

Article 26.

Attendance.

Part 1. Compulsory Attendance.

§ 115C-378. Children required to attend.

Every parent, guardian or other person in this State having charge or control of a child between the ages of seven and 16 years shall cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session. Every parent, guardian, or other person in this State having charge or control of a child under age seven who is enrolled in a public school in grades kindergarten through two shall also cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session unless the child has withdrawn from school. No person shall encourage, entice or counsel any such child to be unlawfully absent from school. The parent, guardian, or custodian of a child shall notify the school of the reason for each known absence of the child, in accordance with local school policy.

The principal, superintendent, or teacher who is in charge of such school shall have the right to excuse a child temporarily from attendance on account of sickness or other unavoidable cause that does not constitute unlawful absence as defined by the State Board of Education. The term "school" as used herein is defined to embrace all public schools and such nonpublic schools as have teachers and curricula that are approved by the State Board of Education.

All nonpublic schools receiving and instructing children of a compulsory school age shall be required to keep such records of attendance and render such reports of the attendance of such children and maintain such minimum curriculum standards as are required of public schools; and attendance upon such schools, if the school refuses or neglects to keep such records or to render such reports, shall not be accepted in lieu of attendance upon the public school of the district to which the child shall be assigned: Provided, that instruction in a nonpublic school shall not be regarded as meeting the requirements of the law unless the courses of instruction run concurrently with the term of the public school in the district and extend for at least as long a term.

The principal or his designee shall notify the parent, guardian, or custodian of his child's excessive absences after the child has accumulated three unexcused absences in a school year. After not more than six unexcused absences, the principal shall notify the parent, guardian, or custodian by mail that he may be in violation of the Compulsory Attendance Law and may be prosecuted if the absences cannot be justified under the established attendance policies of the State and local boards of education. Once the parents are notified, the school attendance counselor shall work with the child and his family to analyze the causes of the absences and determine steps, including adjustment of the school program or obtaining supplemental services, to eliminate the problem. The attendance counselor may request that a law-enforcement officer accompany him if he believes that a home visit is necessary.

After 10 accumulated unexcused absences in a school year, the principal shall review any report or investigation prepared under G.S. 115C-381 and shall confer with the student and the student's parent, guardian, or custodian, if possible, to determine whether the parent, guardian, or custodian has received notification pursuant to this section and made a good faith effort to comply with the law. If the principal determines that the parent, guardian, or custodian has not made a good faith effort to comply with the law, the principal shall notify the district attorney and the director of social services of the county where the child resides. If the principal determines that the parent, guardian, or custodian has made a good faith effort to comply with the law, the principal may file a complaint with the juvenile court counselor pursuant to Chapter 7B of the General Statutes that the child is habitually absent from school without a valid excuse. Evidence that shows that the parents, guardian, or custodian were notified and that the child has accumulated 10 absences which cannot be justified under the established attendance policies of the local board shall establish a prima facie case that the child's parent, guardian, or custodian is responsible for the absences. Upon receiving notification by the principal, the director of social services shall determine whether to undertake an investigation under G.S. 7B-302. (1955, c. 1372, art. 20, s. 1; 1956, Ex. Sess., c. 5; 1963, c. 1223, s. 6; 1969, c. 339; c. 799, s. 1; 1971, c. 846; 1975, c. 678, s. 2; c. 731, s. 3; 1979, c. 847; 1981, c. 423, s. 1; 1985, c. 297; 1991 (Reg. Sess., 1992), c. 769, s. 2; 1998-202, s. 13(aa); 2001-490, s. 2.38; 2003-304, s. 3.)

§ 115C-379. Method of enforcement.

It shall be the duty of the State Board of Education to formulate such rules and regulations as may be necessary for the proper enforcement of the provisions of this Part. The Board shall prescribe what shall constitute unlawful absence, what causes may constitute legitimate excuses for temporary nonattendance due to physical or mental inability to attend, and under what circumstances teachers, principals, or superintendents may excuse pupils for nonattendance due to immediate demands of the farm or the home in certain seasons of the year in the several sections of the State. It shall be the duty of all school officials to carry out such instructions from the State Board of Education, and any school official failing to carry out such instructions shall be guilty of a Class 3 misdemeanor: Provided, that the compulsory attendance law herein prescribed shall not be in force in any local school administrative unit that has a higher compulsory attendance feature than that provided herein. (1955, c. 1372, art. 20, s. 2; 1963, c. 1223, s. 7; 1981, c. 423, s. 1; 1993, c. 539, s. 887; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 115C-380. Penalty for violation.

