or your child decides to challenge the school's truancy petition, and the challenge cannot be resolved without a hearing, you have the right to a fact-finding hearing.

Truancy hearings are held in juvenile courts before a juvenile court judge or a court commissioner. In many counties, school districts are represented at the hearings by one of their employees. In others, county prosecutors represent the school district.

You and your child will likely be expected to represent yourselves. But, if you can find an attorney to represent your child, your child has the right to be represented by that attorney at the fact-finding hearing.

At that hearing, the school has the burden of proving its case by a "preponderance of the evidence." That means it must prove that it is more likely than not that your child missed school without excuse, and that the school took the steps it was required to take.

Because the school has the burden of proving its case, it will typically be allowed to present its evidence first. Your child will be able to question the school's evidence and then present his or her own evidence. After the evidence is presented, your child and the school representative may also be given the opportunity to summarize their arguments for the court.

The court will likely make a decision at the end of the hearing about whether to grant or deny the school's petition. If the petition is granted, the court will enter an order directing your child to attend school.

### A. The School's Burden to Prove Its Case

At the initial truancy hearing, the school has the burden of proving its case. Before a court can grant a school's truancy petition, the school is required to prove that:

- The *student missed school* without a valid excuse
- The *school notified the parents* of the student's absences
- The *school scheduled a conference* with the parent at a reasonably convenient time, and met with the student if the parent could not attend, and
- The *school took appropriate steps* to eliminate or reduce the student's absences

The school is required to prove each of these things through the testimony of witnesses or other evidence.

### **Things to Watch for in the School's Case**

- *Witnesses should have direct, personal knowledge of the facts*

If the school wants to prove its case through the testimony of witnesses, those witnesses should have direct, personal knowledge of the facts.

For example, if the school wants to present evidence about steps that a particular teacher took to help your child get to school regularly, that teacher should be called to testify at the hearing.

- *You and your child should have the chance to review any documents the school wants to use as evidence*

The school should give your child a chance to review and object to any documents it wants to use as evidence. If possible, ask the school to give you copies before the date of the hearing. Otherwise, ask for time to review them before the hearing starts. Your child should be able to review any school attendance records, discipline records, attendance agreements or other documents to make sure they are accurate.

- *The school should have evidence that it took appropriate steps to help your child reduce unexcused absences*

Make sure the school presents evidence that it took all steps required by the Becca Bill, including meeting with you and your child to discuss the causes for the absences and taking appropriate steps to address those causes.

### **B. Your Child's Rights at a Truancy Fact-finding Hearing**

Your child has many important rights at the initial truancy fact-finding hearing, including:

- The right to *question the school's witnesses*
- The right to *present his or her own evidence*
- The right to *call witnesses*
- The right to *be represented by a retained attorney*

Your child will have the opportunity to testify at the hearing. This is your child's chance to tell his or her side of the story. Your child can explain why he or she missed school and what things would make it easier to get to school regularly in the future.

Your child will also have the chance to present evidence, like doctor's notes or school records.

Your child can call witnesses who have information about the reasons your child missed school and the steps your child took to get to school regularly and on time. Possible witnesses might include a teacher, counselor, parent or doctor.

At the fact-finding hearing, your child will not have the right to have an attorney appointed for him or her by the court. But, if you are able to retain an attorney, either at your own expense or through a legal services provider, that attorney can represent your child at the hearing.

If you (the parent) are named on the petition, you will also have the right to testify, call witnesses, present evidence, question the school's witnesses and other evidence and be represented by a retained attorney.

### **HAVING TROUBLE PRESENTING YOUR CASE? TRY ASKING FOR HELP.**

Truancy hearings, like court hearings of any kind, can be confusing and intimidating.

If there are questions your child wants to ask a witness, or evidence your child wants to present, explain this to the court. The court is limited in what it can do to help, but it does not hurt to make the court aware of what you are trying to do.

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### *Will I Be Allowed to Help My Child Question Witnesses and Present Evidence?*

Representing yourself at any court hearing is difficult, even for adults! So, you will likely want to help your child if there is a fact-finding hearing and you are not able to get an attorney.

If you are not named on the petition, and you are not able to retain an attorney, the court should allow you to help your child question witnesses and present evidence.

But keep in mind, if you are named on the petition, you are a separate party. Your child may be asked to sit at a different table in the courtroom. Your child may be expected to represent himself or herself without your help.

If you and your child are both named on the petition, it is especially important to try to find an attorney to represent your child at the fact-finding hearing.

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Remember, court proceedings operate under complex and unfamiliar rules. They can be difficult for adults and children alike to understand. And there are important rights at stake in truancy cases.

