

Attendance Policy Q & A



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This policy Q & A addresses the topics related to the legal requirements for attending school.

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At what age is school mandatory for children in Nebraska?

Children are required to attend school if they are six years old prior to January 1st of the current school year and until they are 18 years of age ([Neb. Rev. Stat. 79-201\(1\)](#)). However, Nebraska has an exception to this law that allows a student to drop out at the age of 16 if they can show financial hardship that necessitates their withdrawal from school, or illness. According to the National Education Association (2012), there are approximately 20 states that have mandatory school attendance until age 18. The rest of the states have set their mandatory attendance ages ranging from 16 to 17. See the Policy Q & A on “dropout” or the NEA document at <http://www.nea.org/assets/docs/PB40raisingcompulsoryschoolage2012.pdf>.

Are parents required to enroll their student in school?

Yes, Nebraska law requires this ([Neb. Rev. Stat. 79-201\(2\)](#)). This law allows enrollment at a public school, private school, or homeschool, as long as the child is receiving an education.

How are homeschooled children enrolled?

In Nebraska, homeschools are considered non-accredited or non-approved schools so they are referred to as exempt schools. Neb. Rev. Stat. 79-1601 states that parents must know about accreditation standards and education requirements. Parents are required to file exempt status for their homeschool with the Nebraska Department of Education, but this does not mean that the students don't have to meet the attendance laws. Students are still required to attend school 1,080 hours at the high school level and 1,032 hours at the elementary and middle school level ([Neb. Rev. Stat. 79-1601](#)). Rule 12 and Rule 13 cover the information and procedures parents need to know in order to file for exempt status. Rule 12 is for non-religious reasons, and Rule 13 is for religious reasons ([Nebraska Department of Education, 2014](#)).

Are there any exceptions to the attendance policy for children between 6 and 18 years old?

Yes, if they fit one of the exceptions from the law mentioned in the previous question. The following are the exceptions to 79-201(2).

- If the student has met the graduation requirements under [Neb. Rev. Stat. 79-729](#) and has received a diploma, then he/she is exempt from attending school.
- If the student has completed a program of study offered by a school that has not met accreditation requirements under 79-1601,

- If the child is 16 and has been withdrawn under section [79-202](#) (see the policy Q & A on dropout).
 - If the child's parent or guardian signs an affidavit that the child is participating in an education program during their kindergarten year that will prepare them for first grade
 - If the child is attending a non-accredited school, or
 - If the child was enrolled but was not 6 by January 1st of that current year and the parent chose to withdraw the child from kindergarten and reenter them the next year. The procedures can be found in [79-201\(4\)](#).
 - If the student is suspended or expelled by a school.
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Are school districts required to report attendance data?

Yes. These requirements are in part under Nebraska statute [79-201\(5\)](#). Additionally, schools are required to supply enrollment and attendance data to permit allocation of state aid for federal reports and other purposes. If a school district is a member of a learning community, for example the learning community of Douglas and Sarpy counties (<http://www.learningcommunityds.org>), then they report the following information to the learning community coordinating council on or before September 1st each year:

- All reports of violations of this section made to an attendance officer under [79-209](#),
 - All investigations under 79-209 including the attendance record,
 - A list of services rendered in the case,
 - The district's policy on excessive absenteeism and habitual truancy, and
 - Records of all notices served and reports filed under 79-209 ([Neb. Rev. Stat. 79-201\(5\)](#)).
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Can parents elect to send their children to private school under this attendance law?

Yes, but attendance laws and certain other requirements still apply. The courts have ruled that the state, having a high responsibility for the education of its citizens, has the power to impose reasonable regulations for the control and duration of basic education. Parents have a right to send their children to private schools but do not have the right to be completely unfettered by reasonable government regulations as to the quality of the education furnished and the maintenance of minimum standards ([State ex rel. Douglas v. Faith Baptist Church of Louisville, 207 Neb. 802, 301 N.W.2d 571 \(1981\)](#)). In a separate case, the court ruled this section did not operate to violate constitutional right of parents to educate their children in accordance with the tenets of their religious faith ([Meyerkorth v. State, 173 Neb. 889, 115 N.W.2d 585 \(1962\)](#)).

