


# Attendance Policy Summer 2023

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PARTNERSHIP OF SCHOOLS

## **Rationale**

For a child to reach their full educational achievement a high level of school attendance is essential. We are committed to providing an education of the highest quality for all our children and we endeavour to provide an environment in which all pupils feel valued, safe and welcome. Parents and children play an important part in making our schools successful. Every child has a right to access the education to which they are entitled.

Securing good attendance cannot be seen in isolation. Effective practices for improvement of attendance work together with the curriculum and wider school policies. Securing good attendance is not the preserve of any individual. It is the partnership and commitment of all school staff, parents and governors in promoting excellent attendance and punctuality for all.

It is our duty to consistently strive to achieve a goal of 100% attendance for all children, whilst realising that for some of our children with complex needs, attendance levels may vary according to some of the wide-ranging physiological barriers to learning that they encounter. Every opportunity will be used to convey to children and their parents or carers the importance of regular and punctual attendance.

For our children to take full advantage of the educational opportunities offered it is vital that they are at school, on time, every day the school is open, unless the reason for the absence is unavoidable. Poor attendance is habitual, prevention and early intervention is crucial to ensure children succeed in education and beyond. The routines children develop around attendance and punctuality at school are the same as the expectations of any future employer in the world of work. High attainment, confidence with peers and staff, and future aspirations, all depend on good attendance.

The DfE has produced guidance for maintained schools, academies, independent schools, and local authorities: [Working together to improve school attendance](#). Our Attendance Policy reflects the key principles within this guidance.

## **Good attendance is important because:**

- statistics show a direct link between under-achievement and absence below 95%
- regular attenders make better progress, both socially and academically
- regular attenders find school routines, school-work and friendships easier to cope with
- regular attenders are more successful in transferring between primary school, secondary school, and higher education, employment or training.
- it develops good habits that children take with them into their next stage of education and beyond.

## **Promoting good attendance**

The foundation for good attendance is a strong partnership between the school, parents and the child.

To help us all to focus on this we will:

- provide information on all matters related to attendance
- enable instant access to your child's attendance data
- report to you on how your child is performing in school, what their attendance and punctuality rate is and how this relates to their attainment
- celebrate good attendance

## **Roles and responsibilities**

### **Administrative person responsible for attendance**

- ensure registers have been completed correctly
- carry out daily attendance checks including absence and lateness follow up
- report absence of LAC children
- undertake home visits as appropriate
- Meet regularly with SLT to discuss:
  - overall weekly % of whole school
  - class % breakdown including Nursery and Reception
  - PP and Non PP for whole school
  - persistent absence and group breakdown
- ensure all correspondence related to attendance is sent out in a timely manner
- complete attendance reports for local school committee/Trustees
- ensure all necessary statutory data returns to the local authority/DFE

### **Responsibilities of Local Governors/Trustees**

- prioritise attendance, and work together with school leaders to develop whole school attendance cultures
- ensuring high aspirations are maintained for all children, but that processes and support are adapted to the individual needs of particular children
- ensuring the schools' attendance management processes are delivered effectively, and that consistent attendance support is provided for children who require it most by prioritising the staff and resources needed.
- evaluate the effectiveness of the School/Trust processes and improvement efforts to ensure they are meeting the needs of children as experiences and barriers to attendance evolve
- monitor attendance patterns across their schools to identify common issues and barriers and share effective practice between schools

### **Responsibilities of Senior Leaders**

- recognise improving attendance is a school leadership issue and have a designated senior leader with overall responsibility for championing and improving attendance
- ensure the attendance policy is consistently applied throughout the school
- ensure good communication with parents on all matters related to attendance
- ensure attendance is recorded accurately
- ensure attendance data is analysed regularly, using data to develop future actions to improve attendance
- ensure that issues are identified at an early stage and support is put in place to deal with any difficulties
- ensure attendance support and improvement is appropriately resourced, including where applicable through effective use of pupil premium funding
- to benchmark data against local and national figures
- ensure school staff receive adequate training on attendance including:
  - the importance of good attendance and that absence is almost always a symptom of wider circumstances,
  - the law and requirements of schools including on the keeping of registers,
  - the school's strategies and procedures for tracking, following up and improving attendance
  - the processes for working with other partners to provide more intensive support to pupils who need it.

