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## HIDALGO COUNTY UNIFORM TRUANCY POLICY

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FLOWCHARTS AND STEP-BY-STEP COMMENTARIES**

School Responsibilities Regarding Truancy

Step-by-Step Commentary Flowchart for School Responsibilities Regarding Truancy

Truancy Court Procedures

Step-by-Step Commentary Accompanying Flowchart for Truancy Court Procedures

**Appendix 2:**

TASB Policy FED (Legal)

TASB Policy FED (Exhibit)

**SECTION 9: RESOURCE MATERIALS**

House Bill 2398

TASB Legal Services: Snapshot Truancy Guide for the 2015-2016 School Year

Transitioning to Title 3A of the Family Code: Before and After HB2398

Title 3A, Chapter 65, Truancy Court Proceedings

TMCEC Checklist: Chapter 1 – Initial Proceedings

TMCEC Checklist: Chapter 2 – Adjudication Hearing Procedures

TMCEC Checklist: Chapter 3 – Trial Proceedings

**SECTION 10: ADDITIONAL RESOURCES**

Truancy Reform Overview, original Power Point prepared by former Assistant General Counsel Ted Wood, Office of Court Administration, modified for presentation at the Truancy Reform Seminar held September 17, 2015, Edinburg, Texas.

Texas Municipal Courts Education Center (TMCEC)

<http://www.tmcec.com/truancy/>

TMCEC Texas Truancy Court Resource Manual

<http://www.tmcec.com/truancy/texas-truancy-court-resource-manual/>

Texas Municipal Courts Education Center (TMCEC), Frequently asked questions

<http://tmcec.com/truancy/truancy-faq/>

Texas Justice Court Training Center

<http://www.tjctc.org/>

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Office of Court Administration

<http://www.txcourts.gov/publications-training/training-materials/truancy-reform.aspx>

Fiscal Note – HB2398

<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=84R&Bill=HB2398>

Texas Appleseed, Update from Texas' 84<sup>th</sup> Legislative Session 2015, HB2398: Truancy Reform,

<http://www.texasappleseed.net/fact-sheet-hb2398-truancy-reform>

Texas Education Agency, Correspondence to the Administrator Addressed, Legislation Passed by the 84<sup>th</sup> Texas Legislature Relating to Truancy and On-campus discipline (Aug. 25, 2015)

[http://tea.texas.gov/About\\_TEA/News\\_and\\_Multimedia/Correspondence/TAA\\_Letters/Legislation\\_on\\_passed\\_by\\_the\\_84th\\_Texas\\_Legislature\\_relating\\_to\\_truancy\\_and\\_on-campus\\_discipline/](http://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/Legislation_on_passed_by_the_84th_Texas_Legislature_relating_to_truancy_and_on-campus_discipline/)

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**INTRODUCTION**

Children in Texas are legally obligated to attend school as required by the Compulsory School Attendance law found in Texas Education Code §25.085. Prior to the last legislative session, truancy matters could be handled in two entirely separate ways, with the most common consequence for a child who failed to attend school resulting in a Class C criminal conviction for the offense of Failure to Attend School under former §25.094 of the Texas Education Code. The former process for handling truant conduct has drawn substantial criticism in recent years, with the primary concern being the criminal conviction of children.

Prior to the 84<sup>th</sup> Legislative Session, former Lieutenant Governor David Dewhurst charged the Texas Legislature's Senate Committee on Jurisprudence to look at removing the offense of failure to attend school from the Texas Education Code.<sup>1</sup> Discussions and testimony, including testimony from TASB Legal Services and Governmental Relations, heard at the Senate committee held on October 14, 2014 yielded a clear message to the members of the Senate Committee on Jurisprudence – decriminalize truancy and do away with the criminal offense of failure to attend school but maintain accountability for students who missed school and for parents who contribute to the excessive absences.<sup>2</sup> Consequently, the 84<sup>th</sup> legislative session saw numerous bills addressing truancy and the removal of the offense of failure to attend school (Texas Education Code §25.094).<sup>3</sup> House Bill 2398, which became effective on September 1, 2015, addresses student attendance, including: compulsory attendance, warning notices, parents contributing to non-attendance, referral to truancy court, processing the student through the judicial system for non-attendance, and school district responsibility for addressing truant conduct.<sup>4</sup>

These materials set out the recommendations of the Hidalgo County Truancy Committee for the adoption of the Hidalgo County Uniform Truancy Policy. This packet contains forms, procedures and reference materials to assist in the implementation of the Policy adopted by Hidalgo County. For purposes of compliance with the Education Code §25.0916, it is recommended that all school districts, open-enrollment charter schools, and Truancy Courts within Hidalgo County adopt the procedures and forms set out in this Policy. These procedures and forms may be modified or revised by the Hidalgo County Truancy Committee, as necessary, to maintain compliance with the mandates of HB2398 and future legislation. All stakeholders will be kept informed of any and all future revisions to this Policy as those revisions are adopted by the Hidalgo County Truancy Committee.