Also, you may have to face an attorney or an experienced school representative in court. In some counties, schools are represented by a county prosecutor. In others, schools are represented by school employees who are not attorneys. Still, the school representatives will probably be familiar with the truancy court procedures and rules because they are involved in many truancy cases. In order to make sure the court proceedings are fair, it is important that you and your child also understand the court's rules. An attorney can help you understand them and protect your child's rights.

For these reasons, *you should consider seeking legal advice and representation when you first get notice of a truancy petition.*

At the end of a contested fact-finding hearing, the court will decide whether to grant or dismiss the school's petition. If it grants the school's petition, it will typically enter an order directing your child to attend school regularly, without having any additional unexcused absences.

### **C. The Truancy Court's Order**

If the court finds that the school has proven its case, the court can exercise authority over your child in numerous ways and can order your child to:

- Attend school and meet minimum attendance requirements
- Avoid being suspended from school
- Attend another public school, an alternative education program, a skill center, a dropout prevention program, or another public educational program if there is space and an appropriate program available
- Attend a private nonsectarian school or program including an education center, in certain circumstances
- Be referred to a community truancy board
- Undergo testing for drugs or alcohol if it is appropriate in light of the circumstances and will help your child get to school regularly

Juvenile courts can enforce truancy orders by imposing various sanctions on students, including ordering them incarcerated in juvenile detention.

## **D. Truancy Review Hearings**

In some counties, after the court grants the school's petition and enters an order, it may schedule periodic "review hearings." These review hearings can be scheduled for as long as the court keeps the case "open" and continues to have authority in the case.

At review hearings, the court will typically ask for updates on your child's attendance. It will review whether your child is complying with its order and whether any sanctions are necessary in order to make your child comply.

If your child has had additional unexcused absences, the school may ask the court to schedule a hearing to determine whether your child should be found in "contempt" for violating the truancy order. Because your child can face severe sanctions if he or she is found in contempt, it is important to show the court that your child is making reasonable efforts to get to school regularly and on time.

If your child is still having trouble getting to school regularly, you can ask the school to try different steps to address the causes for your child's absences.

Read the section above on *Things the School Can Do to Help* for ideas that might help your child get to school regularly.

## **E. The Court's Continuing Authority**

The court's authority over your child in the truancy proceeding will continue until at least the end of the school year.

If the school asks the court to keep the case open longer, and the court thinks it is appropriate, it could extend its authority until your child's 18th birthday. But, the court should make a determination based on the individual facts of your child's case that continuing its authority is necessary to keep your child in school.

Some districts may dismiss a petition if your child has had regular attendance for some time and the truancy problem seems to be resolved.

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### *Caution! Is Your Child Still Subject to Detention?*

As long as the court maintains authority over your child's truancy case, the school is required to report any additional unexcused absences or other violations to the court.

As long as the case has not been dismissed, your child can be sanctioned for those violations, including time in juvenile detention.

If your child has been making it to school regularly and on time, ask the school to dismiss the truancy petition.

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#### — POINTS TO REMEMBER —

- Your child has the right to a hearing to contest any truancy petition.
- At the hearing, the school must prove that it has taken appropriate steps to help your child get to school.
- Your child will have the right to testify, to call witnesses and to present other evidence.
- It is a good idea to seek legal advice when you first get notice of a truancy petition.
- An attorney can help your child understand and protect his or her rights.
- If your child's attendance has improved, remember to ask that the truancy case be dismissed.

## **VI. TRUANCY CONTEMPT HEARINGS**

If a student violates a truancy court order, the student can be found in “contempt of court.” Contempt of court means that the student “willfully” violated the court's order. To be willful, your child must violate the order on purpose, or at least know that he or she is violating it.

Truancy orders typically require students to have “perfect attendance” (no more unexcused absences) and stay out of trouble.

They might also require a student to be tested for drugs or alcohol, and if appropriate, undergo counseling or treatment for drug or alcohol abuse.

Depending on the specific conditions in your child's truancy order, *your child might be found in contempt if he or she:*

- Has any more unexcused absences
- Misbehaves at school and is suspended or expelled
- Does not participate in drug or alcohol testing, if required by the order
- Does not participate in drug or alcohol counseling, if required by the order

*Students found in contempt of a truancy order can face severe consequences, including time in juvenile detention.*

Any sanctions imposed in a truancy case should not be designed to punish your child for past conduct. They should be designed to convince your child to get to school regularly in the future. Courts can impose requirements other than detention in order to make the student comply with its order and go to school regularly. Those requirements might relate to changes that need to be made at school, such as revising a special education plan, participating in individual tutoring, or moving to a different class if necessary to avoid bullying. Other requirements might include:

- Gathering regular progress reports from teachers
- Signing up for a new or alternative education program
- Writing an essay regarding the importance of school
- Doing community service

Before imposing any sanctions on the child, the court should be sure that all appropriate steps have been taken by the school that will make it possible for your child to get to school regularly. For examples, see the section above on *Things the School Can Do to Help*.

