

## ATTENDANCE POLICY

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Approved by (Name, date, signature)

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Omnia Foundation Website

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# POLICY FOR ATTENDANCE

## Mission

We believe in investing in people. As professionals in the teaching and training professions, we strive to provide a better future for the children, young people and home settings we work with. Success for us means unleashing the potential of each individual so they can grow, develop and reach the potential of which they are capable. Our values are grounded in our determination to be the change we want to see in the world, through passion, commitment and integrity. We strive to plant a seed of kindness and compassion in a generation that will produce resilience and hope and enable them to aspire and achieve productive and fulfilled lives. Our success is measured in the lives we changed.

At the Omnia Foundation, we create a secure and safe environment that encourages communication, self-belief, mutual respect and success. We provide a rich and balanced curriculum that develops every child, allowing them to achieve their true potential.

## Introduction and Background

The Omnia Foundation recognises that a positive understanding of rights and responsibilities and good attendance are essential in order to raise standards of student achievement and to give every child/young person the best educational experience possible.

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 home setting to make sure their child receives that education either by attendance at an educational setting or by education otherwise than at an educational setting.

Where home settings decide to have their child registered at an educational establishment, they have an additional legal duty to ensure their child attends that setting regularly. This means their child must attend every day that the site 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 or by special arrangement from the establishment.

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 of that guidance.

**This policy is written with the above guidance in mind and underpins the foundation's ethos to:**

- promote children's welfare and safeguarding
- ensure every student has access to the full-time education to which they are entitled
- ensure that students succeed whilst at the foundation
- ensure that students have access to the widest possible range of opportunities at the foundation and when they leave at 16

It has been developed in consultation with governors, teachers, local Headteacher Associations, the Local Authority and parents and carers. It seeks to ensure that all parties involved in the practicalities of attendance are aware and informed of attendance matters in educational settings and to outline our foundation's commitment to attendance matters. It details the responsibilities of individuals and groups involved and the procedures in place to promote and monitor student attendance.

**Our policy aims to raise and maintain levels of attendance by:**

- Promoting a positive and welcoming atmosphere in which students feel safe, secure and valued
- Raising awareness of the importance of good attendance and punctuality
- Ensuring that attendance is monitored effectively and reasons for absences are recorded promptly and consistently

For our students to gain the greatest benefit from their education it is vital that they attend regularly and be on-site, on time, every day we are open unless the reason for the absence is unavoidable.

The foundation recognises that all our students have 1) special educational needs which means that attending on-site may present a variety of difficulties and 2) had a largely negative experience of education which has left them disengaged and mistrustful.

We understand that securing engagement and therefore improving attendance can be a huge challenge and we work closely with home settings and external agencies to provide the best possible access to an engaging curriculum.

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## Promoting Regular Attendance

At the Omnia Foundation, we believe in developing good patterns of attendance and set realistic expectations for the attendance and punctuality for all our students from the outset. We recognise the connections between attendance, attainment, safeguarding and wellbeing.

Given the needs of our students, there are a number of situations which require a significant degree of latitude for students and their home settings and the approach we take is one of patience and understanding:

- the vast majority of our students live a good distance away from the site and travel by taxi each way. There are sometimes issues with traffic that may mean that a student is late to site. We maintain strong and positive relationships with the transport companies to ensure that the students' needs are met as delays to their journey can result in acute anxiety.
- the special needs of our students often manifest in emotional dysregulation and it may be that following incidents in the home setting or having a negative experience or having a disagreement on-site with another student or member of staff may result in "school refusal," sometimes for a short period, sometimes for much longer. The foundation has a dedicated outreach team that will go out to students in their home settings and deliver as much learning as they can. As far as is possible, this will be in line with what the students would be receiving on-site but the curriculum will be individualized to take account of students' preferences and interests and availability of resources and experiences in their home locality.