If a parent or guardian violates the attendance law, but only this law, should the school consider this neglect and call Child Protective Services?

No. The court ruled violation of this law is not, in itself, evidence of neglect under section [43-202\(2\)\(c\), R.R.S.1943. State v. Rice, 204 Neb. 732, 285 N.W.2d 223 \(1979\).](#)

What if a child is attending a special school for special education students, does the attendance law apply?

No. The court ruled this section has no application to a physically or mentally handicapped child attending special school. Schutte v. Decker, 164 Neb. 582, 83 N.W.2d 69 (1957) is an old case, but it remains applicable. Currently, IDEA would apply to special education students and if the court ruled on this case today, they may well reach a different conclusion.

What if a child can prove that he/she must work to support himself/herself or actual dependents of the child, but he/she hasn't reached the age of 16 yet?

Whoever has legal custody of the child, between the ages of 14-16 years, can apply to the superintendent or designee of the superintendent in order to issue a permit allowing that person to be employed. This can only be done if the child has completed 8th grade and can prove that he or she needs services or income to support dependents ([Neb. Rev. Stat. 79-203, 1999](#)).

For provisions relating to child labor see Neb. Rev. Stat. Chapter 48, article 3. However, regardless of obtaining this permit, the child must attend school at least 8 hours each week throughout the entirety of the school year ([Neb. Rev. Stat. 79-204, 1996](#)).

Do teachers have any reporting requirements for attendance?

Yes, teachers need to keep a record of the name, age, and address of each child in their classes. Additionally, teachers are required to keep a record with the number and county of the school district, the number of days each student was present or absent, and the cause of each absence. On the third day school is in session, a list of the name, age, grade, and address of each student should be sent to the superintendent or administrator of the school ([Neb. Rev. Stat. 79-205, 1999](#)).

After teachers have submitted their reports under 79-205, does the superintendent or administrator of the school district have any reporting requirements?

Yes. The list submitted by the teachers must be reconciled with the last census report on file, preparing a list of all children who are residents in the district, but not attending school. The list should be sent to the district attendance officer ([Neb. Rev. Stat. 79-206](#)).

Are there ongoing attendance reports that have to be submitted to the Nebraska State Department of Education?

Yes. Each week the information is supposed to be compiled with a list sent to the superintendent.

[At the end of each period, the superintendent should receive a report showing the](#) number of students enrolled, the average daily attendance, and the number of students attending on the last day. Additionally, the report should include information on each student enrolled in the school district. The names, ages, and addresses of these students should be included, along with how many whole and half days each were absent (Neb. Rev. Stat. 79-207).

Are school districts required to have an attendance officer?

Yes. School boards are required to appoint at least one attendance officer who shall be vested with powers and shall enforce the provisions of section [79-201](#) in the school districts for which they act. Attendance officers shall be compensated for their services in such sums as are determined by the school board, to be paid out of the general school fund of the district ([Neb. Rev. Stat. 79-208](#)).

Are school officials, teachers, and school board members required to report absences?

Yes. They must report violations of section 79-201 within 3 days to the attendance officer of the school, which must investigate the case ([Neb. Rev. Stat. 79-209\(1\)](#)). This will go into effect on July 18, 2014.

What kind of written policy is a school district required to have concerning excessive absenteeism?

The policy must contain a provision explaining how the district will handle cases in which excessive absences are due to documented illness that make attendance impossible or impracticable. The policy will state the number of absences or hourly equivalent that are required by schools. Schools will then use all services available to compel a child to attend school and prevent more absences. The person having legal custody of the child designates these, so it is not within the complete control of the school district. The number of absences designated in the policy cannot exceed 5 days per quarter. School districts can use the excused and unexcused absences for this policy ([Neb. Rev. Stat. 79-209\(2\)](#)). The county attorney located in the school district must collaborate on the school district's written policy ([Neb. Rev. Stat. 79-209\(2\)](#)).

