OFFICE OF THE BUSINESS AND SUPPORT SERVICES
Summary of State Board of Education Agenda Items
September 20-21, 2007

OFFICE OF DROPOUT PREVENTION

00. Approval to begin the Administrative Procedures Act: To establish the State Board Policy - Truancy Rate Definition, Calculation and Rate

EXECUTIVE SUMMARY

Beginning with the 2005-2006 school year, state education agencies were required to report truancy rates on a school-by-school basis to the US Department of Education. However, there is currently no established MDE policy that defines the state's truancy calculation rate. In an effort to ensure compliance with federal guidelines, this policy sets forth the distinction between excused and unlawful absences and provides formulas for truancy, habitual truancy, suspension and expulsion rate calculations. This information will serve to establish a uniform reporting method.

This new policy includes the following information:

(1) Definition of terms related to truancy rate calculations;

(2) Delineation between excused versus unlawful (unexcused) absences, pursuant to MS Code §37-13-91;

(3) Clarification on how suspension days shall be counted for truancy purposes; and

(4) Calculation formulas for:

a. Truancy Rate

b. Habitual Truancy Rate

c. Suspension Rate

d. Expulsion Rate

In vetting this policy, a Practitioners' Group was convened on August 10, 2007 to discuss the policy and provide recommendations. The Practitioners' Group was comprised of various district staff, a County Court Judge, and local and field staff members from the Mississippi Department of Education. Following the Practitioners' Group meeting, the revised policy was brought to the Mississippi Board of Education's Accountability Committee meeting on August 17, 2007 as an item for discussion. Further revisions were made based on feedback from this meeting. In the third stage of the vetting process, the policy was sent out to an 88-member Education Stakeholder's group comprised of district staff members, youth court

judges, state education leadership organizations, and community-based organizations.

Backup material attached.

Recommendation: Approval.

Descriptor Term: Truancy Definition, Calculation and Rate
Code:
Adoption Date:

STATE BOARD POLICY

PURPOSE

Pursuant to MS Code §37-13-91, a parent, guardian or custodian of a compulsory-school-age child in this state shall cause the child to enroll in and attend a public school or legitimate nonpublic school for the period of time that the child is of compulsory school age. A "Compulsory-school-age child" means a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and who has not attained the age of seventeen (17) years on or before September 1 of the calendar year; and shall include any child who has attained or will attain the age of five (5) years on or before September 1 and has enrolled in a full-day public school kindergarten program. Provided, however, that the parent or guardian of any child enrolled in a full-day public school kindergarten program shall be allowed to disenroll the child from the program on a one-time basis, and such child shall not be deemed a compulsory-school-age child until the child attains the age of six (6) years.

Pursuant to the Elementary and Secondary School Act, Subpart I, §4112, (c)(3)(A)(B)(i), beginning with the 2005-2006 school year, state education agencies were required to report truancy rates on a school-by-school basis to the US Department of Education. In an effort to ensure compliance with federal guidelines, this policy sets forth the distinction between excused and unlawful absences and provides formulas for truancy, habitual truancy, suspension and expulsion rate calculations. This information will serve to establish a uniform reporting method.

DEFINITIONS

Cumulative Enrollment – sum of all entering students within a school year

Excused Absence – any of seven designated valid excuses for temporary nonattendance of a compulsory-school-age child enrolled in a public school, pursuant to MS Code §37-13-91, (4) (a) through (4) (i)

Habitual Truant – a student who has accumulated twelve (12) or more unlawful absences, excluding suspension and expulsion days, in a school year, which shall result in the filing of a petition in a court of competent jurisdiction by the school attendance officer

School Day – pursuant to Mississippi Code §37-13-91 (d), defined as not less than five (5) and not more than eight (8) hours of actual teaching in which both teachers and pupils are in regular attendance for scheduled schoolwork.

Truant – a student that has accumulated five (5) or more unlawful absences in a school year, excluding suspension and expulsion days

Unlawful absence – (also known as an unexcused absence) an absence during a school day by a compulsory-school- age child, which the absence is not due to a valid excuse for temporary nonattendance, pursuant to MS Code §37-13-91 (4)

REQUIREMENTS

(1) Truancy shall only apply to students of compulsory school age.