**The name and contact details of the senior leader responsible for the strategic approach to attendance in our school is:**

**Name Mrs Lianne West, Head of Foundation**

**Email: l.west@omniafoundation.co.uk**

Helping to create a pattern of regular attendance is the responsibility of home settings, students and all members of foundation staff.

## Understanding Types of Absence

Ensuring a child's regular attendance at an educational establishment is the responsibility of the home setting and allowing absence from education without a good reason creates an offence in law and may result in prosecution.

**At the Omnia Foundation, given the needs of our students, it is rare that we would apply for a prosecution unless we assessed there to be grounds for safeguarding concerns. Pursuit of prosecution would be a last resort.**

Every half-day absence from education must be classified by the foundation (not by the home setting), 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 absences** are morning or afternoon sessions away from learning for a genuine reason such as illness (although you may be asked to provide medical evidence for your child before this can be authorised), medical or dental appointments which unavoidably fall within the foundation day, emergencies, or other unavoidable cause.

**Unauthorised absences** are those which the foundation does not consider reasonable and for which no 'leave' has been granted. This type of absence can lead to the foundation referring to the Local Authority for penalty notices and/or legal proceedings. We will work tirelessly with home settings and our young people to engage them as much as we can in learning and our goal is always to maximise time spent on-site as this supports the development of social skills and strong relationships with peers and adults alike.

**At the Omnia Foundation, unauthorised absence includes but is not limited to:**

- holidays taken during term time without leave, not deemed 'for exceptional purposes' by the Head of Foundation. This may result in the foundation applying to the local authority to issue a penalty notice or if you have previously been issued a Penalty Notice, the foundation may request a direct prosecution by the local authority
  - day trips
  - other leave of absence in term time which has not been agreed
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## Persistent Absenteeism (PA)

A student is defined by the Government as a 'persistent absentee' when they miss 10% or more schooling across the school year for any reason; this can be authorised or unauthorised absence. Absence at this level will cause considerable damage to any student's education and we need the full support and co-operation of home settings to resolve this.

However, as previously explained, the foundation recognises that due to the significant needs and negative experiences of our students, considerable support is necessary to secure engagement and the outreach and hub teams will plan and implement programmes of learning designed to meet students' needs on or off-site.

## Absence Procedures

The name and contact details of the school staff member students and home settings should contact about attendance on a day-to-day basis is:

Name Mrs Sheri Powell

Email: [s.powell@omniafoundation.co.uk](mailto:s.powell@omniafoundation.co.uk) Telephone: 01268 385977 or 07592 366286

We monitor all absence, and the reasons that are given, thoroughly.

If a student is going to be absent from learning, we ask home settings to follow these procedures:

- Contact the foundation on the first day of absence before 9.00 am. The foundation has an answer phone available to leave a message if nobody is available to take your call or you may email the above address
- Contact the foundation on every further day of absence, again before 9.00 am
- Ensure that your child engages with learning as soon as possible and you provide any medical evidence, if requested, to support the absence

If your child is going to be absent from learning, we will:

- Telephone or text you on the first, and every subsequent day of absence, if we have not heard from you.
- Do everything in our power to make contact visits and deliver learning as often as possible in or close to the home setting
- If we are unable to contact home settings by telephone, we will telephone emergency contact numbers, send letters home and a home visit may be made in the interests of safeguarding
- A referral will be made to Local Authority if no contact has been made with home settings by the 10th day of absence (or sooner if deemed appropriate), at which point your child will be "missing from education."

If absence continues, we will:

- Create a personalised support plan to address any barriers to attendance
- Offer signposting support to other agencies or services if appropriate

## Lateness

Good timekeeping is a vital life skill which will help children as they progress through their education and out into the wider world.

As explained above, however, given our students needs and the distance that they often live from the foundation, it is important to exercise discretion when addressing issues with punctuality.

Home settings can approach us at any time if they are having difficulties getting their child to engage with learning, including using delaying tactics with taxi companies.

