School Attendance

Central to raising standards in education and ensuring all pupils can fulfil their potential is an assumption so widely understood that it is insufficiently stated – pupils need to attend school regularly to benefit from their education. Missing out on lessons leaves children vulnerable to falling behind. Children with poor attendance tend to achieve less in both primary and secondary school.

The Government expects schools and local authorities to:

- Promote good attendance and reduce absence, including persistence absence.
- Ensure every pupil has access to full-time education to which they are entitled and
- Act early to address patterns of absence.

The Government expects parents to:

- Perform their legal duty by ensuring their children of compulsory school age who are registered at school attend regularly.
- Ensure their child is punctual to their lessons.

Parents have a legal duty to make sure that their child aged 5-16, if registered at a school, attends regularly. If a child of compulsory school age fails to attend regularly at the school at which they are registered or at a place where alternative provision is provided for them, the parents may be guilty of an offence and can be prosecuted by the local authority’s education welfare services. Education welfare services conduct all investigations in accordance with the Police and Criminal Evidence (PACE) Act 1984.

The local authority has the power to prosecute parents who fail to comply with a School Attendance Order (section 442 of the Education Act 1996) or fail to ensure their child’s regular attendance at school (section 444 of the Education Act 1996).

Leave of absence (Term -time Holiday)

Amendments have been made to the 2006 regulations in The Education (Pupil Registration) (England) (Amended) Regulations 2013. These amendments as described below came into force on 1 September 2013.

Term-time Holiday

The Education (Pupil Registration) (England) Regulations 2006 used to allow headteachers to grant leave of absence for the purpose of a family holiday during term time
in “special circumstances” of up to ten school days leave per year. Headteachers could also grant extended leave for more than ten school days in exceptional circumstances.

Amendments to the 2006 regulations remove references to family holiday and extended leave as well as the statutory threshold of ten school days. The amendments make clear that headteachers may not grant leave of absence during term time unless there are exceptional circumstances. Headteachers should determine the number of school days a child can be away from school if the leave is granted.

These changes do not mean that an application for leave of absence for the purpose of a family holiday cannot be granted by the headteacher. The headteacher has the discretion to grant leave if he/she believes that there are exceptional circumstances. The dictionary definition of exceptional is “unusual” or “rare”. Best practice would be to avoid implementing blanket bans which imply that the headteacher would never authorise leave of absence for the purpose of a family holiday. Such a policy could be challenged by a parent, by way of judicial review. The statutory instrument gives headteachers discretion to grant leave which should not be “fettered” by a blanket policy. Best practice should be to look at each case on its individual merits; although it will be “exceptional” to authorise leave of absence, there may be circumstances where it would be right and reasonable to do so.

The local authority is committed to support schools to help raise attainment and attendance. To help achieve this we will share good practice. Whilst there is no DfE guidance on what would constitute an exceptional circumstance, below are examples that we have been given by headteachers where leave has been granted.

(These examples are illustrative and not meant to be exhaustive)

- Attending the wedding of a family member, family bereavement, prison visits.
- Significant family illness.

Circumstances that may not be considered exceptional are:

- Availability of cheap holidays and cheap travel arrangements.
- Days overlapping with the beginning or end of term.
- Birthday of pupil or family member.

If leave of absence is granted for the purpose of a family holiday registration code H should be used.

If leave of absence for the purpose of a family holiday is not granted and then taken, registration code G should be used which could result in a penalty notice being issued if requested by the headteacher.

Other leave of absence that is granted should be recorded as C in the attendance register. Leave not granted, but taken, should be recorded O.

Parents requesting leave of absence for exceptional circumstances must make the request in writing at least two weeks before the anticipated start date. Best practice would be that the headteacher responds in writing to each parent by name with his/her decision as soon as is practicable. Leave of absence cannot be approved retrospectively. See example letters 1 and 2.
If a penalty notice is not paid the local authority must consider initiating legal proceedings against the parent/carer, for the original offence of unauthorised absence from school. Section 444, Education Act 1996.

In making the decision the local authority should consider the Attorney General’s Guidelines for Crown Prosecutors. The local authority will take into account the number of unauthorised sessions and any mitigating factors where it would not be in the public interest to proceed with legal action.

Parents who remove their child from the school for the purpose of a family holiday without seeking prior approval can be issued with a penalty notice. If the headteacher has compelling evidence that absences were for the purpose of a family holiday, registration code G should be used. See example letter 3. Retrospective approval cannot be given.

The Education (Penalty Notices) (England) Regulations 2007

Amendments have been made to the 2007 Regulations in The Education (Penalty Notices) (England) (Amendment) Regulations 2013. These amendments, as described below, came into force on 1 September 2013.

The 2007 regulations set out the procedures for issuing penalty notices (fines) to each parent who fails to ensure their child’s regular attendance at school or fails to ensure that their excluded child is not in a public place during the first five days of exclusion. Parents had to pay £60 per child, if they paid within 28 days; or £120 if they paid within 42 days.

Amendments to 2007 regulations have reduced the timescales for paying a penalty notice. Parents must, from 1 September 2013, pay £60 within 21 days or £120 within 28 days. This brings attendance penalty notices into line with other types of penalty notices and allows the local authority to act faster on prosecutions.

All maintained and academy schools should consider adopting the local authority’s Penalty Notice Code of Practice. By adopting the process schools can request that the local authority issue penalty notices for unauthorised absences for leave for the purpose of a family holiday that have not been approved. However, schools who adopt the process should avoid adopting a blanket ban. If a blanket ban is adopted by the school, the local authority would not be able to issue a penalty notice for an unauthorised holiday.

The 2013 DfE Advice on School Attendance points out that penalty notices are interventions available to promote better school attendance and behaviour, to improve children’s educational prospects. The advice does say that the measures are permissive, and it is for individual governing bodies and local authorities to decide whether to use them.
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