

STATUTES THAT APPLY TO SCHOOL ATTENDANCE & TRUANCY

- Education Code § 48200 et seq: This is the **compulsory school attendance** section which mandates school attendance for youths between the ages of **6 and 18 years**. It also mandates that parents or guardians send the pupil to school.
- Education Code § 48340 **Pupil Attendance Policies (or school attendance policies)** section supports the school districts and county offices of education to adopt pupil attendance policies based on the active involvement of parents, pupils, teachers, administrators, other personnel, and community members. Allows joint efforts between law enforcement and schools to return truant pupils to school.
- CCR, Title 5, Section 420 **Absence is allowed when verified of:**
- a) Illness
 - b) Quarantine directed by a county or city health officer
 - c) Having medical, dental or optometrical services
Attending funeral services of a member of the pupil's immediate family not more than one day if the service is conducted in California and not more than three days if the service is conducted outside of California.
- CCR Title 5, Section 421 This **absence verification** section gives the authority to the following persons to verify an absence due to illness or quarantine:
- a) A school or public health nurse.
 - b) An attendance supervisor.
 - c) A physician.
 - d) A principal.
 - e) A teacher.
 - f) Any other qualified employee of a district or of a county superintendent of schools assigned to make such verification.
- Education Code § 48205 A pupil shall be **excused from school** when the absence is:
1. Due to his or her illness.
 2. Due to quarantine under the direction of a county or city health office.
 3. For the purpose of having medical, dental, optometrical, or chiropractic services rendered.
 4. For the purpose of attending the funeral services of a member of his or her immediate family, so long as the absence is not more than one day if the service is conducted in California and not more than three days if the service is conducted outside California.
 5. For the purpose of jury duty.
 6. Due to the illness or medical appointment during school hours of a child whom the pupil is the custodial parent.
 7. For justifiable personal reasons including, but not limited to, an appearance in court, attendance at a funeral service, observance of a

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holiday or ceremony of his or her religion, attendance at religious retreats or attendance at an employment conference when the pupil's absence has been requested in writing by the parent or guardian and approved by the principal or a designated representative pursuant to uniform standards established by the governing board.

A pupil absent from school under this section shall be allowed to complete all assignments and tests missed during the absence which can be reasonably provided and upon satisfactory completion, shall be given full credit therefore. As the teacher of any class from which a pupil is absent shall determine the tests and assignments shall be reasonably equivalent to, but not necessarily identical to, the tests and assignments that the pupil missed during the absence.

Education Code § 48260:

Defines the **truant** as one who is absent from full day or continuation school without valid excuse for three days in one school year or tardy or absent without valid excuse for more than any 30-minute period during the school day on three occasions in one school year or any combination thereof. **The minor who meets either criterion must be reported to the attendance supervisor or school superintendent.**

Education Code § 48260.5:

Upon pupil's initial classification as a truant, the school district shall **notify the pupil's parent or guardian**, by first-class mail or other reasonable means, of the following:

- (a) That the pupil is truant.
- (b) That the parent or guardian is obligated to compel the attendance of the pupil at school.
- (c) That parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution pursuant to Article 6 (commencing with § 48290) of Chapter 2 of Part 27.
- (d) That alternative educational programs are available in the district.
- (e) That the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.
- (f) That the pupil may be subject to prosecution under § 48264.
- (g) That the pupil may be subject to suspension, restriction, or delay of the pupil's driving privilege pursuant to § 13202.7 of the Vehicle Code.
- (h) That it is recommended that the parent, guardian or person with charge of the child accompany the pupil to school and attend classes with the pupil for one day.**

Labor Code § 230.8

This **Employer – Parent Discrimination** section **allows parents or guardian to participate in school activities** not exceeding eight hours in any calendar month and 40 hours each school year without adverse consequences to employee.

