

## ODE HB 410 Conference Calls Summary

*October 6, 2017*

**Question: If the records are not sent until a week after the student enrolls what should you do?**

Answer: The attendance record and any applicable absence intervention plans should follow the student and the student's hours at a previous district count towards the threshold for habitual truancy or excessive absences. However, the HB 410 timelines begin once you have *discovered* that the student has met the threshold for habitual truancy or excessive absences. Therefore, if after receiving the student's attendance records (either immediately or with a delay), the district finds the student has met a threshold, then the HB 410 timeline begins from the point of discovery with the district having 7 days from that time to notify parents. If, upon receipt of the records, the district finds that the student has previously met a habitual truancy threshold and already has an absence intervention plan in place, then the new district is expected to assign that student to an absence intervention team and continue (or modify) the absence intervention plan for the remainder of the 61-day period for monitoring progress prior to a juvenile court filing. If the new district's absence intervention team determines the plan must be amended, the student would have 61 days from the amended plan to successfully implement – even if the student was already in the middle of implementing a plan at their previous district.

**Question: If a student transfers in with a plan, can the district modify it like they would an IEP based on the services they have available.**

Answer: Absolutely, if the plan has a start date and a new district wishes to modify it, they should start the 61-day timeline over from that date. It is possible that a change in district or living situation may reduce some of the barriers to the student's attendance, so modifying the attendance plan with a new 61-day timeline to more accurately reflect any new situations is appropriate. More detail is also in the FAQ.

**Question: If we have a student who is missing school because of a number of doctors' appointments should we still send the letter?**

Answer: Yes, you still must send a letter if the student hits the threshold for excessive absences. If the student has excused absences he would never be habitually truant, but could meet the threshold of excessive absences. You could never file truancy charges with the court because the absences are excused. For students that meet the excessively absent threshold, you are still required to notify parents and implement intervention strategies, but it should be more informal. If, for example, a student has trouble getting to school because of doctors' appointments, you could implement strategies, or even an informal plan, for that child where the parent agrees to attempt to schedule appointments outside of schools hours.

**Question: The statement in the rules about truancy plans for excessively absent students is misleading.**

Answer: The law actually says if the child is excessively absent you follow your district's truancy plan. It is referring to a broader district policy about attendance and truancy and not referring to an absence intervention team (that is required for habitually truant students). For students who are excessively absent (vs. habitually truant), you do not need to do an absence intervention plan, merely follow your

district policy. Districts' policies vary but it is a local decision. Refer to the FAQ to see the language. The FAQ also has information about the difference between a truancy plan and an absence intervention plan, as well as excused and unexcused absences.

**Question: How should a district handle absences for a child in foster care?**

Answer: The State Board of Education is currently working on rule changes that would permit absences to be counted as excused if they are due to the child being placed in foster care or due to the child being homeless. However, just because a child is in foster care doesn't mean all absences are excused. The intent is to permit court appointments or other required obligations that are a result of being placed in foster care as being excused. Homeless students will also be included in this rule change. This is the rule that is undergoing change: <http://codes.ohio.gov/oac/3301-69-02>

**Question: What do you know about ITC's and student information system providers?**

Answer: The state EMIS team meets regularly and it is on their agenda at each meeting. We know they are working on it. Informational updates should also be coming to the districts via their particular Student Information System provider, as well as their local ITC.

**Question: We have a big problem with the 17 year olds who are not responding to letters and are not coming to school and we know the courts are not going to prosecute them.**

Answer: ODE is aware it is a problem and HB 410 does not provide a lot of leverage, but districts still need to document attempts to comply with the law.

**Question: What are the top two questions that are coming from districts?**

Answer: The first is how suspensions count. While suspensions are technically unexcused absences, they don't count toward truancy triggers because the law does not actually use the terms excused and unexcused. It states whether they are legitimate and not legitimate. Suspension is a legitimate excuse because the student could get charged with trespassing if they come to school.

The second is about how you track and report tardies and early dismissals. It is up to the district to decide how they track them, but our guidance says that they have to be rounded to the nearest hour. Districts can record by the minute if they choose to. The hope is when the student information systems get revised that will become easier. Districts will need to develop a policy differentiating between excused and unexcused tardies.