### **Responsibilities of classroom staff**

- ensure that all children are registered accurately
- promote good attendance with all children at all appropriate opportunities
- liaise with the attendance leader on matters of attendance and punctuality
- communicate any concerns or underlying problems that may account for a child's absence
- support children with absence to engage with their learning once they are back in school.

### **Responsibilities of children**

- attend every day unless they are too ill to do so
- arrive at school on time, recognising of course where it is beyond the control of those children who are reliant on school transport.

### **Responsibilities of parents/carers**

The law entitles every child of compulsory school age to an efficient, full-time education suitable to their age, aptitude, and any special educational need they may have. It is the legal responsibility of every parent to make sure their child receives that education either by attendance at a school or by education otherwise than at a school.

Where parents decide to have their child registered at school, they have an additional legal duty to ensure their child attends that school regularly. This means their child must attend every day that the school is open, except in a small number of allowable circumstances such as being too ill to attend or being given permission for an absence in advance from the school.

Ensuring your child's regular attendance at school is a parent/carer's legal responsibility (section 444 of the 1996 Education Act) and permitting absence from school that is not authorised by the school creates an offence in law.

### **Parents will:**

- inform the school of the reason for their child's absence on the first day
- be clear about the reason for the absence to enable us to code the absence appropriately
- inform school of any unavoidable planned absences well in advance
- support the school with their child in aiming for 100% attendance each year
- make sure that any absence is clearly accounted for by telephone or email on the first and subsequent days of absence, or by letter if a phone is unavailable
- avoid taking their child out of school for non-urgent medical or dental appointments
- only request leave of absence if it is for an exceptional circumstance.

### **Recording attendance**

Legally the register must be marked twice daily. This is once at the start of the school day, and again for the afternoon session.

### **Lateness/punctuality**

It is important to be on time at the start of the school day. If your child is late they can miss vital information, cause disruption to the lesson for others, and in addition feel uncomfortable or embarrassed.

Our schools follow the guidance set out by the Department for Education which suggests that registers should be closed a maximum of 30 minutes after the start of the school day.

- all lateness is recorded daily. This information will be required by the courts, should a prosecution for non-attendance or lateness be necessary

- arrival after the close of registration will be marked as unauthorised absence and coded *U* in line with Department for Education guidance. This mark shows them to be on site, but is legally recorded as an absence
- if a pupil is late due to a medical appointment, they will receive an authorised absence if medical evidence is provided, coded *M*. Please be advised that, where possible, doctors and dentists appointments are to be made outside of school hours or during school holidays.

Parents, guardians or carers of pupils who have patterns of lateness will be contacted to discuss the importance of good time keeping and how this might be achieved. Ongoing and repeated lateness is considered as **unauthorised absence and will be managed in the same way as poor attendance**.

## Absence Procedures

### First day absence

A child not attending school is considered a **safeguarding** matter. This is why information about the cause of any absence is always required. If your child is absent you must contact us as soon as possible on the first day of absence.

If your child is absent we will:

- telephone or text you on the first day of absence if we have not heard from you – this is because we have a duty to ensure your child's safety as well as their regular school attendance
- invite you in to discuss the situation if absences persist and this is deemed appropriate
- refer the matter to the local authority attendance advisory officer if absence is unauthorised and falls below 90%
- if the child is subject to a child protection plan the procedures set out for day two unexplained absence will be implemented immediately.

### Second day absence

If your child is not seen and contact has not been established with any of the named parents/carers, on the second day of absence, we will make all reasonable enquiries to establish contact. This will include making enquiries to known friends, wider family and undertaking home visits. Where the school is unable to undertake a home visit we will contact the police to request they undertake a welfare check. This action will be taken on day one if the child has complex needs or is subject to a child protection plan.

### Ten days' absence

We have a legal duty to report the absence of any pupil who is absent without an explanation for 10 consecutive days. If the child is not seen and contact has not been established with the named parent/carer then the local authority is notified that the child is *at risk of missing*. Children's Services staff will visit the last known address and alert key services to locate the child. So please help us to help you and your child by making sure we always have an up-to-date contact number. There will be regular checks on telephone numbers throughout the year.

