



National Center for Youth Law

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**FOR MORE INFORMATION:**

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## Students' Constitutional Rights Violated by Dallas County Schools & Truancy Courts, According to Complaint Filed Today with Department of Justice

*Texas & National Law Centers Challenge Practices Including Arrest, Handcuffing of Students at School*

AUSTIN, Texas – Students in Dallas County truancy courts are being denied their constitutional rights, handcuffed and arrested for missing school, and subjected to substantial fines, according to a [complaint filed today with the U.S. Department of Justice](#) on behalf of seven Dallas area students.

The complaint, filed by **Texas Appleseed, Disability Rights Texas**, and the **National Center for Youth Law**, contends prosecuting truancy as a crime constitutes “cruel and unusual punishment” in violation of students’ Eighth Amendment constitutional rights. The three law centers also allege that Dallas, Mesquite, Garland, and Richardson school districts (all in Dallas County) are employing “inconsistent and inflexible” attendance policies and practices that violate the civil rights of students with disabilities and limited English proficiency. Dallas ISD is also targeted in the complaint for allegedly violating the civil rights of pregnant students in truancy proceedings. ([See Summary-DOJ Filing](#))

Truancy charges can result in large fines, jail time, and a criminal record for students in Texas—one of only two states (along with Wyoming) that prosecute truancy as a crime in adult courts. Adult courts do not provide the same protections as civil juvenile courts, including a right to appointed counsel.

Texas adult courts pursued about **113,000 truancy cases** against Texas children ages 12-17 in FY 2012—*more than double the number of truancy cases prosecuted in the other 49 states combined.*

Dallas County operates the largest truancy court system in Texas. Almost three-quarters of the courts' budget is supported by truancy fines assessed students and parents. In FY 2012, Dallas County truancy courts collected **\$2.9 million in fines**, according to county reports.

Last year alone, Dallas County truancy courts prosecuted over **36,000 truancy cases**—more than any other Texas county and nearly three times more than Harris County, home to the state's largest school district (Houston ISD). Some Dallas area students referenced in the complaint reported feeling pressured to plead "guilty" to truancy and were fined for an offense as minor as an unexcused absence due to a late doctor's note.

While Dallas County truancy court staff cites a "90% graduation rate" as an indicator that truancy courts are making a positive impact, that statistic only includes students eligible to graduate that same year and only students who are motivated enough to appear in court after a truancy complaint. Only 41% of all students charged with truancy in Dallas County appeared for their initial truancy court hearing in FY 2012. National research indicates that School-Wide Positive Behavioral Interventions and Supports, a model recommended in the complaint, is more successful in changing student behavior, including improving school attendance.

The complaint also challenges the practice of arresting students at school when they miss a truancy court hearing and transporting them to court in handcuffs.

"Removing students from class, handcuffing them, and taking them to adult court does not make children more likely to attend school, fails to address the root causes of truancy, and makes it more likely that students will drop out," said **Texas Applesseed Deputy Director Deborah Fowler**. Students who are frequently tardy to class can also be prosecuted and sent to truancy court—resulting in more lost class time, she said.

**NYCL Senior Attorney Michael Harris** said that young students, even those with disabilities, must represent themselves in Dallas County truancy courts without access to an attorney or advocate, and with no help from their parent in entering a plea to the truancy charges. "Unfortunately, students frequently waive their rights because the courts are doing a poor job of informing them of the consequences," he said.

Harris cited examples of judges refusing to accept evidence, such as a doctor's note, for a student who missed school due to illness. Instead, students are told they must convince the school to change the attendance record, which schools typically refuse to do, often claiming a doctor's note was submitted "too late," or that the parent failed to come to school to meet with the attendance officer. As a result, "many students can't defend themselves in court against the truancy charge, in violation of their legal rights," Harris said.

Cases cited in the complaint include:

- An 8<sup>th</sup> grader who missed school with the flu and received a truancy charge after she did not turn in a doctor's note on time;
- A student with learning disabilities and depression who must still attend monthly truancy court hearings after graduating from high school and remains at risk of jail time until her more than \$1,100 in fines are paid;
- A student who was told by her doctor to stay home for a month following complications from childbirth but was charged with truancy after the school refused to accept her doctor's note.

**Dustin Rynders, Supervising Attorney with Disability Rights Texas**, said the failure of many schools to provide appropriate accommodations and services can contribute to truancy. "Truancy fines and trips to court for students with disabilities are not the answer. Schools need to make sure these students have the tools and help they need to keep up in class," Rynders said.

The DOJ complaint emphasizes that a parent's first warning of an attendance problem often comes too late to be addressed outside of court. Dallas, Mesquite, Garland, and Richardson school districts have broad attendance policies, but individual schools can adopt attendance policies that apply only to their campus—and some teachers set their own tardy policies that can contribute to truancy charges, according to the complaint.

"Parents and students find it almost impossible to comply with these different requirements," said **NCYL Attorney Hannah Benton**. "Almost all of the school-level attendance policies are available in English only, compounding the problem for many families."

The law centers are asking the Justice Department to declare the practice of prosecuting truancy as a crime as unconstitutional. They contend that courts hearing truancy cases should refrain from having students arrested at school, handcuffed, and transported to court. They are also asking the DOJ to do the following:

- **Court as last resort.** Require schools to exhaust school-based and community interventions to address truancy problems before the mandatory court referral for 10 unexcused absences from school.
- **Flexible class tardy policy.** Require schools to consider reasonable explanations of why a student was late before filing truancy charges. Schools should accommodate sound reasons for tardiness or truancy, including a student's or family member's health crisis, pregnancy, or parenting responsibilities.
- **Accommodate disabilities.** Require schools to amend their policies to ensure that disability-related class tardies or absences do not result in court filings. Instead, schools should provide services and accommodations to students with disabilities to improve their attendance and learning opportunities.

- **Greater transparency.** Make all truancy policies accessible in languages other than English, provide translation services in truancy court, and rewrite court forms to make them more easily understood by students and their families.
- **School-Wide Positive Behavioral Interventions and Supports.** Require all Dallas County schools to implement this evidence-based model to reinforce good behavior and school attendance, and to reduce the need to remove students from the classroom or send them to court to address behavior or truancy problems.

“We hope this complaint and the ensuing federal investigation will result in schools and courts taking a more measured approach to truancy problems,” Fowler said.

**RESOURCES:** [Complaint Filed with DOJ](#) [Criminalization of Truancy in Texas](#) (data for nine school districts)

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