**Question: What about kids who have chronic illness?**

Answer: There are a couple of layers to the answer. If the student is on home instruction then they are not absent. If the child has attendance flexibility in a 504 plan or an IEP, the plan trumps HB 410. If a child has a chronic illness such as asthma or type 1 diabetes, any absence with a doctor's excuse should be excused. Districts have a lot of discretion about how long a parent has to present an excuse or if a note is required for every absence or if one note will suffice for the quarter/semester/year. Districts should include their requirement in the student handbook. If the absence is an excused absence, a student can't be considered habitually truant but can still be excessively absent. A letter notifying the parents of excessive absences will still have to be sent to the parents, but the district can modify or

personalize the standard letter to fit the circumstances to keep the working relationship positive between the parent and school.

**Question: The biggest concern is the students who don't show up even the first day of school and are flying through the thresholds.**

Answer: The district that is accountable for the student is always responsible for all HB 410 rules even if you know the student is not going to show up and before you can file truancy with the juvenile court you need to go thru all of the requirements. However, the plan you create for a student in this situation does not have to be intricate. It can simply state that if the child does not show up by a certain date (the 61<sup>st</sup> day after creating the plan) the district is going to file truancy.

**Question: District are struggling to get attendance for students in out-of-district placements in a timely manner. What should they do?**

Answer: The districts need to have a working arrangement with the placement staff. Both should share the responsibility to report attendance in a timely a reliable manner. It is a complicated issue for like College Credit Plus, online programs and Joint Vocational School programs. For online learning programs that are home-based. The log-in records for the online program should be used to track attendance. There is the expectation that students are still logged in and participating for a "school day" at a minimum. Therefore, if their home school building's school day is 5 hours, they are missing time if they are participating anything less than the 5 hours. For students attending Joint Vocational Schools, the place (district or JVS) where the student spends the majority of their time would be responsible for tracking attendance (in partnership with the other entity), notifying parents and creating an absence intervention plan and reporting for EMIS requirements. For students enrolled in College Credit Plus, districts are only required to track attendance for any time that a student enrolled in CCP is expected to be on the high school campus.

**Question: What do you do if a student is operating on a plan and then withdraws for homeschooling?**

Answer: Keep the documentation on file along with the withdrawal. Traditional Homeschooling would require the superintendent's approval to be excused from compulsory attendance.

**Question: What do you do if the parent reports that the child is a runaway and is no longer living in the district?**

Answer: As referenced previously, you have to follow the law for the student even it is hard to write a plan for a child you know will not show up. The absence intervention plan does not have to be intricate, but can simply state that the district will file a truancy complaint with the juvenile court if the student does not attend by a certain date. The district cannot file these charges unless you have followed the notification and absence intervention plan requirements of HB 410. The district must also flag the student's record in case the child is reported as a missing child or abducted. Law enforcement should be notified if a records request is made.

**October 13, 2017**

**Question: When Charter schools send a district names of students who have exceeded the 105 hour rule, but they don't send the attendance what should be done to follow-up and what is the district's liability?**

Answer: This is not as much a HB410 question as a system issue. In terms of HB410, you are not responsible for including the previous attendance history or absence intervention plan if you never receive these records from the charter school. You will only be required to start counting attendance from the first day of enrollment in your district. *ODE is following up with more information for our next call to get more clarity on the process.*

**Question: What happens if the district doesn't receive any information from the charter school about the student? A district can't just enroll a student who has not come to the district to enroll. What should the district be doing? Is it the district's responsibility to go and try to find the student?**

Answer: This is a charter school issue, not a HB140 issue. There has been a long standing question about who is responsible to ensure the student who is under 18 is in school somewhere. It would appear that it is the home district's responsibility to enroll the student but without information about them it is difficult to see how the district can do that. *ODE is going to follow up and get a charter school expert to join us on the next conference call (10/30) so we can get an answer to the question.*

**Question: Is a district has a student on the Jon Peterson scholarship who is not coming to school, who is supposed to follow up on that truancy?**

Answer: HB410 does not apply to any private or parochial school. They are responsible to follow their own truancy policies. This also applies to any student on a Peterson, Autism, or Ed Choice scholarships. Wherever they are attending, that school is responsible to see they attend school but not under the HB410 requirements.

