

Denial of Enrollment for Non-Attendance, Truancy and Academic Performance

The purpose of this non-regulatory guidance is to clarify for school districts the general due process and reporting requirements when removing a student for chronic truancy or when refusing a student enrollment/reenrollment because of certain academic and attendance deficiencies. This non-regulatory guidance does not constitute legal advice. Specific circumstances and individual school district practices and policies may alter the information herein.

A. Removal of Students from School District Enrollment for Chronic or Habitual Truancy

References: 105 ILCS 5/10-22.6 105 ILCS 5/26-12
105 ILCS 5/26-2a 23 Ill Admin. Code 1.290

The above-referenced sections of the School Code, taken together, allow a school district to remove from the regular attendance rolls a “truant minor,” provided that certain due process requirements are met.

Section 26-2a [[105 ILCS 5/26-2a](#)] defines a “chronic or habitual truant” as “a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for 5% or more of the previous 180 regular attendance days.” Before a chronic or habitual truant can be removed from the regular attendance rolls of the school district, two specific requirements must be met: (1) the student must be provided supportive services and resources; and (2) the student must be given the opportunity to meet with the board of education or a hearing officer acting on its behalf.

Supportive Services and Other Resources: Section 26-12 of the School Code [[105 ILCS 5/26-12](#)] mandates that “available supportive services and other school resources” must be provided to a chronic truant before a school district takes punitive action, including expulsion. These supportive services and resources are spelled out in Title 23, Section 1.290 of the Administrative Code [[23 Ill Admin Code 1.290](#)], and mandate that a school district:

- 1) Provide a definition of a valid cause for absence in accordance with Section 26-2a of the School Code. (*Note that the definition of valid cause for absence in Section 26-2a of the School Code is very specific and is limited to the following: illness, observance of a religious holiday, death in the immediate family, family emergency, other situations beyond the control of the student as determined by the board of education and other such circumstances which cause reasonable concern to the parent for the safety or health of the student.*)
- 2) Describe diagnostic procedures to be used for identifying the causes of unexcused student absenteeism, which shall, at a minimum, include interviews with the student, his or her parents or guardians, and any school officials or other parties who may have information about the reasons for the student's attendance problem.
- 3) Identify supportive services to be made available to a truant or chronically truant student. These services shall include, but need not be limited to, parent conferences, student counseling, family counseling, and information about existing community services which are available to truant and chronically truant students and relevant to their needs.

Due Process Hearing: Section 26-2a [[105 ILCS 5/26-2a](#)] provides that if supportive services are refused or have been provided and have “failed to result in the cessation of chronic truancy,” the student is declared to be a “truant minor.” A truant minor may be removed from the school district’s regular

Denial of Enrollment for Non-Attendance, Truancy and Academic Performance

attendance rolls after the student is offered due process as required in cases of expulsion under Section 10-22.6 of the School Code [[105 ILCS 5/10-22.6](#)].

It is important to note that practices or policies that automatically remove a student from the regular enrollment rolls after a certain number of days are not permissible as they deprive a student of the due process and supportive services that are required by law. School districts that have noncompliant practices or policies are advised to make appropriate revisions immediately.

B. Temporary Exclusion for Failure to Meet Minimum Attendance Standards

References: 105 ILCS 5/26-2(c)
23 Ill Admin. Code 1.242

The School Code allows for the temporary exclusion of a student for failure to meet minimum attendance standards. Specifically, Section 26-2 (c) of the School Code [[105 ILCS 5/26-2\(c\)](#)] provides that “[a] school or school district may deny enrollment to a student 17 years of age or older for one semester for failure to meet minimum attendance standards if all of the following conditions are met:

- (1) The student was absent without valid cause for 20% or more of the attendance days in the semester immediately prior to the current semester.
- (2) The student and the student's parent or guardian are given written notice warning that the student is subject to denial from enrollment for one semester unless the student is absent without valid cause less than 20% of the attendance days in the current semester.
- (3) The parent or guardian is provided with the right to appeal the notice, as determined by the State Board of Education in accordance with due process. (See the discussion of [23 Ill Admin. Code 1.242](#) below).
- (4) The student is provided with attendance remediation services, including without limitation assessment, counseling, and support services.
- (5) The student is absent without valid cause for 20% or more of the attendance days in the current semester.

Title 23, Section 1.242 of the Administrative Code [23 Ill Admin. Code 1.242](#) provides that before being denied enrollment, the parent or guardian of a student who is subject to denial of enrollment for one semester due to failure to meet minimum attendance standards may appeal the determination to exclude the student as follows:

- (a) Upon the request of the parent or guardian, the school board or a hearing officer appointed by the board shall hold a hearing to review the board's determination.
- (b) The parent or guardian shall have the right to appear at the hearing and discuss the board's determination to exclude the student with the board or its hearing officer.

Denial of Enrollment for Non-Attendance, Truancy and Academic Performance

- (c) If a hearing officer has been appointed by the board, he or she shall provide to the board a written summary of the evidence heard at the hearing.
- (d) After the hearing, if held by the board, or after the board's receipt of the hearing officer's written summary, the board may take the action it finds appropriate.
- (e) Any appeal requested by the parent or guardian must be heard and a final determination made under subsection (d) of this Section before the student may be denied enrollment.

Exclusion under this provision is permissive and no student may be excluded for more than one (1) semester based on failure to meet minimum attendance standards.

