

NAVIGATING TRUANCY LAW

Truancy: Overview of the Law

Legal Definitions

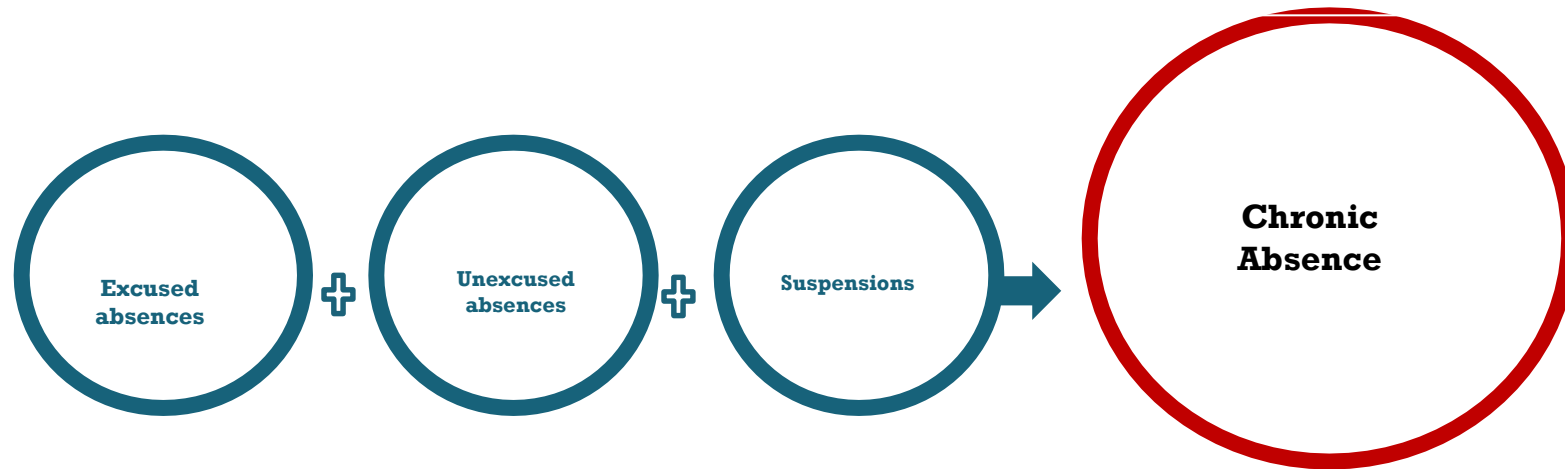
- Any child of compulsory school age who is absent from the public school the child is supposed to attend for:

	Chronic Absenteeism	Excessive Absenteeism	Habitual Truant
School Year	10% or 92 hours in a school year with or without a legitimate excuse	65 hours in a school year with or without a legitimate excuse	72 hours in a school year without a legitimate excuse
School Month		38 hours in a school month with or without a legitimate excuse	42 hours in a school month without a legitimate excuse
Consecutive			30 consecutive hours without a legitimate excuse



What is chronic absence?

Chronic absence is missing so much school for any reason that a student is academically at risk. Chronic absence is defined as **missing 10 percent or more of school for any reason.**



Chronic absence is different from **truancy** (unexcused absences only) vs. **average daily attendance** (how many students show up to school each day).

Reducing chronic absence requires addressing a variety of challenges:

Barriers

- Chronic and acute illness
- Family responsibilities or home situation
- Trauma
- Poor transportation
- Housing and food insecurity
- Inequitable access to needed services
- System involvement
- Lack of predictable schedules for learning
- Lack of access to tech
- Community violence
- Etc. and many more!