### Continued or ongoing absence

If your child misses 10% or more schooling across the school year, for whatever reason, they are defined as a *persistent absentee*. Absence for whatever reason disadvantages a child by creating gaps in their learning. Research shows these gaps affect attainment when attendance falls below 95%. As such, we monitor all absence thoroughly and all attendance data is shared with the local authority and the Department for Education.

We are fully aware that some of our children may have acute health conditions which, despite the

best efforts of parents and carers, lead to significant ongoing periods of absence. We will work closely with parents to ensure we develop support systems that enable each child to attend school as often as physically possible. Children should never be excluded from school or activities on medical grounds unless they are acutely unwell or hospitalised. If acutely unwell children will access hospital schools supported by their home school as appropriate. We will maintain close links with children and their families during any sustained periods of absence to ensure continuity of relationships and provision. Children in recovery can be supported by a flexible return to schooling which is manageable for them.

Families of children with acute physical and medical conditions that lead to pervasive absence will not follow the same systems and procedures laid out in this policy.

### **Request for leave of absence**

Amendments to school attendance regulations were updated and enforced from September 2013: The Education Regulations state that headteachers may not grant any leave of absence during term time unless there are exceptional circumstances. It is important to note that headteachers can determine the length of the authorised absence, as well as whether absence is authorised at all. The fundamental principles for defining *exceptional* are rare, significant, or unavoidable, which means the event could not reasonably be scheduled at another time. There are no rules on this as circumstances vary from school to school and family to family. There is, however, no legal entitlement for time off in school term time to go on holiday, and in the majority of cases holidays will not be authorised.

Taking holidays in term time will affect your child's schooling as much as any other absence, and we expect parents to support their children's education and the school in not taking children out during school time.

### **Understanding types of absence**

Pupils are expected to attend school every day for the entire duration of the academic year, unless there is an exceptional reason for the absence.

Every half-day absence from school must be classified by the school (not by the parent), as either **authorised** or **unauthorised**. Therefore, information about the cause of any absence is always required. Each half-day is known as a 'session'.

- authorised absence: when the school has accepted the explanation offered as satisfactory justification for the absence or given approval in advance for such an absence. If no explanation is received, absences cannot be authorised
- unauthorised absence: is when the school has not received a reason for absence or has not approved a child's leave of absence from school after a parent's request. This includes:
  - parents giving their children permission to be off school unnecessarily, such as for shopping, birthdays, to look after siblings, holidays;
  - absences which have not been explained.

A leave of absence will not be approved under any circumstance if it involves travel to places which are not recommended by the Foreign Office.

School can, if needed, change an authorised absence to an unauthorised absence and vice versa if new information is presented. Any changes will be communicated to parents/carers. An example of this would be where a parent states a child is unwell, but on return to school there is evidence they have been on holiday.

## **Local Authority attendance support services (Essex)**

Local Authority Attendance Specialists work strategically by offering support to schools, families, and other professionals to reduce persistent absence and improve overall attendance.

Parents are expected to work with the school and local authority to address any attendance concerns. Parents should proactively engage with the support offered, aiming to resolve any problems together. This is nearly always successful. If difficulties cannot be resolved in this way, the school may consider more formal support and/or refer the child to the Local Authority. If attendance does not improve, legal action may be taken in the form of a Penalty Notice (see Annex for the Essex Code of Conduct), prosecution in the Magistrates Court or the application of an Education Supervision Order, designed to strengthen parental responsibilities and ensure improved attendance.

This may take into account:

- A number of unauthorised absences occurring within a rolling academic year
- One-off instances of irregular attendance, such as holidays taken in term time without permission

If issued with a penalty notice, parents must pay £60 within 21 days or £120 within 28 days. The payment must be made directly to the local authority.

If the payment has not been made after 28 days, the local authority can decide whether to prosecute the parent or withdraw the notice.

## **School Attendance and the Law**

By law all children of compulsory school age must receive an appropriate full-time education (Education Act 1996). Parents have a legal duty to ensure their child attends school regularly at the school at which they are registered.