### **A. Your Child's Right to an Attorney**

When a motion for contempt is filed, or a contempt hearing is set, your child has the right to have an attorney appointed to represent him or her.

An attorney should be appointed for your child as soon as the school files a motion for contempt, or the court sets a contempt hearing.

- If your child does not hear from an attorney before the contempt hearing, try calling the court to find out if one has been appointed and how to contact him or her.



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### *Are Parents Required to Pay for the Appointed Attorney?*

Because children face the threat of incarceration in truancy contempt proceedings, they have a constitutional right to have an attorney appointed to represent them, at no cost, if they cannot afford one.

It is important to remember that it is your child's right to an attorney. Only your child can waive that right.

If your child is not able to pay for an attorney, the court must appoint an attorney for your child. You (the parent) may be asked to pay for your child's attorney, but you should not be required to pay if you cannot afford it.

Your ability to pay for part or all of the cost for an attorney should not stop the court from appointing an attorney for your child.

A child cannot be denied an attorney because of a parent or guardian's refusal to pay.

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In some counties, your child may not meet his or her attorney until the day of the contempt hearing. If necessary, your child's attorney can ask the court to reschedule the hearing date. That will give the attorney time to talk with your child; to investigate the case; to collect evidence and identify potential witnesses; and to negotiate with the school, if appropriate.

Remember, the attorney is there as your child's advocate. Because the attorney will be appointed to represent your child, the attorney will likely need to speak with your child alone to preserve the confidentiality of their conversation.

- Encourage your child to speak openly with the attorney and to ask questions!
- Before the contempt hearing, the school district representative may ask you and your child to sign another proposed court order.
- Remember, your child has the right to an attorney at contempt hearings. Your child should never sign an agreement without first getting advice from his or her attorney!

Your child's attorney can negotiate with the school district to make sure any proposed order is fair and your child's needs are addressed.

## **B. The Possibility of Juvenile Detention**

Incarceration in juvenile detention in a truancy case should never be used to punish a child for past behavior. It should only be used, if at all, if it is likely to convince a child to comply with the court's order in the future.

Because the purpose of sanctions in a truancy case is to convince your child to return to school, your child should not be put in juvenile detention if there is any other less restrictive sanction or step that will convince your child to go to school.

Your child should not be incarcerated in juvenile detention unless the school has worked with you and your child, and has taken appropriate steps to help reduce absences. Your child should not be punished with incarceration or any other sanction, if a problem outside your child's control is keeping your child from attending.

If sanctions are needed, *incarceration in detention should never be imposed until the court has tried other less severe sanctions, and those sanctions have not been successful.*

If a court does send a child to juvenile detention in a truancy case, it should be for *no more than 7 days*. Your child should receive educational services while he or she is in detention. If your child has special education needs, appropriate special education services should also be provided.

The court must also give your child the opportunity to "purge" contempt and earn immediate release from detention.

## **C. Purge Conditions**

Whenever a child is found in contempt, regardless of what sanctions are imposed, the court must give the child an opportunity to "purge" the contempt.

That means the child must have an opportunity to get out of contempt by agreeing to obey the court's order. In truancy cases, courts often require children to write an essay or a develop plan that explains how they will avoid missing school again. Once the condition is met, the contempt sanctions must be lifted. If your child was sent to detention, he or she must be released from detention.

Any purge condition must be something your child is capable of completing.

If you have concerns about your child's ability to comply with a purge condition, be sure to speak to your child's attorney.

### — POINTS TO REMEMBER —

- Your child has the right to have an attorney appointed to represent him or her for any truancy contempt hearing.
- Encourage your child to talk openly with his or her attorney!
- Students found in contempt of a truancy order can face severe consequences, including time in juvenile detention.
- Juvenile detention should never be imposed if there is any less severe sanction that would convince your child to go to school.

## VII. CONCLUSION

The truancy process is not intended to punish students. It is intended to make sure that all of the people responsible for a student's education – including the student, parents and schools – are taking appropriate steps to keep the student in school. In practice, schools and courts are able to use the Becca Bill to hold students accountable for missing school. But students and parents are often unable to make sure schools also meet their responsibilities under the Becca Bill.

We hope this guide will help you understand your child's rights in the truancy process, and that it will be a useful tool as you advocate for those rights.

If you and your child are able to get appropriate support from the school at the earliest sign of a problem, your child should be able to avoid the truancy court process entirely.

If either you or your child is referred to the court, you should consider seeking legal advice. The consequences in truancy cases can be severe. And court proceedings can be complicated and difficult to navigate, especially for young people.

*By understanding your child's rights in the truancy process, you can help protect those rights, and keep your child on track for graduation!*

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