Aversion

- Struggling academically and/or behaviorally
- Unwelcoming school climate
- Social and peer challenges
- Anxiety
- Biased disciplinary and suspension practices
- Undiagnosed disability and/or disability accommodations
- Parents had negative educational experiences

Disengagement

- Lack of challenging, culturally responsive instruction
- Bored
- No meaningful relationships to adults in the school (especially given staff shortages)
- Lack of enrichment opportunities
- Lack of academic and behavioral support
- Failure to earn credits
- Drawn to low-wage job vs. being in high school

Misconceptions

- Absences are only a problem if they are unexcused
- Missing 2 days per month doesn't affect learning
- Lose track and underestimate TOTAL absences
- Sporadic absences aren't a problem
- Attendance only matters in the older grades
- Suspensions don't count as absence



LEGAL PROCESS

*The statutory process begins the first time a student is absent.
Once legal thresholds are reached, schools are legally obligated to
take certain steps.*

STEP 1: School must send an Excessive Absence Warning letter within 7 calendar days of Excessive Absence threshold being reached



Letter must be in writing and provided to parent/guardian

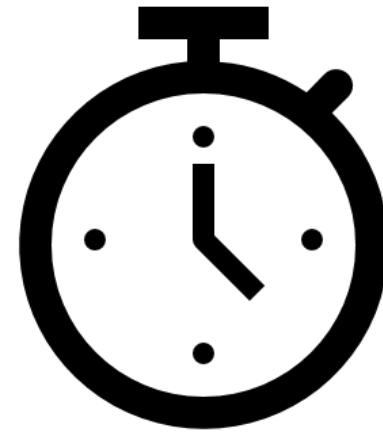


Excessive Absence threshold is reached when the student misses the following, with or without a legitimate excuse:

38 or more hours in a school month; or
65 or more hours in a school year

STEP 2: Once any of the three Habitual Truancy thresholds are reached, the statutory clock starts

- Habitual Truancy threshold is reached when one of the following occurs, **without** a legitimate excuse:
 - 30 consecutive hours;
 - 42 hours in a month; or
 - 72 hours in a year



STEP 3: Within **7 school days** of threshold being reached, school must do the following:

1. Create an Absence Intervention Team (AIT); and
2. Make at least 3 meaningful good-faith attempts to gain parental participation.

Absence Intervention Team

- The Superintendent of each school district shall establish a district absence intervention team for use by schools that do not establish their own teams.
- Principal or chief administrator may establish an absence intervention team in lieu of the district team
- Superintendent, Principal or Chief Administrator selects team
- **Team Must Include:**
 - School representative; school representative who knows the child, and parent or parent's designee, or guardian, custodian, GAL or temp. custodian
- **Team May Include:**
 - School psychologist, counselor, social worker, and/or absence reduction agency representative

Parent Participation

Within **7 school days** of reaching habitual truant threshold, the Superintendent, Principal or Chief Administrator shall make at least three meaningful, good faith attempts to secure the participation of the student's parent, custodian, GAL or temporary custodian on the team.

If parent responds but is unable to participate for any reason, he/she must be informed that he/she may appear by designee

If parent fails to respond, then school must do both of the following:

- Investigate whether the failure to respond triggers mandatory reporting to children services, and
- Instruct the absence intervention team to develop an intervention plan notwithstanding the parent's absence.

STEP 4: Within **14 school days** of making contact for parental participation and the AIT being formed, the team must make an **individualized** Absence Intervention Plan (AIP).

STEP 5: Within **7 calendar days** after the creation of the AIP, the school must send a written copy of the AIP to the parent/guardian.

STEP 6: The school must implement, update, and monitor the AIP.

STEP 7: If the student refuses to participate in or fails to make satisfactory progress on the AIP, the school shall file a formal **COMPLAINT** on the **61st calendar day** after the plan implementation.

Exception: The school shall file a formal Complaint prior to the 61st calendar day if, during the 60 days, the student is absent without a legitimate excuse for: 30 consecutive hours or 42 hours in a month

COURT PROCESS FOR TRUANCY CASES IN LORAIN COUNTY JUVENILE COURT

An overview of cases will be processed in Lorain County Juvenile Court. This information is specific to Lorain County.