Parents may be recognised differently under education law, than under family law. Section 576 of the Education Act 1996 states that a 'parent', in relation to a child or young person, includes any person who is not a parent (from which can be inferred 'biological parent') but who has parental responsibility, or who has care of the child.

A person typically has care of a child or young person if they are the person with whom the child lives, either full or part time and who looks after the child, irrespective of what their biological or legal relationship is with the child.

Unauthorised absence may result in the school referring to the Local Authority for sanctions and/or legal proceedings. This may include issuing each parent with a Penalty Notice for £120, reduced to £60 if paid within 21 days or referring the matter to the Magistrates Court whereby each parent may receive a fine up to £2500 and/or up to 3 months in prison. If a parent is found guilty in court, they will receive a criminal conviction.

## **Absence data**

We use data to monitor, identify and support individual pupils or groups of pupils when their attendance needs to improve. Persistently absent pupils are tracked and monitored carefully. We

also combine this with academic tracking as increased absence affects attainment.

We share information and work collaboratively with other schools in the area, local authorities, and other partners when absence is at risk of becoming persistent or severe.

**Please note:** If you pay the Penalty Notice and your child has further unauthorised absences additional legal action will be taken.

### **Attendance and Punctuality in the Early Years**

Establishing good habits from the start will help your child to settle more quickly and build good habits for later life. Coming to school on time, every day helps to develop confidence.

Research has shown that, even at the earliest age, children with poor attendance and punctuality are at a disadvantage later in life. They generally find it harder to make and maintain friendships, they achieve less and they often suffer from poor self-esteem. Even if your child only has a part time Nursery place, regular attendance is vitally important.

### **Looked After Children and children with Social Care involvement**

As well as benefitting all children, good attendance at school also provides an additional safeguard for those who are vulnerable. Absence for pupils with a social worker, has been historically higher, with a quarter of children who have ever needed a social worker persistently absent compared to less than 10% of those who had never been in need. For this reason we will ensure attendance of this group of children is monitored robustly.

The attendance of looked after children will be reported to their co-operate parent on a daily basis.

### **Further information**

#### **Leavers**

If your child is leaving our school (other than when transferring to secondary school) parents are asked to:

- give the school office comprehensive information about their plans, including any date of a move and your new address and telephone numbers, your child's new school and the start date when known
- if pupils leave and we do not have the above information, then your child is considered to be a *child missing in education*. This requires schools and local authorities to then carry out investigations to try and locate your child, which includes liaising with Children's Services, the Police and other agencies. By giving us the above information, these investigations can be avoided
- if a child fails to return after a period of 20 days unauthorised absence they will be reported to the local authority as a child missing in education and removed from the school role

### **Home Education**

Parents have the right to withdraw their child from school in favour of home education. Parents must inform the school of their decision to home educate in writing. Once the school receives this notification they will then inform the local authority and take the child off of their role. It is important that the decision to home educate is discussed and considered carefully. Talk to the school about any difficulties your child may be having; once your child has been taken off role their place will be allocated and may not be available to your child if you change your mind at a later date.

### **Children who are permanently excluded, suspended or with long term medical conditions that prevent school attendance**



If a child receives a fixed-term suspension this will be recorded as an E. If the suspension is for a period of 6 days or more, the local authority has a duty to provide education for the child. If the exclusion is permanent it is the local authorities duty to provide education for the child. The school has a duty to inform the local authority of all suspensions and exclusions.

If a medical condition prevents a child of statutory school age from attending school for 15 days or more (consecutive or cumulative), it is the duty of the local authority to liaise with medical practitioners to ensure appropriate education is available for the child. The school will inform the local authority of the absence.

### **Part-time timetables**

All pupils of compulsory school age are entitled to a full-time education. In very exceptional circumstances, where it is in a pupil's best interests, there may be a need for a temporary part-time timetable to meet their individual needs.

A part-time timetable must only be in place for the shortest time necessary and not be treated as a long-term solution. Any pastoral support programme or other agreement should have a time limit by which point the pupil is expected to attend full- time, either at school or alternative provision. There should also be formal arrangements in place for regularly reviews with the child and their parents. In agreeing to a part- time timetable, a school has agreed to a pupil being absent from school for part of the week or day and therefore must treat absence as authorised.

