

Attendance Legislation in the United States

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Introduction

The American Institutes for Research® (AIR®) conducted a scan of attendance policies throughout the United States; this document summarizes the findings of the scan. AIR reviewed the state-level attendance policies of all 50 states and the District of Columbia as well as publicly available reports of statewide approaches to addressing absenteeism (Attendance Works, 2020), data-informed practices, and summaries of state attendance legislation.

CHRONIC ABSENTEEISM VERSUS TRUANCY

These terms describe different aspects of absenteeism. *Truancy* generally refers only to unexcused absences, while *chronic absenteeism* incorporates all types of absences: excused, unexcused, and suspensions. Accordingly, each problem requires its own approach to reducing the number of days a student misses school. For more details, see <https://www.attendanceworks.org/whats-the-difference-between-chronic-absence-and-truancy/>.

In addition, the team reviewed state education agency websites for information on promising attendance policies or approaches. The following topics guided the review of state attendance policies:

- Attendance Policy: Historically and Today
 - What is the overall landscape of attendance policies (including compulsory attendance laws) across the United States?
 - How have truancy and chronic absenteeism legislation evolved over time? In what ways does legislation on these measures differ?
 - Do states legislate schools and districts to address chronic absenteeism or truancy?
 - What processes and actors are included in state policies to intervene in chronic absence and truancy cases?
- Attendance Policy Reforms
 - What policy changes related to truancy or chronic absenteeism intervention processes have been enacted in recent years? Do any of the policy changes represent a less punitive approach to enforcement of attendance laws?

- Evidence of the Effects of Policy Reforms
 - What do evaluations tell us about the effects of state attendance policy or juvenile justice policy reform?

This review included state education agency websites, state legislature websites, research reports/assessments of statewide attendance practices, and websites that consolidate legal and legislative information. While the review covered all states and documented notable policies or programs, the scan focused on addressing the questions of interest and not all aspects of attendance policies. We were also restricted to information that was readily publicly available, which allows us to provide applicable examples of states throughout the memo but not definitively determine the proportion of states represented in a given finding.

U.S. Attendance Policy Landscape

What is the overall landscape of attendance policies (including compulsory attendance laws) across the United States?

Compulsory Attendance Laws

All U.S. states and the District of Columbia have passed compulsory attendance laws (Reyes, 2020; FindLaw, n.d.). These laws typically have the following key elements:

- The mandate of attendance by children of a certain age range. Age range varies by state.
- Definitions of terms such as *chronic absenteeism*, *truancy*, *lawful/unlawful absence*, *habitual truant*, and *excused/unexcused absence*; or a mandate that districts must define these terms (e.g., Illinois, Iowa, and New Jersey require districts to set definitions).
- Exceptions and exemptions to the attendance requirements, such as if the student is attending home school or certified private tutoring, has already graduated, or is unable to benefit from school because of disabilities.
- Home school provisions, which describe the required instruction if a child is receiving a home-schooled education and is therefore exempt from compulsory school attendance laws.

- Penalties on parents/guardians if a child does not comply with compulsory attendance laws, as well as guidance on how many absent days make up a new offense (e.g., every day the student is absent is a new offense, every 5 days is a new offense), which may include the following:
 - Charges if a case is persistent (and often after investigation and/or mediation), such as misdemeanor charges of varying class and infraction; subject to imprisonment, usually limited to 30 days.¹ States differ on whether truancy is a criminal offense or civil offense.
 - Fines, which vary widely by state²
 - Community service, typically if the parent cannot afford the fine
 - Placement in an education or counseling program (e.g., California, Maine)
- Penalties on children, if any, which may include the following:
 - Juvenile detention or referral to juvenile court
 - Driving privileges suspended (e.g., Florida, Iowa, Louisiana, New Mexico, West Virginia)

Truancy and Chronic Absenteeism: Historically and Today

How have truancy and chronic absenteeism legislation evolved over time? In what ways does legislation on these measures differ? Do states legislate schools and districts to address chronic absenteeism or truancy? Although the terms *chronic absenteeism* and *truancy* have different meanings and implications for students who do not attend school, they are often used interchangeably. However, these terms describe different aspects of our nation’s absenteeism problem and require different approaches to address. Although each state’s definition varies, *truancy* typically refers to students who do not attend school for a specific number of days or a specific percentage of the academic year without providing documentation to account for their absence (unexcused absences). Chronic absenteeism is broader and encompasses all absences a student may have (e.g., excused, unexcused, and suspensions) (Attendance Works, 2016). The nationwide crisis around attendance has only grown since the COVID-19 pandemic, with numerous states working to address chronic absenteeism and truancy (Attendance Works, 2022).