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- Education Code § 48261: This **Truant Repeat** section mandates that the pupil who has once been reported as a truant and who is again absent as a truant to the attendance supervisor or the school superintendent one or more days or tardy on one or more days, **shall again be reported from school without valid excuse to the school district.**
- Education Code § 48262: This **Habitual Truant** section states that any pupil who has been reported as a truant three or more times per school year is deemed a habitual truant **provided that a conscientious effort has been made to hold at least one conference with the parent or guardian and the minor.**
- Education Code § 48263: **Authorizes referral of the habitual truant**, or excessively absent minor, to a SARB. It further authorizes a petition request if all SARB efforts fail.
- Education Code § 48264: Authorizes the **arrest of truants**.
- Education Code § 48264.5: Authorizes the court to order 20 to 40 community service hours within 90 days and/or a fine of up to \$100.00.
- Education Code § 48265: Provides for the **delivery of arrested truants** to parents, school, or a non-secure youth facility.
- Education Code § 48290: The governing board of any school district, shall, on the complaint of any person, make **full and impartial investigation** of all charges against any parent, guardian or any other person having control or charge of any child, for violation of any California School Attendance Laws.
- Education Code § 48291: Mandates **referral to SARB** of the parent or guardian, or other persons with charge of child, who violates the compulsory education laws. If efforts by SARB fail, the school district shall request a criminal complaint. Should a criminal complaint not be filed, SARB is to be notified as to reasons for the rejection.
- Education Code § 48292: Authorizes the school district to seek the **filing of a criminal complaint** against the parent or guardian who does not comply with compulsory education statutes.
- Education Code § 48293: Describes the **penalties for parents** who fail to comply with Education Code § 48200.
(a) The violation is an infraction punishable by:
(1) First conviction: Fine of not more than \$100.00.
(2) Second conviction: Fine of not more than \$250.00.
(3) Third or subsequent conviction: Fine of not more than \$500.00.

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In lieu of a fine the parent or guardian may be ordered to participate in parenting classes.

(b) Willful violation of the court order is punishable as contempt.

Education Code § 48450: Describes the duties of parents regarding students who attend continuation schools.

Education Code §§ 48452 & 48453: Authorizes the seeking of a criminal complaint against parents or guardians who fail to comply with Education Code §48450.

Education Code § 48454: Parent, guardian or person with **charge** of the child who fails to send their minors to compulsory continuation school, per Education Code §48450, may be **guilty of a misdemeanor** which is punishable as follows:
(1) First conviction \$50.00 fine of five days in jail.
(2) Second or subsequent conviction: Not less than \$50.00 or more than \$500.00 fine, jail for not less than five days or more than 25 days, or both.

Education Code § 42238.8: Method for **calculating** school funding based on **actual daily attendance**. The determination of an excused or unexcused absence is irrelevant for accounting purposes. **HOWEVER**, it is still relevant for purposes of enforcement of the compulsory education laws and for the determination of whether a student is truant (in other words, for purposes of prosecution- it is still necessary to identify the unexcused absences).

WELFARE AND INSTITUTIONS CODES

Welfare & Institutions Code § 601 (b) Refers to the habitually truant minor who fails to respond to SARB wherein SARB determines available public or private services are insufficient, inappropriate or unable to correct the habitual truancy of a minor. 601(b) **minors are not to be removed from the custody of parents except during school hours**. This limits the consequences that can be imposed on 601(b) truants.

Welfare & Institutions Code § 601.2 Authorizes SARB to refer the parents or guardian for **adult filing** for violation of Education code §§48293 or 48454.

Welfare & Institutions §601.3(a) (e)(f) Authorizes the District Attorney's Office to establish a **truancy Code mediation** program and mandates guidelines to be followed in conducting mediations with a parent and their truant children. Subdivision (e) gives the DA the power to File a 601 petition on a truant minor after mediation and after consulting with the probation officer.

Welfare & Institutions Authorizes the county **CalWORKS** office to **reduce a family's welfare**

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Code § 11253.5 grant if it is determined that a child is not “regularly attending school as required.”