### **Absence through child participation in public performances, including theatre, film or television work and modelling**

Parents of a child performer can seek leave of absence from school for their child to take part in a performance. They must contact the headteacher to discuss the nature and frequency of the work, whether the child has a valid performance licence and whether education will be provided by the employer during any future leave of absence. It is, however, down to the headteacher's discretion as to whether to authorise this and they will wish to discuss with you the nature and frequency of the absence and how learning will continue if absence occurs. Any absence recorded as part of a child's participation in a public performance is recorded as C, an authorised absence.

### **Absence through competing at regional, county or national level for sport**

Parents of able sportsmen and women can seek leave of absence from school for their child to take part in regional, county, national and international events and competitions. It is, however, down to the headteacher's discretion as to whether to authorise this and they will wish to discuss with you the nature and frequency of the absence and how learning will continue if absence occurs. Permission for your child to leave early or arrive late to attend coaching and training sessions is also at the discretion of the headteacher and is not likely to be approved if it is a regular event, unless the sports club or association is providing an education tutor as part of their coaching.

### **Gypsy, Roma, Traveller and Showman families**

Absence of a child from a Traveller family that has left the area may be authorised if the absence is for work purposes only and it is believed that the family intends to return. To ensure the continuity of learning for Traveller children, dual registration is allowed. That means that a school cannot remove a Traveller child from the school roll while they are travelling. When the Traveller is away, the home school holds the place open and records the absence as authorised through the T code. Distance learning packs for Traveller children are not an alternative to attendance at school.

### **Deletion of names from Admission Register**

A pupil's name can only be deleted from the admission register for a reason set out in regulation 8 of the Education (Pupil Registration) (England) Regulations 2006 as amended. A pupil's name must not be removed for any other reason and doing so would constitute off-rolling.

If a child transfers to another school, we will delete a their name from the admission register on the first day they are entered on the admission register of the new school.

We will liaise with our local authority before removing a child from role for any other circumstance including:

- the parent has notified the school in writing that a pupil is receiving education otherwise than at a school
- a child no longer lives a reasonable distance from the school
- a child is unlikely to return to school before ceasing to be of compulsory school age due to health reasons
- a child has not returned following a leave of absence -  
*Where a child has been granted a leave of absence and they have not attended school within the ten school days immediately after the end of the period granted, and the school has made all reasonable efforts to find out their location.*
- a child has been continually absent from school for 20 school days  
*Where a child has been continuously absent from the school for a period of 20 school days or more, the absence has not been authorised by the school and the school has made all reasonable efforts to find out their location.*
- A child has been permanently excluded from school  
*A child's name cannot be deleted from the admission register until the outcome of any consideration of reinstatement and independent review have been completed*

### **Record preservation**

School registers are legal documents. We will ensure compliance with attendance regulations by keeping attendance records for at least three years. Computer registers will be preserved as electronic back-ups or microfiche copies

### **Attendance governor**

The attendance governor for this school is: **Laura Holmes**

*This policy is written in accordance with the guidance set out in 'Working together to improve school attendance' Guidance for maintained schools, academies, independent schools, and local authorities - Published: May 2022 . Applies from: September 2022*

### **Monitoring, evaluation and review**

The Board of Trustees will assess the implementation and effectiveness of this policy. The policy will be promoted and implemented throughout all Trust schools.

This Policy will be reviewed by the Standards Committee on a yearly cycle.

Adherence to the policy will be monitored by the Local School Committee.

Policy adopted:	Summer Term 2023
Other related Policies	Behaviour and Relationships Antibullying Curriculum Framework Safeguarding inc Child Protection Looked After Children Pupil Premium
Next Review:	Summer 2024

## **Appendix 1 – Essex schools only**

### **ESSEX CODE OF CONDUCT PENALTY NOTICES FOR PARENTS OF TRUANTS AND PARENTS OF PUPILS EXCLUDED FROM SCHOOL ANTI-SOCIAL BEHAVIOUR ACT 2003 SECTION 23**

The purpose of this local code of conduct is to ensure that the powers are applied consistently and fairly across the Local Authority area to all Essex residents.