Except as otherwise provided in G.S. 115C-379, any parent, guardian or other person violating the provisions of this Part shall be guilty of a Class 1 misdemeanor. (1955, c. 1372, art. 20, s. 4; 1969, c. 799, s. 2; 1981, c. 423, s. 1; 1993, c. 539, s. 888; 1994, Ex. Sess., c. 24, s. 14(c); 2005-318, s. 1.)

§ 115C-381. School social workers; reports; prosecutions.

The Superintendent of Public Instruction shall prepare such rules and procedures and furnish such blanks for teachers and other school officials as may be necessary for reporting such case of unlawful absence or lack of attendance to the school social worker of the respective local school administrative units. Such rules shall provide, among other things, for a notification in writing, to the person responsible for the nonattendance of any child, that the case is to be reported to the school social worker of the local school administrative unit unless the law is complied with immediately. Upon recommendation of the superintendent, local boards of education may employ school social workers and such school social workers shall have authority to report and verify on oath the necessary criminal warrants or other documents for the prosecutions of violations of this Part: Provided, that local school administrative units shall provide in their local operating budgets for travel and necessary office expense for such school social workers as may be employed through State or local funds, or both. The State Board of Education shall determine the process for allocating school social workers to the various local school administrative units, establish their qualifications, and develop a salary schedule which shall be applicable to such personnel: Provided, that persons now employed by local boards of education as attendance counselors shall be deemed qualified as school social workers under the terms of this Part subject to the approval of said local boards of education.

The school social worker shall investigate all violators of the provisions of this Part. The reports of unlawful absence required to be made by teachers and principals to the school social worker shall, in his hands, in case of any prosecution, constitute prima facie evidence of the violation of this Part and the burden of proof shall be upon the defendant to show the lawful attendance of the child or children upon an authorized school. (1955, c. 1372, art. 20, ss. 3, 5; 1957, c. 600; 1961, c. 186; 1963, c. 1223, ss. 8, 9; 1981, c. 423, s. 1; 1985, c. 686, s. 3.)

§ 115C-382. Investigation of indigency.

If affidavit shall be made by the parent of a child or by any other person that any child who is required to attend school under G.S. 115C-378 is not able to attend school by reason of necessity to work or labor for the support of himself or the support of the family, then the school social worker shall diligently inquire into the matter and bring it to the attention of some court allowed by law to act as a juvenile court, and said court shall proceed to find whether as a matter of fact such parents, or persons standing in loco parentis, are unable to send said child to school for the term of compulsory attendance for the reasons given. If the court shall find, after careful investigation, that the parents have made or are making bona fide effort to comply with the compulsory attendance law, and by reason of illness, lack of earning capacity, or any other cause which the court may deem valid and sufficient, are unable to send said child to school, then the court shall find and state what help is needed for the family to enable compliance with the attendance law. The court shall transmit its findings to the director of social services of the county or city in which the case may arise for such social services officer's consideration and

action. (1955, c. 1372, art. 20, s. 6; 1961, c. 186; 1963, c. 1223, s. 10; 1969, c. 982; 1981, c. 423, s. 1; 1985, c. 686, s. 4; 1991 (Reg. Sess., 1992), c. 769, s. 3.)

§ 115C-383. Attendance of deaf and blind children.

(a) Deaf Children and Blind Children to Attend School; Age Limits; Minimum Attendance. – Every deaf child and every blind child between the ages of six and 18 years of sound mind in North Carolina who shall be qualified for admission into a State school for the deaf or the blind shall attend a school that has an approved program for the deaf or the blind, or in the case of a blind child, such child may attend a public school, for a term of not less than nine months each year. Parents, guardians, or custodians of every such blind or deaf child between the ages of six and 18 years shall send, or cause to be sent, such child to some school for the instruction of the blind or deaf or public school as herein provided. As to any deaf child, or any blind child not attending a public school as herein provided, the superintendent of any school for the blind or deaf may exempt any such child from attendance at any session or during any year, and may discharge from his custody any such blind or deaf child whenever such discharge seems necessary or proper. Such discharge or exemption shall be reviewed by the board of directors upon petition by the parent, guardian, or other interested person or the child who has been exempted or discharged: Provided, however, that such board shall not be required to review such discharge or exemption more than once during each calendar year. Whenever a blind or deaf child reaches the age of 18 years and is still unable to become self-supporting because of his defects, such child shall continue in said school until he reaches the age of 21, unless he becomes capable of self-support at an earlier date.

