



New Hampshire

# Department of Education *Technical Advisory*

*Serving New Hampshire's Education Community*

## TRUANCY

RSA 189

*This Technical Advisory is intended to clarify changes in the truancy law*

### I. Department Comment:

The primary changes in the truancy law include:

1. Truancy will now be defined as **ten** half days of unexcused absence, instead of the twenty that was allowed previously.

2. *“truancy” means an unexcused absence from school or class and “unexcused absence” is an absence [without parental or administrative permission] **which has not been excused in accordance with RSA 189:34, II(a)**. (Department of Education Note: During the legislative process, it was quite clear that parents, advocates, and legislators were concerned that administrative decisions regarding excused absences would be arbitrary). *Although this no longer allows for a parent to give permission for a student to be absent from school, districts should formulate attendance policies that provide a tiered process of interventions and appeals, involving the parents at each level.**

3. School Boards must now adopt policies that:

- Define “excused absence” and a process for considering exceptions to absences not otherwise excused and;
- Design a process for interventions to address individual cases of truancy as quickly as possible and to reduce the number of habitual truants in the school district. The board shall provide for the participation of parents in the development of the policy. The policy shall include early parental involvement in the intervention process. The policy shall also designate an employee in each school as the person responsible for truancy issues.

Also added was language about the duties of truant officers:

4. Truant officers may now enforce the truancy laws for students age 6 through 18. A truant officer or school official shall not file a petition alleging that the child is in need of services until all steps in the school district’s intervention process have been followed.

In the two years that the legislature spent studying the issue of truancy in the public school system, the emphasis was on creating a balanced public policy. While the policy should provide school administrators and truant officers the authority needed to reduce and prevent truancy,

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*Virginia M. Barry, Ph.D.*

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districts should be both sensitive and reasonable in considering requests for absences to be excused. Policies should not be so strict that absences and truancy would increase.

Excused absences for illness should be considered for both chronic and acute conditions. However, the requirement for a provider note should be carefully contemplated. CDC and NH DHHS recommend that people with influenza-like illness (fever with cough and/or sore throat) remain at home until at least 24 hours after they are free of fever (100° F [37.8°C]), or signs of a fever without the use of fever-reducing medications. With uncomplicated influenza, a fever lasts 2-4 days so the exclusion period would typically be 3-5 days (<http://www.cdc.gov/h1n1flu/guidance/exclusion.htm>). In general, persons who are not in a high risk group and who are recovering well do not normally need to be seen by a provider for diagnosis or treatment of influenza-like-illness and in fact, a provider may not want them to visit the office and spread germs to other patients there. Requiring students to go to a provider's office may also produce undue financial strain on families and undue strain on our health care system in periods of time when there is a higher incidence of acute illness in the community.

If schools decide to require a provider note for any excused absence due to illness, one good option is to require the parent or guardian to contact their provider by phone. If the student does not need to be seen in the office, the provider could then indicate this in writing or by fax or otherwise. Similarly, a child with a chronic illness may have periods of time when they are not able to fully participate in the academic setting and may need to stay at home and rest. Accommodation plans should be in place on a case by case basis to excuse necessary absences for students with chronic illnesses.

The expectation is that the new policy will include a progressive intervention system. Since the law no longer allows a parent to over-ride a school's determination that an absence is unexcused, districts should formulate attendance policies that provide a tiered process of interventions and appeals.

While the law requires that parents be involved in both the development of the policy, as well as early in the intervention process, the department encourages school districts to involve parents at each level, including discussions concerning how the new policy will be implemented.

## II. Actual Text:

<http://www.gencourt.state.nh.us/legislation/2010/HB0154.html>

Explanation: Matter added to current law appears in ***bold italics***.

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Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type

9:1 School Boards; Appointment of Truant Officers. Amend RSA 189:34 to read as follows:

189:34 Appointment.

*I. School boards shall appoint truant officers for their districts.*

***II. School board policies on truancy shall include but not be limited to:***

***(a) A definition of "excused absence" and a process for considering exceptions to absences not otherwise excused.***

***(b) A process for intervention designed to address individual cases of truancy as quickly as possible and to reduce the number of habitual truants in the school district. The board shall provide for the participation of parents in the development of the policy. The policy shall include early parental involvement in the intervention process. The policy shall also designate an employee in each school as the person responsible for truancy issues.***

9:2 School Boards; Truancy Defined. Amend RSA 189:35-a to read as follows:

189:35-a Truancy Defined.

*I. For the purposes of this subdivision, "truancy" means an unexcused absence from school or class and "unexcused absence" is an absence [~~without parental or administrative permission~~]*  
***which has not been excused in accordance with RSA 189:34, II(a).***

*II. [~~Twenty~~] **Ten** half days of unexcused absence during a school year shall constitute habitual truancy.*

*III. A school district shall define the term "half day of absence."*

***IV. Nothing in this section shall affect or limit a school district's power to adopt bylaws concerning truancy pursuant to RSA 193:16.***

***V. Nothing in this section shall affect or limit the duties of a parent pursuant to RSA 193:1.***

***VI. School district attendance records shall be presumed to be true and accurate unless evidence to the contrary is presented.***

9:3 School Boards; Duties. Amend RSA 189:36 to read as follows:

189:36 Duties.

*I. Truant officers shall, when directed by the school board, enforce the laws and regulations relating to truants and children between the ages of [8] **6** and 18 years not attending school or who are not participating in an alternative learning plan under RSA 193:1, I(h); and the laws relating to the attendance at school of children between the ages of [8] **6** and 18 years; and shall have authority without a warrant to take and place in school any children found employed contrary to the laws relating to the employment of children, or violating the laws relating to the compulsory attendance at school of children under the age of 18 years, and the laws relating to*

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child labor. No home school pupil nor any person between the ages of 6 and 18 who meets any of the requirements of RSA 193:1, I(c)-(h) shall be deemed a truant.

***II. A truant officer or school official shall not file a petition alleging that the child is in need of services pursuant to RSA 169-D:2, II(a) until all steps in the school district's intervention process under RSA 189:34, II have been followed.***

9:4 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 7, 2010

Effective Date: July 6, 2010

Contact Person

Susan Randall

[srandall@ed.state.nh.us](mailto:srandall@ed.state.nh.us)

(603) 271-3809

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