

This pamphlet provides information and answers to frequently asked questions about the rights of students and parents/legal guardians as they relate to Truancy Court.

## **WHAT IS “TRUANCY,” AND WHO IS COVERED BY TRUANCY LAWS?**

RI truancy laws apply to any child who is enrolled in kindergarten or between the ages of 6 (as of September 1 of the school year) and 18. The truancy law requires children to “regularly attend” school “during all the days and hours” when school is in session. There are some exceptions to this requirement. For example, the law states that a child is not “truant” when the absences are due to a “physical or mental condition” that made attendance “inexpedient or impracticable.” In addition, a child is not “truant” if the child is attending a home-school program that has been approved by the school committee.

## **WHAT CAN A SCHOOL DISTRICT DO IF IT CLAIMS THAT A CHILD IS TRUANT?**

RI law permits school districts to bring legal proceedings in courthouse-based Family Court against children who the school district claims are “willfully and habitually absent” from school. The law also allows school districts to file lawsuits against the child’s parent/legal guardian, and to charge them with “neglect” for failing to enforce school attendance.

## **WHAT IS THE TRUANCY COURT PROGRAM?**

In school districts where the Family Court operates a school-based Truancy Court Program, a Family Court magistrate comes to one or more of the district’s middle or high schools on designated dates to hold truancy hearings.

**Students and their parents/legal guardians are not required to participate in the school-based Truancy Court Program.** But if they opt to participate, and they cannot afford a private attorney, they forgo their right to be represented by a court-appointed attorney. Importantly, if a child or parent/legal guardian opts to

have truancy proceedings remain in courthouse-based Family Court, they retain this right to a court-appointed attorney. If they decide to remain in Truancy Court, there are legal consequences to agreeing to participate, which are described elsewhere in this pamphlet.

Not all school districts participate in the Truancy Court Program. If a school district does not participate, truancy cases are heard in Family Court. There, the child and parents/legal guardians have the right to dispute the truancy charges. And if the child does not have funds for an attorney, an attorney will be appointed to represent them. That attorney can often help present evidence explaining the absences and challenge the claim that the child is truant.

## **WHAT CHOICES ARE GIVEN TO A CHILD AND THE PARENT/LEGAL GUARDIAN AT THE FIRST TRUANCY COURT HEARING?**

The first contact with the Truancy Court Program may be a written notice via postal mail, that the child has been referred to Family Court for truancy. This notice may also include the location, time, and date of an initial hearing before a magistrate.

If the child and parent/legal guardian don’t attend that hearing, they may later be served with a summons, which requires them to appear before the Truancy Court at a school in the district.

At the first hearing before a magistrate in Truancy Court, the magistrate should explain court procedures and go over all the options available.

The child and parent/legal guardian will be given the choice of (1) remaining in the Truancy Court Program for further hearings on a regular basis, but only if they admit that the child has been truant, or (2) having the case transferred to the Family Court, where, unlike in Truancy Court, an attorney will be provided if the child cannot

**TRUANCY COURT AND FAMILY COURT PROCEEDINGS ARE RECORDED IN CASE ANY DISPUTES ARISE.**

afford one, and the child can present evidence challenging the school district’s claim that they were truant. In both Truancy Court and Family Court, a record is supposed to be kept of everything said at each hearing. In Truancy Court this is done by recording audio. In Family Court, a stenographer types everything that is said.

## **WHAT ARE THE CONSEQUENCES TO PARTICIPATING IN THE TRUANCY COURT PROGRAM?**

By agreeing to participate in the school-based Truancy Court Program that is held in schools before a magistrate, the child:

- The child must admit to being truant and must give up any right to claim that their absences were legitimate
- The child will be asked to sign papers in which they will agree to attend school every day, be on time, behave in school and class, and complete all classwork and homework on time
- The child may miss class time in order to attend these hearings
- The child will be required to attend Truancy Court hearings on a regular basis (usually once per week and often for many months or more) – often with a parent/legal guardian
- The child will be subject to the oversight of the Truancy Court for up to one year, unless the Court determines there is good cause to continue monitoring for longer
- The child may be required to submit a doctor’s note for every absence from school due to illness
- The child may be required to submit to drug testing
- The child may be subject to a curfew or home confinement
- The child may be removed from the home and placed in foster care

In addition, parents/legal guardians may be required to sign a “Release of Confidential Information” authorizing the child’s health care providers to release information about the child to the Truancy Court.

Before each hearing, the magistrate will also check with the school to find out whether the child is attending

school, going to all their classes, completing assignments, and whether any school staff has reported any misbehavior by the child.

If the child or parent/legal guardian asks the case to be transferred to the courthouse-based Family Court, they may still be required to attend multiple hearings, but often those are less frequent, such as once a month. And if the Family Court finds that the child was truant, it may make orders similar to those in Truancy Court, such as an order to submit to drug testing, curfews, home confinement or even foster care.

## **RIGHTS OF PARENTS/LEGAL GUARDIANS**

Parents/legal guardians do have certain rights. For example:

- Parents/legal guardians have the right to be informed of the charges against the child
- Parents/legal guardians have the right to be informed of those charges far enough in advance of any hearing so that they can determine whether they are accurate, and prepare for the hearing
- Parents/legal guardians have the right to speak with a lawyer before the proceeding, and bring a lawyer to the hearing with them.

However, the parent or legal guardian will NOT have the right to maintain that their child is innocent of truancy, and will NOT have the right to present evidence that all or some of the child's absences were excused and should not be the basis for the truancy action UNLESS they have their child's case removed from the school-based Truancy Court and transferred to the courthouse-based Family Court.

**IN FAMILY COURT (BUT NOT IN THE TRUANCY COURT PROGRAM), AN ATTORNEY WILL BE APPOINTED BY THE COURT IF THE STUDENT CANNOT AFFORD ONE.**

## **HAVE YOU RUN INTO PROBLEMS IN THE RHODE ISLAND TRUANCY PROGRAM?**

The ACLU of RI wants to ensure that the rights of students and parents /legal guardians are protected during Truancy Court proceedings.


If you have questions or concerns about the way you have been treated in Truancy Court or believe that unfair conditions have been imposed on your child, please contact us at (401) 831-7171 or at [info@riaclu.org](mailto:info@riaclu.org).

The information in this brochure should not be taken as legal advice. If you have additional questions, or feel your rights may have been violated, please contact the ACLU of Rhode Island.

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**ACLU**  
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# KNOW YOUR RIGHTS

## **TRUANCY COURT**

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