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## Understanding barriers to attendance

Any barriers preventing regular attendance are best resolved between the foundation, the home setting, and the student. We will work with all parties to understand the root problem and provide any necessary support. We can use outside agencies to help with this, such as Mental Health and Emotional Wellbeing support services, a Child and Family Support Worker or the relevant Local Authority team/s. Where outside agencies are supporting home settings, you may be invited to attend a Team Around the Family meeting (TAF) to consider what is working well and what needs to improve. An individualised early help plan will be agreed and subsequently reviewed.

At the Omnia Foundation, many of our students face greater barriers to attendance than their peers. These include students with vulnerabilities other than their special needs. Realistic expectations of attendance and engagement with learning remain, however, and we will strive with home settings and students to support improved attendance whilst being mindful of the additional barriers faced. We can discuss reasonable adjustments and additional support from external partners where appropriate.

See Annex A for summary tables of responsibilities for attendance.

**Where students require more intervention with attendance and engagement with learning, the hub and outreach teams will work together with the student and their home setting to plan and deliver a programme in or local to the home setting. Contact details will be shared at the start of each academic year.**

## Local Authority attendance support services

Home settings are expected to work with the foundation and local authority to address any attendance concerns. Home settings 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 foundation may consider terminating a placement and will work with the Local Authority to consider all possible alternatives.

## 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. At the Omnia Foundation, we refer to this as "the home setting." We recognise that some of our students are in the care of the local authority and subject to statutory support.

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.

See Annex B for the Essex Code of Conduct.

**There is no entitlement in law for students to take time off during the term to go on holiday.** In addition, the Supreme Court has ruled that the definition of regular school attendance is "in accordance with the rules prescribed by the school".

The Education (Student Registration) (England) Regulations 2006 were amended in September 2013. All references to family holidays and extended leave have been removed. The amendments specify that headteachers may not grant any leave of absence during term time unless there are "exceptional circumstances" and they no longer have any discretion to authorise up to ten days of absence each academic year.

At the Omnia Foundation, leave of absence shall not be granted in term time unless there are reasons considered to be exceptional by the Head of Foundation irrespective of the student's overall attendance. Only the Head of Foundation or their designate (not the local authority) may authorise such a request and all applications for a leave of absence must be made in writing on the prescribed form provided by the foundation. Where a home setting removes a child when the application for leave was refused or where no application was made to the foundation, the issue of a penalty notice may be requested by the foundation in accordance with the Essex Code of Conduct.

A Penalty Notice may be issued where there have been at least 10 consecutive sessions of unauthorised absence for the purpose of a holiday. However, due to the importance of students settling into school at the commencement of the academic year, Penalty Notices may also be issued if there have been at least 6 consecutive sessions of unauthorised absence during the first two calendar weeks of September due to a term-time holiday.

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At the Omnia Foundation 'exceptional circumstances' will be interpreted as:

... being of unique and significant emotional, educational, or spiritual value to the student which outweighs the loss of teaching time (as determined by the Head of Foundation). The fundamental principles for defining 'exceptional' are events that are "rare, significant, unavoidable and short". By 'unavoidable' we mean an event that could not reasonably be scheduled at another time, outside of school term time.

We will not consider applications for leave during term time:

- at any time in September. This is very important as your child needs to settle into their new routine at the start of the academic year as quickly as possible.
- during assessment and test periods in the academic calendar affecting your child.

If leave of absence is authorised, there is no expectation that students engage in curricular type activities while on holiday.

## Deletion from Roll

For any student leaving the Omnia Foundation, other than leaving at the end of year 11, exit arrangements will be made in liaison with the local authority as all the students are subject to an Education, Health and Care Plan. Usually an early annual review is called where all agencies are able to meet with the home setting to discuss why the foundation is no longer the most appropriate setting for the student. The local authority will lead on the paperwork necessary to facilitate the termination of the placement.

It is crucial that home settings keep the foundation updated with current addresses and details for key contacts in case of emergency.