C. Temporary Exclusion for Failure to Meet Minimum Academic Standards

References: 105 ILCS 5/26-2(c)
23 Ill Admin. Code 1.242

Students may also be temporarily excluded for failure to meet minimum attendance standards. Accordingly, Section 26-2 (c) of the School Code [[105 ILCS 5/26-2\(c\)](#)] provides that “[a] school district may deny enrollment to a student 17 years of age or older for one semester for failure to meet minimum academic standards if all of the following conditions are met:

- (1) The student achieved a grade point average of less than "D" (or its equivalent) in the semester immediately prior to the current semester.
- (2) The student and the student's parent or guardian are given written notice warning that the student is failing academically and is subject to denial from enrollment for one semester unless a "D" average (or its equivalent) or better is attained in the current semester.
- (3) The parent or guardian is provided with the right to appeal the notice, as determined by the State Board of Education in accordance with due process. (See discussion of [23 Ill Admin. Code 1.242](#) below).
- (4) The student is provided with an academic improvement plan and academic remediation services.
- (5) The student fails to achieve a "D" average (or its equivalent) or better in the current semester.

Title 23, Section 1.242 of the Administrative Code [23 Ill Admin. Code 1.242](#) provides that before being denied enrollment, the parent or guardian of a student who is subject to denial of enrollment for one semester due to failure to meet minimum academic standards may appeal the determination to exclude the student as follows:

- (a) Upon the request of the parent or guardian, the school board or a hearing officer appointed by the board shall hold a hearing to review the board's determination.

Denial of Enrollment for Non-Attendance, Truancy and Academic Performance

- (b) The parent or guardian shall have the right to appear at the hearing and discuss the board's determination to exclude the student with the board or its hearing officer.
- (c) If a hearing officer has been appointed by the board, he or she shall provide to the board a written summary of the evidence heard at the hearing.
- (d) After the hearing, if held by the board, or after the board's receipt of the hearing officer's written summary, the board may take the action it finds appropriate.
- (e) Any appeal requested by the parent or guardian must be heard and a final determination made under subsection (d) of this Section before the student may be denied enrollment.

Exclusion under this provision is permissive and no student may be excluded for more than one (1) semester based on failure to meet minimum academic standards.

D. Denial of Enrollment to Students Nineteen (19) Years of Age or Older

References: 105 ILCS 5/10-22.6
105 ILCS 5/26-2(b)

The School Code provides that “[a] school district shall deny reenrollment in its secondary schools to any child 19 years of age or above who has dropped out of school and who could not, because of age and lack of credits, attend classes during the normal school year and graduate before his or her twenty-first birthday” [[105 ILCS 5/26-2 \(b\)](#)]. However, before a student may be denied reenrollment under this provision, he/she must first be offered due process as required in cases of expulsion under Section 10-22.6 of the School Code [[105 ILCS 5/10-22.6](#)].

Students who have been denied reenrollment under this provision must be provided counseling by the district and be directed to “alternative educational programs, including adult education programs, that lead to graduation or receipt of a GED diploma” [[105 ILCS 5/26-2 \(b\)](#)].

Note that the provisions of this section apply only to students who are dropouts. Section 26-2a of the School Code [[105 ILCS 5/26-2a](#)] defines dropout as “any child enrolled in grades 9 through 12 whose name has been removed from the district enrollment roster for any reason other than the student's death, extended illness, removal for medical non-compliance, expulsion, aging out, graduation, or completion of a program of studies and who has not transferred to another public or private school and is not known to be home-schooled by his or her parents or guardians or continuing school in another country.”

E. Students with Disabilities

Reference: 105 ILCS 5/26-2

No child may be denied enrollment or reenrollment under Section 26-2 [[105 ILCS 5/26-2 \(b\)](#)] in violation of the Individuals with Disabilities Education Act or the Americans with Disabilities Act.

Denial of Enrollment for Non-Attendance, Truancy and Academic Performance

F. Transfer Students

Reference: 105 ILCS 5/2-3.13a(c)

Section 2-3.13a(c) of the School Code [[105 ILCS 5/2-3.13a\(c\)](#)] mandates that “a student be counted as a dropout in the calculation of a school's or school district's annual student dropout rate unless the school or school district to which the student transferred (known hereafter in this subsection (c) as the transferee school or school district) sends notification to the school or school district from which the student transferred (known hereafter in this subsection (c) as the transferor school or school district) documenting that the student has enrolled in the transferee school or school district. This notification must occur on or before July 31 following the school year during which the student withdraws from the transferor school or school district or the student shall be counted in the calculation of the transferor school's or school district's annual student dropout rate.”

G. Reporting to the Regional Superintendent & Secretary of State

Reference: 105 ILCS 5/26-3a

Section 26-3a of the School Code [[105 ILCS 5/26-3a](#)] states that a school district “shall furnish quarterly on the first school day of October, January, April and July to the regional superintendent and to the Secretary of State a list of pupils, excluding transferees, who have been expelled or have withdrawn or who have left school and have been removed from the attendance rolls during the period of time school was in regular session from the time of the previous quarterly report.”

This report must include “the names and addresses of pupils formerly in attendance, the names and addresses of persons having custody or control of such pupils, the reason, if known, such pupils are no longer in attendance and the date of removal from the attendance rolls. The list shall also include the names of: pupils whose withdrawal is due to extraordinary circumstances, including but not limited to economic or medical necessity or family hardship, as determined by the criteria established by the school district; pupils who have re-enrolled in school since their names were removed from the attendance rolls; any pupil certified to be a chronic or habitual truant, as defined in Section 26-2a; and pupils previously certified as chronic or habitual truants who have resumed regular school attendance.”

If a student reenrolls in school after being removed from the attendance rolls because of truancy, the student is responsible for sending to the Secretary of State verification of reenrollment on a form provided by the school district.

For additional information or to inquire further about the content of this guidance, please contact the ISBE **Division of Public School Recognition** at **(312) 814-2223**.

This document is intended to provide non-regulatory guidance on the subjects identified. For specific questions, please contact the person(s) identified in the document.