(2) Each local school district shall determine whether an absence is excused or unlawful based on the Compulsory School Attendance Law §37-13-91 of the Mississippi Code 1972 Annotated.

(3) For the purpose of calculating truancy rates, out of school suspensions shall not be considered unlawful absences. Out of school suspension days shall not be factored into truancy rate calculations.

(4) Students that satisfy the school day attendance requirements shall not be considered absent and/or calculated in the truancy rate, including students enrolled in alternative education programs, GED Options programs, and students detained in juvenile detention centers.

(5) The MDE shall calculate the truancy, habitual truancy, suspension, and expulsion rates once per year. The MDE shall report disaggregated data at both the state and district levels. The following calculations shall be used in determining truancy, suspension and expulsion rates:

(a) The Truancy Rate shall be calculated using the following formula:

Numerator: Number of students with five or more unlawful absences (truant)
Denominator: Count of Student Membership – Cumulative Enrollment
Multiplied by 100 to create a percentage value

(b) The Habitual Truancy Rate shall be calculated using the following formula:

Numerator: Number of students with twelve or more unlawful absences (habitual truant)
Denominator: Count of Student Membership – Cumulative Enrollment
Multiplied by 100 to create a percentage value

(c) The Student Out-of-School Suspension Rate shall be calculated using the following formula:

Numerator: Total number of student out-of-school suspensions in a school year
Denominator: Count of Student Membership – Cumulative Enrollment
Multiplied by 100 to create a percentage value

(d) The Overall Out-of-School Suspension Rate shall be calculated using the following formula:

Numerator: Total number of out-of-school suspension days in a school year
Denominator: Count of Student Membership – Cumulative Enrollment
Multiplied by 100 to create a percentage value

(e) The Expulsion Rate shall be calculated using the following formula:

Numerator: Number of student expulsions in a school year
Denominator: Count of Student Membership – Cumulative Enrollment
Multiplied by 100 to create a percentage value

§ 37-13-91. Compulsory school attendance requirements generally; enforcement of law.

(1) This section shall be referred to as the "Mississippi Compulsory School Attendance Law."

(2) The following terms as used in this section are defined as follows:

(a) "Parent" means the father or mother to whom a child has been born, or the father or mother by whom a child has been legally adopted.

(b) "Guardian" means a guardian of the person of a child, other than a parent, who is legally appointed by a court of competent jurisdiction.

(c) "Custodian" means any person having the present care or custody of a child, other than a parent or guardian of the child.

(d) "School day" means not less than five (5) and not more than eight (8) hours of actual teaching in which both teachers and pupils are in regular attendance for scheduled schoolwork.

(e) "School" means any public school in this state or any nonpublic school in this state which is in session each school year for at least one hundred eighty (180) school days, except that the "nonpublic" school term shall be the number of days that each school shall require for promotion from grade to grade.

(f) "Compulsory-school-age child" means a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and who has not attained the age of seventeen (17) years on or before September 1 of the calendar year; and shall include any child who has attained or will attain the age of five (5) years on or before September 1 and has enrolled in a full-day public school kindergarten program. Provided, however, that the parent or guardian of any child enrolled in a full-day public school kindergarten program shall be allowed to disenroll the child from the program on a one-time basis, and such child shall not be deemed a compulsory-school-age child until the child attains the age of six (6) years.

(g) "School attendance officer" means a person employed by the State Department of Education pursuant to Section 37-13-89.

(h) "Appropriate school official" means the superintendent of the school district, or his designee, or, in the case of a nonpublic school, the principal or the headmaster.

(i) "Nonpublic school" means an institution for the teaching of children, consisting of a physical plant, whether owned or leased, including a home, instructional staff members and students, and which is in session each school year. This definition shall include, but not be limited to, private, church, parochial and home instruction programs.

(3) A parent, guardian or custodian of a compulsory-school-age child in this state shall cause the child to enroll in and attend a public school or legitimate nonpublic school for the period of time that the child is of compulsory school age, except under the following circumstances:

(a) When a compulsory-school-age child is physically, mentally or emotionally incapable of attending school as determined by the appropriate school official based upon sufficient medical documentation.

(b) When a compulsory-school-age child is enrolled in and pursuing a course of special education, remedial education or education for handicapped or physically or mentally disadvantaged children.