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<sup>1</sup> Tex. S. Jurisprudence Comm. Committee Overview, 83<sup>rd</sup> Leg., R.S. (2013). Legislative Reference Library of Texas

<sup>2</sup> *Student Discipline and Truancy*, 2016 Winter Governance and Legal Seminar, February 25-27, 2016, Presented by Sarah Orman, Senior Attorney, Texas Association of School Boards Legal Services, pg. 2-3.

<sup>3</sup> Id at 3

<sup>4</sup> Id,

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The information contained in this packet sets out some of the changes to the Education Code and Family Code as mandated by HB2398. These materials are intended to facilitate a general understanding of the law and are not intended to address all legal or procedural issues raised by the legislative changes. Governmental entities, school districts and open-enrollment charter schools are advised to discuss the Hidalgo County Uniform Truancy with their own legal counsel and to consult with them for advice regarding application of the changes implemented by HB2398.

Questions regarding the Hidalgo County Uniform Truancy Policy can be directed to the following:

Yolanda Chapa  
Hidalgo County Chief of Staff  
Hidalgo County Judge's Office  
100 East Cano, 2<sup>nd</sup> Floor  
Edinburg, Texas 78539  
Telephone: (956) 318-2600  
Email: [Yoland.Chapa@co.hidalgo.tx.us](mailto:Yoland.Chapa@co.hidalgo.tx.us)

Maxine Longoria Nash  
Chief Assistant Criminal District Attorney  
Juvenile/Civil Division  
100 East Cano, 3<sup>rd</sup> Floor  
Edinburg, Texas 78539  
Telephone: (956) 318-2319  
Email: [Maxine.Nash@da.co.hidalgo.tx.us](mailto:Maxine.Nash@da.co.hidalgo.tx.us)

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**SECTION 1: DECRIMINALIZATION OF TRUANCY**

**House Bill 2398**

"The Texas compulsory school attendance law will be 100 years old next year. To understand the significance of H.B. 2398 requires understanding the history surrounding school attendance. 'School attendance was made compulsory in Texas in 1916 and required children between eight and fourteen years of age to attend public school for 60 days during the school year, 80 days the following year, and 100 days each year thereafter. Parents (or persons acting in the parental role) were responsible for ensuring that children complied, and children who declined to attend school could be adjudicated by a juvenile court as habitual truants.' Elizabeth A. Angelone, *The Texas Two Step: The Criminalization of Truancy Under the "Failure to Attend" Statute*, 13 SCHOLAR 433, 447-448 (2011). Although Texas in 1993 became one of only two states in the United States to criminalize non-attendance (i.e., Section 25.094, Education Code – Failure to Attend School), truancy remained a civil matter, handled as conduct indicating a need for supervision (CINS) under Section 51.03(b)(2) of the Family Code. Despite the fact that juvenile courts have jurisdiction over CINS petitions alleging truancy, increasingly few CINS cases are actually adjudicated in juvenile court. Due to cost and efficiency, criminal adjudication of Failure to Attend School has all but usurped CINS petitions all alleging truancy. The trend favoring criminal prosecution over the last two decades has begged a fundamental question: why should children in Texas be prosecuted for behavior that for most of our state's history was neither a crime nor something the public believed should consume limited judicial resources?

Eight pieces of legislation aimed at changing the enforcement of Texas' compulsory school attendance laws were introduced in the 84<sup>th</sup> Legislative Session. Most of the bills aimed to refine laws on the books. One sought to have municipal and justice courts handle school attendance in the same manner as a juvenile court (i.e., as conduct indicating need for supervision under Title 3 of the Family Code). None of them passed. It was not until nearly halfway through session that preparations began for drafting legislation that would not only end the "criminalization of truancy" but also creates an entirely new and unique type of court and set of procedures to handle school attendance cases involving children. The legislation, S.B. 106, authored by Senator John Whitmire, was drafted by the Office of Court Administration. S.B. 106 passed the Senate, but failed to survive a vote in the House Juvenile Justice and Family Issues Committee. However, near the end of the session, the text of S.B. 106 was added to H.B. 2398, filed by Representative James White. Identical versions of H.B. 2398 were eventually passed by the House and the Senate. Identical versions of H.B. 2398 were eventually passed by the House and the Senate. Governor Greg Abbott signed the bill into law on June 18, 2015.