The Government requires Local Authorities to issue a code of conduct and any persons issuing Penalty Notices to a parent<sup>1</sup> must do so in accordance with this protocol. Essex County Council is legislatively responsible for administering the Penalty Notice scheme and will do so in accordance with a number of legislative and non-legislative requirements.

The Essex code has been agreed following consultation with;

- Essex County Council representatives – Attendance Compliance Team and Essex Legal Services.
- Representatives from Governing Bodies and Headteachers of Essex Schools
- Essex Police
- Persons accredited under Essex Police's Community Safety Accreditation Scheme (CSAS)

The Code of Conduct is in accordance with the following legislation;

#### **LEGISLATIVE FRAMEWORK FOR EDUCATION PENALTY NOTICES**

The legal framework governing school attendance and the responsibilities of parents of excluded pupils, schools and the LA is set out in a succession of acts, regulations and other guidance.

#### **Education Act 1996**

Under Section 7 of the Act: the parent is responsible for making sure that their child of compulsory school age receives efficient full-time education that is suitable to the child's age, ability and aptitude and to any special educational needs that the child may have, this can be by regular attendance at school, or otherwise (the parent can choose to educate their child themselves). If it appears to the LA that a child of compulsory school age is not receiving a suitable education, either by regular attendance at school or otherwise then they must begin procedures for issuing a School Attendance Order under Section 437 of the Education Act 1996.

If a child of compulsory school age who is registered at a school fails to attend the school regularly the parent is guilty of an offence under Section 444(1) of the Education Act 1996. In addition, if it can be proved that a parent knew of the child's non-attendance and failed to act, then they may be

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<sup>1</sup> All those defined as a parent under Section 576 Education Act 1996 are parents for the purpose of these provisions. This means that all natural parents, whether they are married or not; any person who, although not a natural parent, has parental responsibility (as defined in the Children Act 1989) for a child or young person; and any person who, although not a natural parent, has care of a child or young person. Having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law. Parent means each and every parent coming within the definition (whether acting jointly or separately) and should not be taken to mean that provisions only apply to parent in the singular. As with prosecutions under Section 444 Education Act 1996 a penalty notice may be issued to each parent liable for the offence.

found guilty under Section 444(1 A). This offence (known as the higher or aggravated offence) can lead to a warrant being issued compelling a parent to attend court and conviction may result in a higher level fine and/or a custodial sentence.

On 6 April 2017, in the case of *Isle of Wight Council v Platt* [2017] UKSC 28, the Supreme Court ruled that the word 'regularly' means 'in accordance with the rules prescribed by the school.'

### **Anti-social Behaviour Act 2003**

<http://www.legislation.gov.uk/ukpga/2003/38/contents>

The Act added two new sections (444A and 444B) to the Education Act. It introduced penalty notices as an alternative to prosecution under Section 444; the issuing of penalty notices is governed by:

- The Education (Penalty Notices) (England) Regulations 2007
- The Education (Penalty Notices) (England) (Amendment) 2013

<http://www.legislation.gov.uk/uksi/2013/757/contents/made>

### **Children Act 1989**

<http://www.legislation.gov.uk/ukpga/1989/41/section/36>

### **Crime and Disorder Act 1998**

<https://www.legislation.gov.uk/ukpga/1998/37/section/16>

### **Education and Inspections Act 2006**

<http://www.legislation.gov.uk/ukpga/2006/40/contents>

### **The Education (Pupil Registration) (England) Regulations 2006 (Amended 2013)**

<http://www.legislation.gov.uk/uksi/2013/756/regulation/2/made>

### **AUTHORISATION TO ISSUE PENALTY NOTICES**

Primary responsibility for issuing penalty notices rests with the Local Authority (LA). It has been agreed that the Attendance Compliance Team, on behalf of Essex LA, will usually issue penalty notices. The Service will administer the scheme from any funds obtained as a result of issuing penalty notices.

Head Teachers (and Deputy Head Teachers and Assistant Head Teachers authorised by the head teacher) and police, and persons accredited by the community safety accreditation scheme are all able to issue the notices under the Act, although there is no requirement for them to do so.