What services can the district use or provide to help students attend school more regularly?

The school district shall include the following services:

- One or more meetings to report and attempt to solve the problem of excessive absences should be held between the school attendance officer, a child's parent or guardian, the child, and if necessary, the school social worker, principal or the principal's designee ([Neb. Rev. Stat. 79-209\(2\)\(a\)](#)).
- Educational counseling to determine whether curriculum changes could help a child improve his/her attendance. This can include enrolling the child in an alternative education program that meets the educational and behavioral needs of the child ([Neb. Rev. Stat. 79-209\(2\)\(b\)](#)).
- Educational evaluation, which could include a psychological evaluation, to determine if a specific condition is contributing to the problem of excessive absences. If so, the school is to help remedy the condition diagnosed with specific efforts ([Neb. Rev. Stat. 79-209\(2\)\(c\)](#)).
- An investigation of the problem through the school social worker, principal, or a person designated by the school administration to identify conditions which may be contributing to the problem. If services for the child or family are determined to be needed, then the person performing the investigation shall meet with the parent or guardian and the child to discuss service options. Such services could include, referral to the appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to excessive absences ([Neb. Rev. Stat. 79-209\(2\)\(d\)](#)).

Do school officials have to document attempts to contact a parent about attendance even if they aren't successful in contacting the student?

Yes. ([Neb. Rev. Stat. 79-209](#))

When do absences have to be reported to the county attorney?

If a student obtains 20 days or more of unexcused absences, the school district is required to report the absences to the county attorney. However, if a student is absent more than 20 days due to documented illness, the school may, but is not required to, contact the county attorney. Parents must be contacted before a case is referred to the county attorney ([Neb. Rev. Stat. 79-209\(3\)](#)). The attendance officer must file a report with the county attorney specifying the following:

- The school can request additional time to work with the student prior to intervention by the county attorney, or they can determine that this additional intervention is not appropriate and request intervention by the county attorney;
- The school district also needs to specify that the school has used all reasonable efforts to stop the absences, but these efforts have not been effective.

If the recommendation is to request intervention by the county attorney, the school can determine a location for a meeting between the parent or guardian, the school attendance officer, and the county attorney.

Can the county attorney be involved with a particular case before there are 20 absences?

Yes. The county attorney can be involved in any stage of the process to address absences ([Neb. Rev. Stat. 79-209\(4\)](#)).

What if someone violates the compulsory attendance laws?

Any person violating the provisions of sections [79-201](#) to [79-209](#) shall be guilty of a Class III misdemeanor ([Neb. Rev. Stat. 79-210](#)).

If a student is suspended or expelled under the Nebraska Student Discipline Act, are the subsequent absences a violation of the compulsory attendance laws?

If a student is suspended, expelled, or excluded from school or from any educational function pursuant to the Student Discipline Act, such absence from school shall not be deemed a violation on the part of any person under any compulsory school attendance statutes (Neb. Rev. Stat. 79-201 to 79-210). Any suspension or expulsion under the act shall comply with the requirements of the Special Education Act and the requirements of the federal Individuals with Disabilities Education Act, 20 U.S.C. 1401 et seq. The Special Education Act in Nebraska is found at [79-1110 to 79-1167](#). ([Neb. Rev. Stat. 79-259, 1996](#))

Is there a state source of information or advice on how to reduce truancies, make recommendations to boards for policy changes, or evaluate current policies at the state level?

Yes. The state Truancy Intervention Task Force, which last met in 2011, has been renamed the Council on Student Attendance under the new revisions of the law. This task force is supposed to make recommendations on the above listed information, study, and evaluate district attendance data from quarterly reports.

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