**Question: I was looking over the guidance and the Q&A and my concern is about the compulsory age and the 17 year olds who are literally about to graduate but are not coming to school? HB 410 does not address those individuals specifically.**

Answer: There has not been a lot of conversation at ODE about it and I think it is a question a lot of districts have. ODE is working with the Supreme Court, like districts are working with Juvenile Court, because they have concerns about 18 year olds being involved in HB 410 since they can't go to Juvenile Court at that age. That would be a major change in the legislation. This is also a problem with the 17-year olds who are about to turn 18 and are not responsive to the district's efforts. They often turn 18 within the timelines in HB410 before a districts can implement a plan. The district may have a plan on file, but once they are 18, the district policies about truancy take effect, though a district may still not suspend or expel due to lack of attendance. The district can revoke the driver's license privilege of any student who is not attending school on a regular basis even if they are not yet eligible to drive. If the student has no license the filing will prevent them from getting one whenever they become eligible. When the student starts attending, the district can inform the BMV to restore their privilege to drive.

**Question: In the law it states “one school month”. What does that mean? Is there any clearer definition about the terms?**

Answer: Yes there is. It means any calendar month that kids are expected to be in school – even they are not expected to attend for that full month, such as August. We made that decision because otherwise it would be a tracking nightmare for personnel and student information systems to track by every 30 day increments. Therefore, regarding the “42 hours within one month” threshold, the count starts over for the next calendar month. For example, if a student had reached 39 hours within the month of September, the count would start back at 0 hours for the month of October. A student may still reach the threshold of “30 consecutive hours” or “72 hours within a year” across two different calendar months. These are the HB410 requirements, but if your district has more rigid attendance tracking policies, you can follow your local policies. However, if you differ in counting “hours in a calendar month” you should check with the local juvenile court if they would still accept a truancy filing at the end of the process if you did not follow, or accelerated, the HB410 requirements for the trigger of an absence intervention plan.

**Question: What are districts doing with the 18 year olds who are not attending?**

Answer: Districts need to use many ways to try to find the child before they can withdraw them through the EMIS withdrawal process. Getting a signature for the withdrawal is best but as long as you keep good documentation you can do it orally. Document all of the efforts before you code them as a dropout. Districts must follow EMIS processes in order to withdraw.

**Question: In our district students frequently go back to their home country for months at a time. Do I just keep them on the books or do we withdraw them?**

Answer: EMIS guidance says that if the student emigrates back to their own country you only need verbal confirmation from the parent to withdraw. If you don’t withdraw you would need to create an absence intervention plan, after they reach a trigger threshold, and wait for the student to return. The problem comes up if the child is in a lottery school and the parent does not want to lose the spot. If they tell you it is a vacation, follow board policy about vacations. If they tell you they are leaving for an extended time it would depend on what they said as their reason for leaving as to how you respond. One district has them enroll in homeschooling during the time they are out of the country. One district considers them a non-resident if they have left the country for an extended stay and are no longer living in the district. They would need to re-enroll and prove their return to their residence.

**Question: What should a district do for an older student when a truancy complaint has been filed, but the court has kicked them back because of their age?**

Answer: HB 410 does not address any requirements for the court’s responses. It only requires the district to file with the court after 61 days no progress on an absence intervention plan. Just keep the documentation you used and the evidence you filed for truancy including the intervention plan. There is an option to file for educational neglect with Children and Family Services depending on whether it is the parent or the student causing the truancy. There is not a specific age that can be used to determine responsibility, but in general, the truancy of a younger child is due to actions (or lack of actions) by the parent, whereas the truancy of an older child may be due to the actions of the child for which the parent

has little recourse. If a parent has already filed a complaint on their child as an unruly delinquent, there is a limited amount of further accountability on the part of the parent.

**Question: Without having to read thru the entire FAQ document is there anything specifically to be highlighted versus the July version?**

Answer: That's a good question. We cleaned up a lot of answers. We clarified what districts should do when students switch districts. Specifically, we did address questions for Career Tech and College Credit Plus in the revised version.

**Question: How are district's tracking hours for kids who are tardy or leave early and are they marking them as excused or unexcused absences?**

Answer: It depends on whether you are taking period attendance. It is easier to determine if a tardy to school is excused or unexcused. Infinite campus is also allowing teachers to record if a student is late to class and they can then notify the office. The system then calculates the tardy by minutes for that student. The administration makes the final decision about whether it is excused or unexcused, not the classroom teacher.

**Question: Are you getting information from your board policy advisors about changes needed in board policy as a result of HB 410 guidance?**

Answer: Yes NEOLA sent a few drafts that boards can adopt. There is a new one out just recently from them.

**Question: How do we need to code out-of-school suspensions? Are they excused or unexcused?**

Answers: If you are providing instructional support those absences can be excused based on the Ohio Administrative Code. ODE does not define instructional support.