The concept of truancy dates to the 19th century when states began implementing compulsory attendance laws; by 1918, all states had a law mandating school attendance (Goldstein, 2012). However, truancy was not a federal focus until the passage of the No Child Left Behind Act of 2001 (NCLB), when reporting truancy data became mandatory for states. Truancy was cited as one of the causes of low test scores, which could result in schools’ “failing” under the law. The federal government at the time went on to promote a truancy agenda that often endorsed anti-truancy laws with court-driven consequences for truant students and their parents (Goldstein, 2012).

¹ Some states may impose imprisonment for longer. In Mississippi, for example, the parent may be considered guilty of contributing to neglect of a child, subject to imprisonment up to a year.

² Usually between \$25–\$100 for the first offense, but fines may increase for multiple offenses (e.g., up to \$1,000 in Iowa).

In 2015, the passage of the Every Student Succeeds Act (ESSA) represented the first time the federal government specified chronic absenteeism in education law. Including this measure in the law signified recognition of its importance in student outcomes (Attendance Works, 2015). Coinciding with the passage of ESSA, the federal government ended the mandate that states report truancy data to the federal government (which was required under NCLB) (U.S. Department of Education, 2006; Weathers & Loeb, 2022). Without the federal mandate to report truancy data, states have focused their attention on chronic absenteeism data collection to meet their ESSA state accountability indicators. Thirty-six states and the District of Columbia officially submitted ESSA plans that included a chronic absence or similar attendance measure as an accountability metric (Attendance Works, 2016). This trend aligns with the federal focus on the issue but may draw attention away from efforts to tackle truancy because many states shifted their data collection efforts away from truancy to chronic absenteeism (Weathers & Loeb, 2022). This shift has resulted in a landscape in which only 22 states and the District of Columbia collect truancy data (Weathers & Loeb, 2022).

Processes and Actors Involved in Attendance Laws

What processes and actors are included in state policies to intervene in chronic absence and truancy cases? In many states, legislation dictates procedures that must (or may) be followed if a student is truant. The requirements of the process vary across states, and some state laws mandate that districts are to determine these processes after identifying a truant case.

States that codify processes following truant cases often start with a parent/guardian notification. The notification may inform guardians that the child was absent and provide procedures and legal consequences (e.g., charges, fines) if the parent/guardian does not comply with attendance laws.

After notifying parents/guardians, states vary on next steps, particularly regarding whether any steps are taken before the involvement of the courts. To put these processes in motion, state laws often designate an “attendance officer,” “attendance supervisor,” or “truancy officer” (or similar title) who plays a role during or after the notice to parents/guardians. This role varies but is generally a school district employee designated to enforce compulsory education in their schools. At least 15 states include attendance officers in state legislation (i.e., Colorado, Connecticut, Indiana, Michigan, Montana, Nebraska, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Wyoming). Attendance officers may be involved in investigations and record keeping of compulsory attendance, requirement violations, application of prevention measures such as counseling or home visits, and referrals to court.

In some states (e.g., Montana), the attendance officer must file a complaint in court if a child is not back in school after the notice. In other states (e.g., Vermont), the laws direct the officer to refer the case to the state’s attorney for possible truancy charges, and the attorney will decide whether to file truancy charges with the family court, based on whether the student is “habitually truant without justification,” which can be defined differently across states. Notably, differences across states involve the language of whether involvement of the courts is mandated or based on circumstances and the

judgement of an attorney or other authority. For example, in 2022, Wyoming amended its attendance policy to give the option to the district attorney to initiate court proceedings rather than mandating court proceedings (State of Wyoming, 2022).

Some states include processes for intervention after notifying guardians and before involving the court system. These processes may include a meeting with the parent/guardian or other investigation into the cause of absence (e.g., Connecticut, Maryland, New Jersey, Texas, Virginia, Vermont, Washington, Wyoming) and/or counseling on the impact of missing school and providing information on other available services and supports (e.g., Texas, Virginia). Rather than having these processes codified in state laws, some state laws require that each school district develops a system of intervention for truant cases (e.g., Maryland, New Jersey).

