

Understanding the Truancy Process in Family Court

Helpful information to guide you through your case

WHY IS YOUR TRUANCY CASE IN FAMILY COURT?

- Does the student have open delinquency charges in Family Court?
- Is the student the subject of an open case for Custody, Guardianship, Dependency/Neglect, or Visitation?
- Have you received a notice from Family Court regarding your current Truancy charges?
- Has a contempt petition been filed against the student** for a Truancy matter?

***If any of these situations apply, Family Court will now have jurisdiction over your Truancy case. This means that your Truancy hearings will be with Family Court.**

****Note: Contempt is only filed against the student.**

HOW WILL FAMILY COURT APPROACH MY CASE?

Family Court will be taking a holistic approach to addressing Truancy by evaluating the impact of other contributing factors already being considered by Family Court.



Who participates in the Family Court Truancy Process?

- ❖ Children
- ❖ Parents
- ❖ Guardians (if applicable)
- ❖ Visiting Teachers
- ❖ Presiding Judge
- ❖ Special Agencies*
- ❖ Public Defenders/Attorneys**

* Special agencies only participate as ordered by the hearing officer.

** Attorney representation is mandatory for minors in Contempt proceedings.



IN A TRUANCY CASE, A PARENT/GUARDIAN OR STUDENT MAY BE CHARGED WITH TRUANCY. THE FIRST COURT APPEARANCE IS AN ARRAIGNMENT HEARING.

At the Arraignment hearing:

- An adult can enter a plea or be found "guilty" of failure to enroll or send a child to school. A child 12 years of age or older can enter a plea or be found "responsible" of failure to attend school. Both types of pleas will result in entry into the Family Court Truancy Intervention Program.
- A not guilty or not responsible plea will result in a trial, and you will not have the option to enter the program.

The Truancy Process Step-By-Step

- 1 Truancy charges are filed by the Visiting Teacher
- 2 You will have an Arraignment within 30 days of filing. Please refer to the previous page to review the choices you can make at this hearing.
- 3 If you plead guilty, you will be entered into the Truancy Court Intervention Process and be scheduled for your first Case Review.
- 4 Once you enter the program, you will have Case Reviews where the Court will review your cooperation with program conditions
- 5 If you are successful, you will be discharged without adjudication of guilt or responsible and your charges will be expunged by the Judge. This means that your guilty/responsible charge will be removed from all records.*



*If you are not successful, you will be found guilty or responsible. If the Truancy matter was filed against a child, they will risk a contempt charge upon program termination due to lack of cooperation with a Court order (this does not apply for parent/guardians).

What to Expect in the Case Review Process

A Case Review is a court hearing that occurs periodically:

- **A student, Visiting Teacher, parent/guardian(s), and Judge can explore why a child is missing school and work together to develop a plan to address the obstacles to attendance.**
- **The Judge will order special conditions for the student and/or parent(s), such as: curfew, counseling, or tutoring.**
- **The Judge will review the progress of the student and/or parent(s) for the court record and will decide on the next steps in the program.**

What to Expect in the Case Review Process (continued)

- **If the student and/or parent is making good progress, the Court will consider closing the Truancy case.**
- **If the student and/or parent(s) is not making progress, the Judge may consider more intensive interventions, such as: school counseling, behavioral health programs, or involvement with social services. The Judge may also consider termination from the program, which will result in a Guilty (adult)/Responsible (child) and a possible contempt charge filed against the student.**
- **You will receive an interim order after each Case Review hearing that outlines what you need to do before the next hearing.**

COMPLETING THE PROGRAM

- **Students and/or parent/guardians who successfully complete the program will have their Truancy charge Expunged.**
- **Participants who do not successfully complete the program will have their case closed and they will be terminated from the program. Their Truancy charges will not be expunged, and the charges will remain on their criminal history record.**



If your case goes to trial, what can you expect?

You will be able to:

You can contact the Office of Defense Services for help in your case: the contact information is on the last page of this document

- Provide testimony and present your side of the case
- Present evidence
- Call any witnesses (Note: your witnesses cannot be in the courtroom or in the room with you during your trial)
- Cross-examine any witness that the Visiting Teacher calls

The Visiting Teacher will also be able to:

- Provide testimony and present their side of the case
- Present evidence
- Call any witnesses (Note: your witnesses cannot be in the courtroom or in the room with you during your trial)
- Cross-examine any witness that you call

The Judge will:

- Decide the case, either finding you guilty or responsible if the charge is against the student, or not guilty/responsible. If you are found guilty or responsible, the Judge will issue a sentencing order. If you are found not guilty or responsible, the case is dismissed.

Questions? Email Family Court at: FC_Truancy@delaware.gov
Hours: Monday-Friday 8:30-4:30pm



New Castle County:
Leonard L. Williams Justice Center
500 North King Street
Wilmington, DE 19801



Kent County:
400 Court Street
Dover, DE 19901



Sussex County:
100 East Market Street
Georgetown, DE 19947

You can also contact the **Office of Defense Services:**

<http://ods.delaware.gov/>

(302) 577-5200