(c) When a compulsory-school-age child is being educated in a legitimate home instruction program.

The parent, guardian or custodian of a compulsory-school-age child described in this subsection, or the parent, guardian or custodian of a compulsory-school-age child attending any nonpublic school, or the appropriate school official for any or all children attending a nonpublic school shall complete a "certificate of enrollment" in order to facilitate the administration of this section.

The form of the certificate of enrollment shall be prepared by the Office of Compulsory School Attendance Enforcement of the State Department of Education and shall be designed to obtain the following information only:

(i) The name, address, telephone number and date of birth of the compulsory-school-age child;

(ii) The name, address and telephone number of the parent, guardian or custodian of the compulsory-school-age child;

(iii) A simple description of the type of education the compulsory-school-age child is receiving and, if the child is enrolled in a nonpublic school, the name and address of the school; and

(iv) The signature of the parent, guardian or custodian of the compulsory-school-age child or, for any or all compulsory-school-age child or children attending a nonpublic school, the signature of the appropriate school official and the date signed.

The certificate of enrollment shall be returned to the school attendance officer where the child resides on or before September 15 of each year. Any parent, guardian or custodian found by the school attendance officer to be in noncompliance with this section shall comply, after written notice of the noncompliance by the school attendance officer, with this subsection within ten (10) days after the notice or be in violation of this section. However, in the event the child has been enrolled in a public school within fifteen (15) calendar days after the first day of the school year as required in subsection (6), the parent or custodian may, at a later date, enroll the child in a legitimate nonpublic school or legitimate home instruction program and send the certificate of enrollment to the school attendance officer and be in compliance with this subsection.

For the purposes of this subsection, a legitimate nonpublic school or legitimate home instruction program shall be those not operated or instituted for the purpose of avoiding or circumventing the compulsory attendance law.

(4) An "unlawful absence" is an absence during a school day by a compulsory-school-age child, which absence is not due to a valid excuse for temporary nonattendance. Days missed from school due to disciplinary suspension shall not be considered an "excused" absence under this section. This subsection shall not apply to children enrolled in a nonpublic school.

Each of the following shall constitute a valid excuse for temporary nonattendance of a compulsory-school-age child enrolled in a public school, provided satisfactory evidence of the excuse is provided to the superintendent of the school district, or his designee:

(a) An absence is excused when the absence results from the compulsory-school-age child's attendance at an authorized school activity with the prior approval of the superintendent of the school district, or his designee. These activities may include field trips, athletic contests, student conventions, musical festivals and any similar activity.

(b) An absence is excused when the absence results from illness or injury which prevents the compulsory-school-age child from being physically able to attend school.

(c) An absence is excused when isolation of a compulsory-school-age child is ordered by the county health officer, by the State Board of Health or appropriate school official.

(d) An absence is excused when it results from the death or serious illness of a member of the immediate family of a compulsory-school-age child. The immediate family members of a compulsory-school-age child shall include children, spouse, grandparents, parents, brothers and sisters, including stepbrothers and stepsisters.

(e) An absence is excused when it results from a medical or dental appointment of a compulsory-school-age child where an approval of the superintendent of the school district, or his designee, is gained before the absence, except in the case of emergency.

(f) An absence is excused when it results from the attendance of a compulsory-school-age child at the proceedings of a court or an administrative tribunal if the child is a party to the action or under subpoena as a witness.

(g) An absence may be excused if the religion to which the compulsory-school-age child or the child's parents adheres, requires or suggests the observance of a religious event. The approval of the absence is within the discretion of the superintendent of the school district, or his designee, but approval should be granted unless the religion's observance is of such duration as to interfere with the education of the child.

(h) An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that the purpose of the absence is to take advantage of a valid educational opportunity such as travel, including vacations or other family travel. Approval

of the absence must be gained from the superintendent of the school district, or his designee, before the absence, but the approval shall not be unreasonably withheld.

(i) An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that conditions are sufficient to warrant the compulsory-school-age child's nonattendance. However, no absences shall be excused by the school district superintendent, or his designee, when any student suspensions or expulsions circumvent the intent and spirit of the compulsory attendance law.