Attendance Policy Reform

What policy changes related to truancy or chronic absenteeism intervention processes have been enacted in recent years? Do any of the policy changes represent a less punitive approach to enforcement of attendance laws? Within the past 10 years, attendance policies have changed in some states through broader state juvenile justice policy reform or through more narrow school attendance policies. Table 1 summarizes the highlighted reforms and includes hyperlinks to related policies.

Table 1. Notable Amendments

State	Juvenile justice reform	Changes to school attendance policies to require...			
		less court involvement	prevention and intervention measures	data collection, analysis, or reporting	resource development
South Dakota	✓				
Utah (2017; 2020)	✓				
Kentucky (2014; 2022)	✓				
New Mexico			✓	✓	
Pennsylvania		✓	✓		✓
Texas		✓	✓		
Connecticut (2015); (2017)	✓	✓	✓	✓	✓
California			✓	✓	
Ohio		✓	✓		
Indiana			✓	✓	✓
Washington (2016); (2019)	✓	✓	✓	✓	

Juvenile Justice Reform

Juvenile justice reform efforts sometimes have a wider aim to keep children out of court for all low-level status offenses, including truancy. South Dakota, for example, passed reforms to juvenile justice via the 2015 SB 73, which codified recommendations from a work group to encourage the use of diversion strategies to reduce youth involvement in the justice system (The Pew Charitable Trusts, 2016). Utah’s laws, HB239 (2017) and HB262 (2020), also have similar goals (Utah Department of Human Services, n.d.). Effective in 2021, Washington state eliminated the use of the valid court order for students who are truant through Senate Bill 5290 (2019–20). The law restricted the placement of youth in juvenile detention for noncriminal behavior, including truancy (State of Washington, 2019).

In 2014, Kentucky passed juvenile justice reform bill SB 200, which notably diverts students from the court system if they could be held accountable outside of court, emphasizes community and family engagement, strengthens interventions and prevention programs, and reserves serious legal ramifications for the most serious offenses (Kentucky Youth Advocates). However, earlier in 2022, the Kentucky House passed HB 318, which rolls back some of these reforms by requiring habitually truant students to appear in court if their attendance does not improve within 30 days. The bill has not yet passed in the Kentucky Senate as of the writing of this memo.

Shifting Policy From Truancy to Chronic Absenteeism Interventions

The trend toward legislation involving chronic absenteeism, rather than truancy, is likely a reflection of the federal messaging around the importance of chronic absenteeism under ESSA. In New Mexico, the Attendance for Success Act (House Bill 236 in 2019) requires the state to shift its focus from truancy to chronic absenteeism using a more supportive approach (United Way of Central New Mexico, 2022). The law requires various procedures based on the number of days a student is absent as well as the formation of attendance teams, which are groups of school-based administrators, staff, and community members. The teams collectively implement tiered, data-informed improvement plans for schools to address chronic absenteeism with whole-school prevention and interventions (New Mexico Public Education Department, 2021).

California has prioritized reducing chronic absenteeism statewide (Attendance Works, n.d.). Legislation that became effective in 2017 encourages districts to collect chronic absence data and report them to a statewide database—which supports an early warning system—and expanded the role of attendance supervisors to include more effective practices (Assembly Bill 2815 in 2016). These practices include raising awareness of the effects of chronic absenteeism and truancy; investigating the causes of absences; promoting extracurricular activities that increase student connection to school; referring students to counselors or other support personnel for case management; and identifying barriers to attendance in schools with high rates of chronic absenteeism (State of California, 2016). Additional approaches in California include legislation to designate an Attendance Awareness Month (Assembly Concurrent Resolution No. 149) and the “Keeping Kids in School and Out of Court Initiative,” which encourages community-based solutions to chronic absenteeism and truancy (California Courts, n.d.).

States such as Hawaii, Massachusetts, Rhode Island, and Utah have taken targeted approaches to combating chronic absenteeism statewide. For example, in Hawaii, every school is mandated to set specific goals aimed at reducing chronic absence annually. Hawaii's data system is updated each night and informs school officials of the students who have been absent for more than 5% of school days. Other states track and publish their chronic absence data and use them as early warning systems to notify school officials of students who are at risk of failing to graduate (Lu, 2013).