Under Student Regulations 2006, all educational settings are now **legally required** to notify their Local Authority of **every new entry** to the admission register **within five days** of the student being enrolled. In addition to this, **every deletion** from the register must also be notified to the Local Authority, as soon as the ground for deletion has been met in relation to that student, and in any event no later than the time at which the student's name is deleted from the register. This duty does not apply when a student's name is removed from the admission register at a standard transition point – when the student has completed the final year of education normally provided by that establishment.

## Absence data

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

## Summary

The foundation has a legal duty to publish its absence figures to home settings and to promote attendance.

Equally, home settings have a duty to make sure that their children attend school, on time, every day.

*All foundation staff and the Executive Board are committed to working with home settings and students as this is the best way to ensure as realistic a level of attendance at the foundation as possible.*

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## Annex A: DfE guidance Summary table of responsibilities for school attendance. September 2022

### All Students

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<p>Ensure their child attends every day the school is open except when a statutory reason applies.</p> <p>Notify the school as soon as possible when their child has to be unexpectedly absent (e.g. sickness).</p> <p>Only request leave of absence in exceptional circumstances and do so in advance</p> <p>Book any medical appointments around the school day where possible.</p>	<p>Have a clear school attendance policy on the school website which all staff, students and parents understand.</p> <p>Develop and maintain a whole school culture that promotes the benefits of good attendance.</p> <p>Accurately complete admission and attendance registers.</p> <p>Have robust daily processes to follow up absence.</p> <p>Have a dedicated senior leader with overall responsibility for championing and improving attendance.</p>	<p>Take an active role in attendance improvement, support their school(s) to prioritise attendance, and work together with leaders to set whole school cultures</p> <p>Ensure school leaders fulfil expectations and statutory duties.</p> <p>Ensure school staff receive training on attendance.</p>	<p>Have a strategic approach to improving attendance for the whole area and make it a key focus of all frontline council services.</p> <p>Have a School Attendance Support Team that works with all schools in their area to remove area-wide barriers to attendance.</p> <p>Provide each school with a named point of contact in the School Attendance Support Team who can support with queries and advice.</p> <p>Offer opportunities for all schools in the area to share effective practice.</p>

### Students at risk of becoming persistently absent

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<p>Work with the school and local authority to help them understand their child's barriers to attendance.</p> <p>Proactively engage with the support offered to prevent the need for more formal support.</p>	<p>Proactively use data to identify students at risk of poor attendance.</p> <p>Work with each identified student and their parents to understand and address the reasons for absence, including any in-school barriers to attendance.</p> <p>Where out of school barriers are identified, signpost and support access to any required services in the first instance.</p> <p>If the issue persists, take an active part in the multi-agency effort with the local authority and other partners. Act as the lead practitioner where all partners agree that that the school is best placed lead service. Where the lead practitioner is outside of the school, continue to work with the local authority and partners.</p>	<p>Regularly review attendance data and help school leaders focus support on the students who need it.</p>	<p>Hold a termly conversation with every school, discuss and signpost or provide access to services for students who are persistently or severely absent or at risk of becoming so.</p> <p>Where there are out of school barriers, provide each identified student and their family with access to services they need in the first instance.</p> <p>If the issue persists, facilitate a voluntary early help assessment where appropriate. Take an active part in the multi-agency effort with the school and other partners. Provide the lead practitioner where all partners agree that a local authority service is best placed to lead. Where the lead practitioner is outside of the local authority, continue to work with the school and partners.</p>

**Persistently absent students**

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<p>Work with the school and local authority to help them understand their child's barriers to attendance. Proactively engage with the formal support offered – including and parenting contract or voluntary early help plan to prevent the need for legal intervention.</p>	<p>Continued support as for students at risk of becoming persistently absent and: Where absence becomes persistent, put additional targeted support in place to remove any barriers. Where necessary this includes working with partners. Where there is a lack of engagement, hold more formal conversations with parents and be clear about the potential need for legal intervention in future. Where support is not working, being engaged with or appropriate, work with the local authority on legal intervention.</p>	<p>Regularly review attendance data and help school leaders focus support on the students who need it.</p>	<p>Continued support as for students at risk of becoming persistently absent and: Work jointly with the school to provide formal support options including parenting contracts and education supervision orders. Where there are safeguarding concerns, ensure joint working between the school, children's social care services and other statutory safeguarding partners.</p>