Welfare & Institutions
Code § 625.5 Authorization for cities and counties to **enact curfew ordinances** and collect a fee for cost of transportation and detention of minors;

VEHICLE CODES

Vehicle Code § 12507 (b) 1 **Documentation of school attendance** for persons age 16-18 prior to being awarded driver’s license.

Vehicle Code § 13202.7: Authorizes the juvenile court to **suspend or delay the driving privilege** for one year of any minor 13018 years old who is a §601(b) ward. If the student does not yet have the privilege to drive, the delay in issuing the driving privilege is subsequent to the time the person becomes legally eligible to drive. For each successive time the minor is found to be a habitual truant, the court may suspend or delay the eligibility for the driving privilege for one additional year.

Vehicle Code § 14607.6(c) (1): Authorizes a peace officer to impound a car wherein the driver is unable to produce a valid driver’s license. This applies regardless of ownership.

IMPORTANT PENAL CODE

Penal Code § 272 Contributing to Delinquency of a Minor: A parent or legal guardian to any person under the age of 18 years shall have the duty to exercise reasonable care, supervision, protection, and control over their minor child. When the defendant is found guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$2,500, or imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in county jail, or may be released on probation for a period not exceeding five years.

Sample of Municipal Codes or City Ordinances authorized by Welfare & Institutions Code § 625.5 to enact curfews and collect a fee for cost of transportation and detention of minors.

13.57.10 LACO – L.A. County for unincorporated areas (language below)

DAYTIME RESTRICTIONS FOR MINORS

13.57.010 Prohibited act.

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A. It is unlawful for any minor under the age of 18 years, who is subject to compulsory education or to compulsory continuation education, to be “absent from school and found in a public place,” as defined in subsection B of this section, unless the minor has one of the valid excuses specified in Section 13.57.020.

B. For purposes of this chapter, a minor is “absent from school and found in a public place” if said minor is found idling, wandering, strolling, playing, or aimlessly driving or riding about in or upon any public street, avenue, highway, road, curb area, alley, park, playground, or other public ground, public place or public building, place of amusement or eating place, vacant lot or unsupervised place, or any place open to the public during the hours **of 8:30 a.m. and 1:30 p.m.** of the same day on days when said minor’s school is in session. (Ord. 96-0009 § 1 (part), 1996.)

13.57.020 Valid excuses.

The provisions of this chapter shall **not apply when a minor has one of the following valid excuses:**

- A. The minor has in his or her possession a written excuse from the minor’s parent(s), legal guardian(s), or other adult person(s) having the legal care or custody of said minor, which excuse provides a reasonable explanation, as determined by the court, for the minor’s absence from school;
- B. The minor is accompanied by his or her parent(s), legal guardian(s), or other adult person(s) having the legal care or custody of the minor;
- C. The minor is upon an emergency errand directed by said minor’s parent(s), legal guardian(s), or other adult person(s) having the legal care or custody of the minor;
- D. The minor is going to or returning directly from a medical appointment;
- E. The minor has permission to leave campus and said minor has in his or her possession a valid, school-issued, off-campus permit;
- F. The minor is going to or returning directly from a public meeting, or place of public entertainment, such as a movie, play, sporting event, dance or school activity, provided such meeting, event or activity is a school-approved activity for the minor or is otherwise supervised by school personnel of said minor’s school; or
- G. The presence of the minor in said place or places is connected with or required by a school-approved or school-related business, trade, profession or occupation in which said minor is lawfully engaged. (Ord. 96-0009 § 1 (part), 1996.)

13.57.030 Infraction--Penalty.

Violation of this chapter shall constitute an infraction punishable by a fine not to exceed \$250.00. (Ord. 96-0009 § 1 (part), 1996.)

13.57.040 Hearing requirement--Parental obligation to attend.

A minor cited for an infraction under this chapter must attend a court hearing on the infraction and must be accompanied at the hearing by his or her parent(s), legal guardian(s), or other adult person(s) having the legal care or custody of said minor. If any such parental or custodial person(s) fails to attend the hearing with the minor, and unless the interests of justice would otherwise be served, the court shall continue the hearing and shall issue a citation to said parental or custodial person(s) directing said person(s) to appear at the continued hearing with the minor. (Ord. 96-0009 § 1 (part), 1996.)