(5) Any parent, guardian or custodian of a compulsory-school-age child subject to this section who refuses or willfully fails to perform any of the duties imposed upon him or her under this section or who intentionally falsifies any information required to be contained in a certificate of enrollment, shall be guilty of contributing to the neglect of a child and, upon conviction, shall be punished in accordance with Section 97-5-39.

Upon prosecution of a parent, guardian or custodian of a compulsory-school-age child for violation of this section, the presentation of evidence by the prosecutor that shows that the child has not been enrolled in school within eighteen (18) calendar days after the first day of the school year of the public school which the child is eligible to attend, or that the child has accumulated twelve (12) unlawful absences during the school year at the public school in which the child has been enrolled, shall establish a prima facie case that the child's parent, guardian or custodian is responsible for the absences and has refused or willfully failed to perform the duties imposed upon him or her under this section. However, no proceedings under this section shall be brought against a parent, guardian or custodian of a compulsory-school-age child unless the school attendance officer has contacted promptly the home of the child and has provided written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance.

(6) If a compulsory-school-age child has not been enrolled in a school within fifteen (15) calendar days after the first day of the school year of the school which the child is eligible to attend or the child has accumulated five (5) unlawful absences during the school year of the public school in which the child is enrolled, the school district superintendent shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent, or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

(7) When a school attendance officer has made all attempts to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in a court of competent jurisdiction as it pertains to parent or child. Sheriffs, deputy sheriffs and municipal law enforcement officers shall be fully authorized to investigate all cases of nonattendance and unlawful absences by compulsory-school-age children, and shall be authorized to file a petition with the youth court under Section 43-21-451 or file a petition or information in the court of competent jurisdiction as it pertains to parent or

child for violation of this section. The youth court shall expedite a hearing to make an appropriate adjudication and a disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or re-enroll in school. The superintendent of the school district to which the child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

(8) The State Board of Education shall adopt rules and regulations for the purpose of reprimanding any school superintendents who fail to timely report unexcused absences under the provisions of this section.

(9) Notwithstanding any provision or implication herein to the contrary, it is not the intention of this section to impair the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the proper education and training for such child, and nothing in this section shall ever be construed to grant, by implication or otherwise, to the State of Mississippi, any of its officers, agencies or subdivisions any right or authority to control, manage, supervise or make any suggestion as to the control, management or supervision of any private or parochial school or institution for the education or training of children, of any kind whatsoever that is not a public school according to the laws of this state; and this section shall never be construed so as to grant, by implication or otherwise, any right or authority to any state agency or other entity to control, manage, supervise, provide for or affect the operation, management, program, curriculum, admissions policy or discipline of any such school or home instruction program.

Sources: Laws, 1977, ch. 483, § 1; Laws, 1982, Ex Sess, ch. 17, § 21; Laws, 1987, ch. 460, 1991, ch. 308, § 1; Laws, 1991, ch. 539, § 2; Laws, 1992, ch. 516, § 1; Laws, 1992, ch. 524, § 8; Laws, 1993, ch. 543, § 3; Laws, 1994, ch. 604, § 1; Laws, 1995, ch. 570, § 1; Laws, 1998, ch. 566, § 6; Laws, 2000, ch. 397, § 1; Laws, 2003, ch. 397, § 1, eff from and after July 1, 2003.

SEC. 4112. RESERVATION OF STATE FUNDS FOR SAFE AND DRUG-FREE SCHOOLS.

(a) STATE RESERVATION FOR THE CHIEF EXECUTIVE OFFICER OF A STATE -

(1) IN GENERAL - The chief executive officer of a State may reserve not more than 20 percent of the total amount allocated to a State under section 4111(b) for each fiscal year to award competitive grants and contracts to local educational agencies, community-based organizations (including community anti-drug coalitions) other public entities and private organizations, and consortia thereof. Such grants and contracts shall be used to carry out the comprehensive State plan described in section 4113(a) through programs or activities that complement and support activities of local educational agencies described in section 4115(b). Such officer shall award grants based on —

(A) the quality of the program or activity proposed; and

(B) how the program or activity meets the principles of effectiveness described in section 4115(a).