**Severely absent students**

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<p>Work with the school and local authority to help them understand their child's barriers to attendance. Proactively engage with the formal support offered – including any parenting contract or voluntary early help plan to prevent the need for legal intervention.</p>	<p>Continued support as for persistently absent students and: Agree a joint approach for all severely absent students with the local authority.</p>	<p>Regularly review attendance data and help school leaders focus support on the students who need it.</p>	<p>Continued support as for persistently absent students and: All services should make this group the top priority for support. This may include a whole family plan, consideration for an education, health and care plan, or alternative form of educational provision. Be especially conscious of any potential safeguarding issues, ensuring joint working between the school, children's social care services and other statutory safeguarding partners. Where appropriate, this could include conducting a full children's social care assessment and building attendance into children in need and child protection plans.</p>



**Support for students with medical conditions or SEND with poor attendance**

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<p>Work with the school and local authority to help them understand their child's barriers to attendance.</p> <p>Proactively engage with the support offered.</p>	<p>Maintain the same ambition for attendance and work with students and parents to maximise attendance.</p> <p>Ensure join up with pastoral support and where required, put in place additional support and adjustments, such as an individual healthcare plan and if applicable, ensuring the provision outlined in the student's EHCP is accessed.</p> <p>Consider additional support from wider services and external partners, making timely referrals.</p> <p>Regularly monitor data for such groups, including at board and governing body meetings and with local authorities.</p>	<p>Regularly review attendance data and help school leaders focus support on the students who need it.</p>	<p>Work closely with relevant services and partners, for example special education need, educational psychologists and mental health services to ensure joined up support for families.</p> <p>Ensure suitable education, such as alternative provision, is arranged for children of compulsory school age who because of health reasons would not otherwise receive a suitable education.</p>

**Support for students with a social worker**

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<p>Work with the school and local authority to help them understand their child's barriers to attendance.</p> <p>Proactively engage with the support offered.</p>	<p>Inform the student's social worker if there are any unexplained absences and if their name is to be deleted from the register.</p>	<p>Regularly review attendance data and help school leaders focus support on the students who need it.</p>	<p>Regularly monitor the attendance of children with a social worker in their area.</p> <p>Put in place personal education plans for looked-after children.</p> <p>Secure regular attendance of looked-after children as their corporate parent and provide advice and guidance about the importance of attendance to those services supporting students previously looked after.</p>

## Annex B

### ESSEX CODE OF CONDUCT

### PENALTY NOTICES FOR PARENTS OF TRUANTS AND PARENTS OF STUDENTS

### 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 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 students, 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 found guilty under Section 444(1A). 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>

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**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 (Student 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 are authorised to do so.

**CIRCUMSTANCES IN WHICH A PENALTY NOTICE MAY BE ISSUES**

Penalty Notices apply to students of statutory school age, which commences the term immediately following the child's 5th 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)**

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 students 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.

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#### **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.

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/students/Attendance\\_Compliance/Documents/Legal%20Action%20Warning%20Letter%20for%20schools.docx](https://schools.essex.gov.uk/students/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 students 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 student stopped by a Local Authority Officer and Police Officer on a sweep and there has been at least 9 unauthorised absences for that student 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 students 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 student 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.

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#### **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

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## Annex C

DfE “The link between absence and attainment at KS2 - 2013/14 academic year”

The analysis of the link between overall absence and attainment when taking prior attainment and student characteristics into account showed that, for each KS2 and KS4 measure, overall absence had a statistically significant negative link to attainment - i.e. every extra day missed was associated with a lower attainment outcome.