(b) Parents, etc., Failing to Enroll Deaf Child in School Guilty of Misdemeanor; Provisos. – The parents, guardians, or custodians of any deaf child between the ages of six and 18 years failing to enroll such deaf child or children in some school for instruction as provided herein, shall be guilty of a Class 1 misdemeanor: Provided, that this subsection shall not apply to or be enforced against the parent, guardian, or custodian of any deaf child until such time as the superintendent of any school for the instruction of the deaf shall in his discretion serve written notice on such parent, guardian, or custodian, directing that such child be sent to the institution, advising such parents, guardians, or custodians of the legal requirements of this subsection: Provided, further, that the willful failure of such parent, guardian, or custodian shall constitute a continuing offense and shall not be barred by the statute of limitations.

(c) Parents, etc., Failing to Send Blind Child to School Guilty of Misdemeanor; Provisos. – The parents, guardians, or custodians of any blind child between the ages of six and 18 years failing to send such child to some school for the instruction of the blind or public school shall be guilty of a Class 1 misdemeanor. This subsection shall not be enforced against the parents, guardians, or custodians of any blind child until such time as the superintendent of some school for the instruction of the blind shall in his discretion serve written notice on such parents, guardians, or custodians directing that such child be sent to the said school or to a public school, advising such parents, guardians, or custodians of the legal requirements of this subsection: Provided, further, that the willful

failure of such parents, guardians, or custodians shall constitute a continuing offense and shall not be barred by the statute of limitations. The authorities of the Governor Morehead School shall not be compelled to retain in their custody or under their instruction any incorrigible person of confirmed immoral habits.

(d) Local Superintendent to Report Blind and Deaf Children. – It shall be the duty of the local superintendents to report the names and addresses of parents, guardians, or custodians of any deaf or blind children residing within their respective local school administrative units to the superintendent of the institution provided for each. Such report also shall be made to the Department of Public Instruction. (1955, c. 1372, art. 20, ss. 7-10; 1969, c. 749, s. 1; 1981, c. 423, s. 1; 1993, c. 539, ss. 889, 890; 1994, Ex. Sess., c. 24, s. 14(c).)

Part 2. Student Records and Fees.

§ 115C-384. Student records and fees.

(a) In General. – The local board of education has the power to regulate fees, charges and solicitations subject to the provisions of G.S. 115C-47(6).

(b) Refund of Fees upon Transfer of Pupils.

(1) As used in this subsection:

- a. "Month" shall mean 20 school days.
- b. "First semester" shall mean the first 90 teaching days of the 180 days of the school year.
- c. "Second semester" shall mean the last 90 teaching days of the 180 days of the school year.
- d. "Term" shall have the same meaning as that of first semester or second semester.

(2) In all cases where pupils of a local school administrative unit of the public school system transfer to some other public school in another local school administrative unit or such pupils are compelled to leave the school in which they are enrolled because of some serious or permanent illness, or for any other good and valid reason, then such pupils or their parents shall be entitled to a refund of the fees and charges paid by them as follows:

- a. If the transfer or departure of the pupils from the school in which they are enrolled takes place within one month after enrollment, then all such fees and charges shall be refunded in full.
- b. If the transfer or leaving the school on the part of said pupils takes place after the first month and before the middle of the first semester, then one half of the fees for the first semester shall be refunded, and all fees and charges for the second semester shall be refunded.
- c. If the pupils transfer or leave the school after the middle of the first semester, then no first semester fees or charges shall be refunded.

- d. If the fees and charges on the part of such pupils have been paid for a year and such pupils transfer or leave the school at the end of the first semester or within the first month of the second semester, then all second semester fees and charges shall be refunded in full.
 - e. If the fees and charges herein described and set forth have been paid for one year, and the pupils transfer or leave the school before the middle of the second semester, then one half of the second semester fees shall be refunded.
 - f. The words "fees" and "charges" as used in this subsection shall not include any fees or charges paid for insurance or fees charged for expendable materials.
 - g. If the pupils transfer or leave the school after the middle of the second semester, then no fees shall be refunded.
 - h. If the amount of total refund as determined by this subsection shall be less than one dollar (\$1.00), no refund shall be paid.
- (3) The principal shall be responsible for refunding fees and charges at the place of the collection of the fees and charges by check made payable to the parent or guardian of pupils leaving the school as noted in subdivision (2) above.

(c) Rental Fees for Textbooks Prohibited; Damage Fees Authorized. – No rental fees are permitted for the use of textbooks, but damage fees may be collected pursuant to the provisions of G.S. 115C-100. (1969, c. 756; 1981, c. 423, s. 1.)

§§ 115C-385 through 115C-389. Reserved for future codification purposes.