Commonly used Words / Phrases

- **Abeyance:** A temporary suspension of a proceeding, while awaiting the resolution of another proceeding.
- **Alternative to Adjudication (A2A):** Juvenile Diversion process for truancy cases. Juvenile Diversion is the redirection of youth from formal court action and using other resources to ameliorate situations brought to the attention of the Court.
- **Legal Sufficiency:** A determination that the Complaint and accompanying documentation complies with statutory requirements as set forth in Ohio Revised Code.
- **Notice of Intent to Proceed:** A legal document filed by the Prosecutor's Office after the Prosecutor has determined that the case is legally sufficient. Schools will receive a copy of the Notice.
- **Notice of Dismissal:** A legal document filed by the Prosecutor's Office after the Prosecutor has determined that the case is legally insufficient for any reason. Schools will receive a copy of the Notice.
- **Arraignment:** First step in a criminal proceeding wherein someone is brought in front of the Court to hear the charges filed against the person.

STEP 1: Schools e-file Complaint(s) and receive notice of acceptance.

- **Complaint against Juvenile Only:** E-file against the Juvenile only
- **Complaint against Adult:** E-file against the Adult **AND** the Juvenile
 - Mark the box of additional filing on **both** Complaints
- Juvenile Clerk will send a Notice to the Prosecutor's Office and Assessment Center that the Complaint was accepted.
- Fillable PDF of the Juvenile Complaint and Adult Complaint can be found on the Court's website:
 - www.lcdrc.org/truancy2

STEP 2: School must send the Complaint Checklist and documentation to the Prosecutor and Assessment Center

- Complaint Checklist and requested documentation can be found at the Court's website (www.lcdrc.org/truancy2) or through the Prosecutor's Office

WARNING



*If you do not provide the Complaint Checklist and necessary documentation within **1 week** after the Complaint is e-filed, then the Prosecutor will file a Notice of Dismissal and the **case will be closed.***

STEP 3: Assessment Center and Prosecutor's Office independently reviews the documentation.

Assessment Center Review

Juvenile Only Cases Criteria for A2A:

- If it is the first A2A referral or if there has not been a new referral within the previous 12 months, juvenile qualifies for A2A
- If Juvenile has been referred to A2A in the previous 12 months, the Assessment center reviews past involvement and reason for new involvement
 - **New Barriers:** Case will be accepted to A2A
 - **Same Barriers:** Case will not be accepted to A2A

Criteria for A2A for Adult & Juvenile Cases:

- **Juvenile under 10 years old:** Automatically denied A2A (can still voluntarily engage with AC)
- **Juvenile 10 and older:** Same process for Juvenile Only Cases

Prosecutor's Office Review for Legal Sufficiency

Includes a review of:

- The filed Complaint(s)
- The Checklist and accompanying documentation

If any of the errors can be fixed, the Prosecutor's Office will reach out to the school representative and an amended Complaint may be filed.

NOTE: *If the juvenile qualifies for A2A, the Assessment Center will start working with the family while the Prosecutor completes its review.*

There are 3 ways the cases will be handled in Step 4 depending solely on the type of case filed and age of the Juvenile:

1. Juvenile Only Complaints

2. Adult & Juvenile Complaints, when Juvenile is under 10 years older

3. Adult & Juvenile Complaints, when Juvenile is 10 and older

Quick Note about the Step 4 Slides

STEP 4: Juvenile Only Complaints:

Prosecutor completes review, and **one of three** paths will be followed for **Juvenile Only Complaints**

If the case is:

Legally Insufficient

Prosecutor will file a Notice of Dismissal and case will be closed.

The juvenile and family can continue to work with the Assessment Center on a voluntarily basis.

**end at this step*

Legally Sufficient but Juv. Doesn't Qualify for A2A

Prosecutor will file a Notice of Intent to Proceed with Charges

Case will go through the formal court process, and an arraignment date will be set.

**go to step 7*

Legally Sufficient and Juv. Qualifies for A2A

Prosecutor will file a Notice of Intent to Proceed with Charges after A2A

Case will continue through the A2A process.