(2) PRIORITY- In making such grants and contracts under this section, a chief executive officer shall give priority to programs and activities that prevent illegal drug use and violence for —

(A) children and youth who are not normally served by State educational agencies or local educational agencies; or

(B) populations that need special services or additional resources (such as youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

(3) SPECIAL CONSIDERATION - In awarding funds under paragraph (1), a chief executive officer shall give special consideration to grantees that pursue a comprehensive approach to drug and violence prevention that includes providing and incorporating mental health services related to drug and violence prevention in their program.

(4) PEER REVIEW - Grants or contracts awarded under this section shall be subject to a peer review process.

(5) USE OF FUNDS - Grants and contracts under this section shall be used to implement drug and violence prevention activities, including —

(A) activities that complement and support local educational agency activities under section 4115, including developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

(B) dissemination of information about drug and violence prevention; and

(C) development and implementation of community-wide drug and violence prevention planning and organizing.

(6) ADMINISTRATIVE COSTS - The chief executive officer of a State may use not more than 3 percent of the amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

(b) IN STATE DISTRIBUTION -

(1) IN GENERAL - A State educational agency shall distribute not less than 93 percent of the amount made available to the State under section 4111(b), less the amount reserved under subsection (a) of this section, to its local educational agencies.

(2) STATE ADMINISTRATION COSTS -

(A) IN GENERA L- A State educational agency may use not more than 3 percent of the amount made available to the State under section 4111(b) for each fiscal year less the amount reserved under subsection (a) of this section, for State educational agency administrative costs, including the implementation of the uniform management information and reporting system as provided for under subsection (c)(3).

(B) ADDITIONAL AMOUNTS FOR THE UNIFORM MANAGEMENT INFORMATION SYSTEM - In the case of fiscal year 2002, a State educational agency may, in addition to amounts provided for in subparagraph (A), use 1 percent of the amount made available to the State educational agency under section 4111(b) for each fiscal year less the amount reserved under subsection (a) of this section, for implementation of the uniform management information and reporting system as provided for under subsection (c)(3).

(c) STATE ACTIVITIES -

(1) IN GENERAL - A State educational agency may use not more than 5 percent of the amount made available to the State under section 4111(b) for each fiscal year less the amount reserved under subsection (a) of this section, for activities described in this subsection.

(2) ACTIVITIES - A State educational agency shall use the amounts described in paragraph (1), either directly, or through grants and contracts, to plan, develop, and implement capacity building, technical assistance and training, evaluation, program improvement services, and coordination activities for local educational agencies, community-based organizations, and other public and private entities. Such uses —

(A) shall meet the principles of effectiveness described in section 4115(a);

(B) shall complement and support local uses of funds under section 4115(b);

(C) shall be in accordance with the purposes of this part; and

(D) may include, among others activities —

(i) identification, development, evaluation, and dissemination of drug and violence prevention strategies, programs, activities, and other information;

(ii) training, technical assistance, and demonstration projects to address violence that is associated with prejudice and intolerance; and

(iii) financial assistance to enhance drug and violence prevention resources available in areas that serve large numbers of low-income children, are sparsely populated, or have other special needs.

(3) UNIFORM MANAGEMENT INFORMATION AND REPORTING SYSTEM

(A) INFORMATION AND STATISTICS - A State shall establish a uniform management information and reporting system.

(B) USES OF FUNDS - A State may use funds described in subparagraphs (A) and (B) of subsection (b)(2), either directly or through grants and contracts, to implement the uniform management information and reporting system described in subparagraph (A), for the collection of information on

(i) truancy rates;

(ii) the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary schools and secondary schools in the State;

(iii) the types of curricula, programs, and services provided by the chief executive officer, the State educational agency, local educational agencies, and other recipients of funds under this subpart; and

(iv) the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities.

(C) COMPILATION OF STATISTICS - In compiling the statistics required for the uniform management information and reporting system, the offenses described in subparagraph (B)(ii) shall be defined pursuant to the State's criminal code, but shall not identify victims of crimes or persons accused of crimes. The collected data shall include incident reports by school officials, anonymous student surveys, and anonymous teacher surveys.

(D) REPORTING - The information described under subparagraph (B) shall be reported to the public and the data referenced in clauses (i) and (ii) of such subparagraph shall be reported to the State on a school-by-school basis.

(E) LIMITATION - Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices with respect to crimes committed on school property or school security.