Reform Related to Truancy Intervention Processes or Actors

Connecticut, Pennsylvania, Texas, California, Ohio, and Indiana³ have passed reforms to specifically address school truancy and associated legal consequences. In Pennsylvania, Public Act 138 of 2016 amends the role of the courts to preserve family unity while truancy issues are addressed, restrict citations for children under 15, and make penalties for truancy discretionary, among other changes (Pennsylvania General Assembly, 2016). These policy changes were partly attributable to the work of The Pennsylvania State Roundtable's Educational Success and Truancy Prevention Workgroup that submitted progress reports and recommendations from 2009 to 2017 (Office of Children & Families in the Courts, n.d.).

In Connecticut, Public Act 15-225 (effective July 2015) expanded truancy clinics, which are nonjudicial, nonpunitive proceedings that involve the parent/guardian of a student who is truant or at risk of becoming truant. The law also mandated additional responsibilities for districts to review truant cases, discuss interventions, and make recommendations through attendance review teams, as well as required the Connecticut State Department of Education to develop an absenteeism prevention and intervention plan to help with districts' responsibilities (State of Connecticut, 2015). Further, Public Act 16-147 in 2017 removed truancy and defiance of school rules as reasons for Family with Service Needs referrals to juvenile courts (Russell-Tucker, 2018). To replace court referrals, state guidance encourages districts to use community-based services such as Youth Service Bureaus (Russell-Tucker, 2018), which are coordinating partners outside of the school system that deliver comprehensive prevention, intervention, treatment, and follow-up services (Connecticut Youth Services Association, n.d.). In addition to moving away from referrals to juvenile courts, Connecticut has made efforts to strengthen truancy data collection. The Connecticut State Department of Education developed EdSight, an online data portal that allows for school-specific data to be collected. EdSight disaggregates student attendance data by school, grade, and subgroups such as race, ethnicity, gender, free or reduced-price lunch eligibility, students with disabilities, and English learners (Connecticut State Department of Education, 2017). These data are compiled into reports that are reviewed every 10 days by school staff and used by district and school attendance review teams to inform action and provide a means for continuous improvement (Connecticut State Department of Education, 2017).

³ Due to the nature and methodology of this scan, this is not necessarily a comprehensive list of states that have passed reforms. Future research can investigate additional legislation and policies that address truancy, interventions, and legal ramifications.

In 2015, Texas law (HB 2398) decriminalized failure to attend school; required the use of Truancy Prevention Measures, such as behavior improvement plans, school-based community service, or counseling referrals; and required that a district provide a statement documenting that Truancy Prevention Measures were applied but failed before referring a student to truancy court. The law intends for court referrals to be used as a last resort in truancy cases (Texas Association of School Boards, 2022; Wood, n.d.).

Starting in the 2017–2018 school year, Ohio House Bill 410 required school districts to adopt policies to address student absences and changed the truancy definition to be based on instructional hours rather than days. Districts must incorporate intervention strategies such as developing a truancy intervention plan for any students excessively absent from school, providing counseling, requesting parents to attend parental involvement programs and/or truancy prevention mediation programs, notifying the registrar of motor vehicles, and taking legal action. The law also prohibits the suspension or expulsion of students solely based on absence without legitimate excuse and allows attendance officers to file a complaint in juvenile court only after failure of progress on the strategies in the absence intervention plan (Ohio Legislative Services Commission, 2019).

In Indiana, a 2013 law made reducing absenteeism a policy priority and introduced new school requirements, such as developing a chronic absence reduction plan that includes an analysis of attendance data and a description of the prevention and intervention activities. The law also required the Indiana Department of Education to develop resources for school districts to help them use evidence-based practices to reduce absenteeism (Lochmiller, 2013).

The state of Washington has made several changes to attendance policies in recent years that reflect a general shift away from relying on courts to address truancy. These changes include a mandate for districts to create Community Truancy Boards (CTBs) and requirements for schools to support parents by providing information about the importance of attendance and holding conferences with parents of students with both excused and unexcused absences (Office of Superintendent of Public Instruction, 2019). A CTB serves students who are truant by engaging their communities “in a problem-solving conversation with family and youth to create an attendance success plan” (Office of Superintendent of Public Instruction, 2019). Recent legislation has renamed the CTB to a Community Engagement Board (CEB).