In Essex it has been agreed that the Police and Head Teachers will not issue penalty notices to parents. Persons accredited through the Community Safety Accreditation Scheme<sup>2</sup> are authorised to do so.

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<sup>2</sup> Accredited companies at time of this publication are Attendance Solutions Essex, Aquinas School Attendance Provisions and NEMAT Support Services

## **CIRCUMSTANCES IN WHICH A PENALTY NOTICE MAY BE ISSUED**

Penalty Notices apply to pupils of statutory school age, which commences the term immediately following the child's 5<sup>th</sup> birthday and finishes on the last Friday in June of school year in which they turn 16.

Penalty notices will only be issued as a conclusion to a series of processes and when all attempts to address school attendance matters have been unsuccessful. If a previous Penalty Notice has been unsuccessful, rationale and justification should be provided as to why issuing another Penalty Notice would improve the attendance of the student. If schools are not aware of any previous or current legal interventions they must email [attendancecompliance@essex.gov.uk](mailto:attendancecompliance@essex.gov.uk). A response will be sent within 3 working days.

Parents cannot be penalised more than once for the same period of absence.

Domestic and European legislation and case law makes it clear that when serving a formal Notice in criminal proceedings, the recipient must be clearly and unambiguously identified. For the Purpose of issuing a Penalty Notice under this Code, the parent's first and last name must be cited on the Notice and any covering letter.

Essex partners have agreed to use Penalty Notices for the following circumstances however the offence under s444 Education Act 1996 is the same whether issued for unauthorised leave of absence (ULA) or irregular school attendance (ISA):

### **Penalty notices for unauthorised leave of absence (ULA)<sup>3</sup>**

Penalty Notices may be issued where there have been at least 10 consecutive sessions of unauthorised absence for the purpose of a holiday, whereby a parent made an application to the School which the Head Teacher has deemed not for exceptional circumstances. In addition, a Penalty Notice may also be issued, whereby the parent did not submit a leave of absence request, however the school have reason to believe the absence was for the purpose of a holiday and should not be authorised as parent has not provided any additional evidence which the Head Teacher deems appropriate to support the absence.

In addition to the above criteria, due to the importance of pupils settling into school at the commencement of the school year, Penalty Notices may also be issued if there have been at least 6 consecutive sessions of unauthorised absence during the first two weeks of September due to a term-time holiday.

The Local Authority requests that for Penalty Notices to be issued, parents must be duly warned of the legal ramifications under separate cover if they remove their child from school for the purpose of a holiday. Schools/Academies must reference the use of Penalty Notices within their Attendance Policy which must be available to all parents/carers online and/or in hard copy within the school, accessible to parents to read. Schools should remind parents of the protocol regarding leave of absence during term time.

### **Penalty Notices for Irregular School Attendance (ISA)**

Penalty Notices may be issued where there has been at least 10 sessions of unauthorised absence during the previous 10 school weeks.

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<sup>3</sup> Truancy/unauthorised/irregular school attendance refers to absence from school without permission or good reason and the absence is unauthorised by the school.

Parents must have been issued with a Legal Action Warning Letter with accompanying Legal fact sheet and given opportunities to inform the school of any factors impacting on their ability to ensure their child attends school regularly. Warning letters are valid for 18 calendar weeks.

The Local Authority advises that the following template is used for irregular school attendance referrals as this has been specifically designed to enable the progression of cases if appropriate. This letter must be on headed paper from the school or accredited persons issuing the notice. The legal fact sheet must be included

[https://schools.essex.gov.uk/pupils/Attendance\\_Compliance/Documents/Legal%20Action%20Warning%20Letter%20for%20schools.docx](https://schools.essex.gov.uk/pupils/Attendance_Compliance/Documents/Legal%20Action%20Warning%20Letter%20for%20schools.docx) .

Failure to adequately issue warning to parents may result in the Penalty Notice being withdrawn or not issued.

All penalty notice referrals or notifications from Accredited Persons must be sent via Essex County Council's online portal and all relevant pre-referral work in accordance with the Local Authority requirements must be uploaded alongside the referral/notification.