STEP 4: Adult & Juv. under 10 years old Complaints:

Under the law, you must file a Joint Complaint anytime you want to file against an adult. If the Juvenile is under 10 years old, the case will always be dismissed against the Juvenile.

Juvenile is
under 10
years old:

- **Juvenile Case:** Prosecutor will file a Notice of Dismissal and request to seal and expunge. **end at this step*
- **Adult case:** Prosecutor will file notice of one of the following:
 - Proceeding with Formal Charges for **legally sufficient** cases **go to step 7*
 - Dismissal, and case will be closed for **legally insufficient cases** **end at this step*

Step 1 >

Step 2 >

Step 3 >

Step 4 >

Step 5 >

Step 6 >

Step 7

STEP 4: Adult & Juv. 10 and older Complaints:

Prosecutor completes review, and one of the following will occur for **Adult & Juvenile Complaints** when the **Juvenile is 10 or older**

Juvenile is
10 and
older:

- **Both cases legally insufficient:** Prosecutor files Notice of Dismissal and both cases are closed. **end at this step*
- **One case is legally insufficient:** Prosecutor files Notice of Dismissal on the legally insufficient case, and the other case will proceed based upon the case type (Juvenile only vs. Adult)
- **Both cases are legally sufficient:**
 - **Juvenile Case:** Prosecutor files a Notice of Intent to Proceed with Charges, and:
 - If Juvenile qualifies for A2A, the case will continue with the A2A process.
**go to step 5*
 - If Juvenile does not qualify for A2A, then the case will proceed to formal charges.
**go to step 7*
 - **Adult Case:** Prosecutor files Notice of Intent to Proceed with Charges but will hold the Adult case in abeyance until the Juvenile case goes through the A2A process.

STEP 5: The family will continue to work with the Court's Diversion Services on the A2A case.

- During the A2A process, Assessment Center staff will do the following:
 - Do screeners
 - Complete a Psycho-Social Assessment
 - Identify strengths and needs
 - Develop a Case Plan
 - Link the Juvenile and/or Family to Services
 - Continue light case management
 - School staff are encouraged to reach out to the Assessment Center for updates
- After A2A is completed, a general report of what occurred during A2A will be sent to the Prosecutor to review.

STEP 6: After the Prosecutor reviews the information from the Assessment Center and the school, **one of the two will occur:**



Prosecutor will file a Notice of Dismissal, and the case will be closed.

*Possible Reasons for Dismissal
Could Include:*

Prosecutor determines there was satisfactory progress in A2A; Attendance improved; Juvenile turned 18; Family moved to a different jurisdiction; etc.



Prosecutor will file a Notice of Intent to Proceed with Charges, and the case is set for arraignment.

STEP 7: Arraignment hearing with the Magistrate

- School staff are notified of the arraignment hearing and are encouraged to attend the hearing.
- After the **arraignment hearing**, other hearings may occur:
 - Pretrial/Status Hearings
 - Adjudicatory / Dispositional Hearings

Adult Truancy Conferences

An Adult Truancy Conference is the diversion alternative for cases on adults.

Adult Truancy Conferences are available when the only pending Complaint is one against an adult.

At anytime after the arraignment in adult cases, **the Prosecutor's Office and all other parties may agree to hold the case in abeyance and refer the case to the Assessment Center for an Adult Truancy Conference.**

Lorain County Juvenile Court Assessment and Resource Center

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Mission Statement

The Assessment Center believes that investing in the youth and families of Lorain County is essential. The center is dedicated to providing the best resources and community support available to divert youth, when appropriate, from entering or becoming further involved in the juvenile court system.

About Us

Lorain County Assessment
& Resource Center

Do you have questions? They have answers!

Subject	Person	Position	Contact Information
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Assessment Center	Jen Kerns	Diversion Coordinator	Jen.Kerns@lcfct.org
Case Status / Case Outcome	Michaella Ferrara	Assistant Prosecuting Attorney	Michaela.Ferrara@lcprosecutor.org