Evidence of the Effects of Policy Reforms

What do evaluations tell us about the effects of state attendance policy or juvenile justice policy reform? Although some of these amendments were quite recently enacted or implemented, some states have reported data on attendance after implementation of these policies, and some publicly available evaluations shed light on the effects of these policies.

Data on attendance and absenteeism are mixed in the years following policy changes. Although California highly prioritizes reducing absenteeism, data from the 2017–2018 and 2018–2019 school

years showed that Black students miss more school days on average and have higher rates of unexcused absences than their White peers (13.2 days absent/52.7% unexcused versus 9.1 days absent/29.4% unexcused, respectively) (Jones & Willis, 2020). In addition, a longitudinal study of Ohio's attendance data found that absenteeism decreased after the adoption of House Bill 410 but less so for economically disadvantaged areas such as large urban and Appalachian regions (Bartlome, 2020). Connecticut's yearly status reports on public education demonstrate a downward trend in chronic absenteeism from the 2011–2012 through 2015–2016 school years but stagnation or increases in rates in 2016–2017 through 2020–2021 (Connecticut State Department of Education, n.d.). A report from the Office of Superintendent of Public Instruction in Washington showed that truancy rates did not decline from the 2016–2017 and 2018–2019 school years (the immediate school years after legislating a more supportive model of attendance policy to include CTBs). However, the report also notes that of students who had a truancy petition filed, only 53% were referred to a CTB (Office of Superintendent of Public Instruction, 2019).

Critics of Texas's truancy law argued that decriminalizing truancy would lower school attendance, but empirical data suggest no correlation between truancy filings and school attendance. Further, Texas saw a 90% decline in the number of court filings for truancy, and parents contributing to nonattendance fell 71% in the year following when the bill went into effect compared to the prior year. School attendance stayed essentially constant (Holik, 2017; State of Texas Judicial Branch, 2016).

States that passed juvenile justice reform to decrease the punitive measures of truancy show promising outcomes. An evaluation of Kentucky's SB 200, which enhanced procedures for including more youth in the pre-court diversion program, found that the number of cases overall and the number of youth of color placed on diversion increased after implementation of SB 200 (Vidal et al., 2020). South Dakota saw a 50% decrease in new commitments and a 62% decrease in probation violations after implementation of SB 73 (Crime and Justice Institute, 2017). These amendments contrast policies in South Carolina, where students statewide can be sent to court for being absent from their schooling, monitoring school attendance is a focus of probation, and youth are incarcerated for failing to comply with the conditions of probation. An evaluation of school attendance in South Carolina found that school attendance declined, on average, among students who were placed on probation during their first year of system involvement, with older students seeing a greater decline in attendance, on average. The study presents findings that are consistent with the notion that punitive measures to reduce chronic absenteeism are largely ineffective across South Carolina (Weber, 2020).

Recent Attendance Data and COVID-19

Recent evaluations of statewide attendance and absenteeism focus primarily on the effects of the COVID-19 pandemic rather than the effectiveness of recent policy reforms. The 2020–2021 school year saw sharp declines in school attendance; data from Connecticut, Michigan, Ohio, Virginia, and California show that chronic absence rates doubled from those prior to the pandemic (Attendance Works, 2022). In California, during the 2020–2021 academic year, almost one third of

socioeconomically disadvantaged American Indian/Alaska Native (32.2%) and Black (31.9%) students were chronically absent. In addition, more than a quarter of Pacific Islander students (27.8%) and almost one in five Latinx students (19.2%) were chronically absent (Saucedo & Kaplan, 2022). In Ohio, 25% of public school students from kindergarten to 12th grade missed at least 10% of the 2020–2021 academic year. As reported by the Ohio Department of Education, 1 in 10 students missed more than 20% of the 2020–2021 academic year; 37% of economically disadvantaged students, 33% of students with disabilities, and 47% of Black students were chronically absent last year. To address these sobering statistics, in March 2021, the state created a full-time position for an educational professional whose responsibility is to aid in lowering absenteeism across Ohio. In addition, the state now counts absences from cumulative hours (originally from days) to aid districts in capturing students who are attending school but missing their first-period classes (Becker & Staver, 2022).

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