The Local Authority must be satisfied that the substantive offence in accordance with s.444 Education Act 1996 has been committed prior to issuing a Penalty Notice. Evidence of attempts to address attendance concerns within the previous 8 weeks prior to requesting or notifying of a Penalty Notice must be submitted. Satisfactory evidence includes letters, notes of home visits, meetings, telephone calls etc.

*N.B. for ULA and ISA PN's consideration should always be given to whether it is appropriate to issue to absent parents.*

#### **Number of Penalty Notices which can be issued for Irregular school attendance/unauthorised leave of absence**

Discretion will be used to enable up to two penalty notices to be issued to each parent for each child within a twelve-month period. If the law continues to be broken around school attendance the Attendance Compliance Team may instigate legal proceedings.

#### **Number of Penalty Notices which can be issued for pupils identified during a school attendance and exclusion sweep**

School attendance and exclusion sweeps take place in Essex and children stopped are often with parents condoning the absence.

If the Head Teacher has not authorised the absence of a pupil stopped by a Local Authority Officer and Police Officer on a sweep and there has been at least 9 unauthorised absences for that pupil during the preceding 10 school weeks, school will issue a legal action warning letter to the parent within 14 days. If there are any further unauthorised absences, during the following 18 calendar weeks a referral to the Attendance Compliance Team may be submitted for a Penalty Notice to be issued.

Essex will issue no more than two penalty notices to a parent in a twelve-month period for pupils identified on a school attendance and exclusion sweep. If the law continues to be broken around

school attendance the Attendance Compliance Team will instigate legal proceedings.

### **Excluded children**

When a child is excluded from school, the parent will be responsible for ensuring that their child is not found in a public place during normal school hours on the first five days of each and every fixed period or permanent exclusion. (Section 103 Education and Inspections Act)

The excluding school must have notified the parent informing them of their duty and warning that a penalty notice could be issued.

Where there is more than one person liable for the offence, a separate penalty notice may be issued to each person.

Where a pupil is present in a public place in the first five days of a fixed period exclusion the Essex Local Authority would issue a penalty notice if the school is in their area. Where the child has been permanently excluded, it would be the authority where the child resides.

### **Number of penalty notices which can be issued for exclusion**

Essex will issue a maximum of 2 penalty notices per parent for each child during a 12-month period.

### **Number of penalty notices which can be issued for unauthorised leave of absence**

Essex will issue no more than two penalty notices to a parent in a twelve-month period for unauthorised leave of absence. If the law continues to be broken around school attendance, the Attendance Compliance Team will consider further legal interventions.

### **PAYMENT OF PENALTY NOTICE**

The penalty for each parent issued with a Penalty Notice is £120 for each child, however if paid within 21 days of receipt of the notice, it is reduced to £60. (Service by post is deemed to have been effected, unless the contrary is proved, on the second working day after posting the notice by first class post).

All penalties are paid to the LA and revenue generated is retained to administer the system and contribute towards s444 prosecutions following the non-payment of the Penalty Notice. If the penalty is not paid in full by the end of the 28-day period, the Attendance Compliance Team will either prosecute for the offence to which the notice applies or withdraw the notice. The prosecution is not for non-payment of the notice but is a prosecution for irregular school attendance – Education Act 1996 Section 4441.

There is no statutory right of appeal against the issuing of a penalty notice.

### **WITHDRAWAL OF PENALTY NOTICE**

A penalty notice may be withdrawn by the local authority named in the notice under the following circumstances:

- Where the local authority deems it ought not to have been issued i.e. where it has been issued outside the terms of the local code of conduct or where the evidence does not support the issuing of a penalty notice
- It appears to the local authority that the notice contains material errors



- Where it has been issued to the wrong person named as the recipient.

## **CO-ORDINATION BETWEEN THE LOCAL AUTHORITY AND ITS LOCAL PARTNERS**

The Attendance Compliance Team and its local partners will review this Code of Conduct bi-annually unless local needs require otherwise.

## **VERSIONS**

Original Code of Conduct was introduced in September 2004.

Most recent revision - November 2017

Revised March 2019 for implementation from April 2019