13.57.050 Penalty may be set aside for first infraction.

Notwithstanding Section 13.57.030, the court may set aside the fine imposed by this chapter, or any portion thereof, if the fine is based on the minor’s first infraction under this chapter and provided the minor produces proof satisfactory to the court that the following has occurred during the period between the initial hearing on

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the infraction and any subsequent hearing set by the court:

- A. The minor has had no unexcused absences from school; and
- B. The minor has performed 10 hours of court-approved community service during times other than said minor's hours of school attendance; or
- C. The minor's parent(s), legal guardian(s), or other adult person(s) having the legal care or custody of said minor has or have attended a parenting class or a series of parenting classes approved by the court. (Ord. 96-0009 § 1 (part), 1996.)

13.57.060 Severability.

If any provision or clause of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. (Ord. 96-0009 § 1 (part), 1996.)

45.04 LAMC – City of Los Angeles (language below)

SEC. **45.04**. PROHIBITION AGAINST JUVENILE LOITERING BETWEEN THE HOURS OF 8:30 A.M. AND 1:30 P.M.

(Amended by Ord. No. 172,012, Eff. 6/19/98.)

- (a) **Curfew.** It is unlawful for any minor under the age of 18, who is subject to compulsory education or to compulsory continuation education, alone or in concert with others, be present in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement and eating places, vacant lots or any place open to the public during the hours of 8:30 a.m. and 1:30 p.m. of the same day on days when said minor's school is in session.
- (b) **Exceptions.** The provisions of this section shall not apply when:
1. The minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor;
 2. The minor is on an emergency errand directed by his or her parent or guardian or other adult person having the care and custody of the minor;
 3. The minor is going or coming directly from or to their place of gainful employment;
 4. The minor is going or coming to or from a medical appointment;
 5. The minor has permission to leave campus for lunch and has in his or her possession a valid, school-issued, off-campus permit;
 6. The minor is attending or going to or returning directly home from a public meeting, or place of public entertainment, such as a movie, play, sporting event or school activity; or

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7. The presence of such minor in said place or places is connected with or required with respect to a business, trade, profession or occupation in which the minor is lawfully engaged.
8. When the minor is involved in an emergency such as a fire, natural disaster, automobile accident, a situation requiring immediate action to prevent serious bodily injury or loss of life, or any unforeseen combination of circumstances or the resulting state which calls for immediate action; or
9. When the minor is in a motor vehicle involved in interstate travel; or
10. When the minor is on a sidewalk abutting the minor's residence.
11. The minor is authorized to be absent from his or her school pursuant to the provisions of California Education Code Section 48205, or any other applicable State or federal law. **(Added by Ord. No. 172,603, Eff. 6/28/99.)**
 - (c) **Violation.** Each violation of the provisions of this section shall constitute a separate offense and shall be an infraction unless the minor requests that a petition be filed under Section 601 and 602 of the Welfare and Institutions Code.
 - (d) **Penalties for Violation.** Any person convicted of willfully violating this ordinance is guilty of an infraction punishable by a fine not exceeding \$250.00 and/or perform community service for a total time not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment. Notwithstanding any other provisions of this Code, when a person under the age of 18 years is charged with a violation of this ordinance, and a peace officer issues a notice to appear in Superior Court to that minor pursuant to Welfare and Institutions Code Section 256, the charge shall be deemed an infraction unless the minor requests that a petition be filed under Section 601 or 602 of the Welfare and Institutions Code.
 - (e) **Severability of Provisions.** If any severable provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect other provisions or applications of the ordinance which can be given effect notwithstanding such invalidity.

3995.2 BMC - City of Bell

9.32.050 GMC - City of Gardena

15.7.1 SFMC - City of San Fernando

7.19.020 SGMC - City of South Gate

5-10.02 HPMC - City of Huntington Park

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