H.B. 2398 is nearly 125 pages long and consists of 44 sections. It is a complicated piece of legislation. The first 26 sections mostly make conforming changes to accommodate Section 27, Chapter 65 of the Family Code, Truancy Court Proceedings. With the exception of Section 31,

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Judicial Donation Trust Funds, the remaining sections, for the most part, are additional conforming changes to what may be considered one of the most significant changes in Texas juvenile law since the passage of Title 3, The Juvenile Justice Code in 1973 and its revision in 1995.<sup>5</sup>

The text of House Bill 2398 is included in the Resource Materials section of this Policy and is also available online at [http://www.tmcec.com/index.php/download\\_file/view/5401/567/](http://www.tmcec.com/index.php/download_file/view/5401/567/).

A quick reference guide published by the Texas Association of School Boards (TASB) titled *TASB Legal Services: Snapshot Truancy Guide for the 2015-2016 School Year* is also included in the Resource Materials and is available online at [https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/principals\\_guide\\_to\\_truancy\\_july15.pdf](https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/principals_guide_to_truancy_july15.pdf)

Also included in the Resource Materials is a chart available through the Texas Municipal Courts Education Center entitled *Transitioning to Title 3A of the Family Code: Before and After H.B. 2398* and is also available at [http://www.tmcec.com/index.php/download\\_file/view/5401/567/](http://www.tmcec.com/index.php/download_file/view/5401/567/).

The text of the new Title 3A, Chapter 65 of the Texas Family Code can also be found in the Resource Materials section of this Policy and is available online at the following website: <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.65.htm>

### **Legislative Intent**

Prior to the 84<sup>th</sup> legislative session, Texas was one of two remaining states in the nation in which truancy was a crime.<sup>6</sup> The movement to decriminalize truancy is related to recent calls to reduce criminal consequences for school-related misconduct.<sup>7</sup> Both are united by the belief that, rather than acting as a deterrent, school-related criminal prosecution further alienates the young people most in need of support from public schools.<sup>8</sup>

House Bill 2398 decriminalized truancy by repealing the criminal offense of Failure to Attend School under former Education Code §25.094. Additionally, HB 2398 replaced the offense of Failure to Attend School with a new process of civil enforcement for truant conduct. This process is set out in the amendments to the Texas Family Code that resulted from HB 2398. These amendments created a new chapter in the Texas Family Code which can now be found in the new Title 3A, Chapter 65 of the code.

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<sup>5</sup> H.B. 2398 Section by Section Analysis, Texas Municipal Courts Education Center, pg. 1, available online through the TMCEC website at [http://www.tmcec.com/files/9314/3759/1085/HB\\_2398.pdf](http://www.tmcec.com/files/9314/3759/1085/HB_2398.pdf)

<sup>6</sup> Texas Bar Journal, December 2015, *Truancy Transformed – How House Bill 2398 Decriminalized Failure to Attend School*, by Sarah Orman and Cristina Blanton, Texas Association of School Boards Legal Services, pg. 870.

<sup>7</sup> Id at 871.

<sup>8</sup> Id.

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The legislative intent was to decriminalize truancy to remove the taint of criminality associated with school-related misconduct, require schools to implement more extensive truancy prevention measures to prevent or eliminate the need to refer the child to Truancy Court, and to create an entirely new type of court and set of procedures to handle school attendance cases involving children. In the end, the legislation requires schools to adopt truancy prevention measures designed to address student conduct related to truancy in the school setting *before* the student engages in truant conduct, and to minimize the need for referrals to Truancy Court.<sup>9</sup> The goal is for the referral to Truancy Court to be the *last* resort, with schools being encouraged to go beyond the minimum statutory requirements to address the underlying causes of truant conduct. Schools are required to keep in mind the best interest of the student in determining whether to make a referral. Proponents of truancy reform have argued that it is rarely in the best interest of the child to remove them from the school setting since removal merely serves to further alienate the students who are most in need of the structure that can be provided in a school setting through truancy prevention measures.

**Uniform Truancy Policies in Certain Counties – Texas Education Code §25.0916 (a)**

Texas Education Code §25.0916 was amended by HB2398 by amending (a), (c), (f), (h), and (i) and adding Subsection (c-1).

Pursuant to §25.0916(a) as set out below, Hidalgo County is required to establish a Uniform Truancy Policy.

**Sec. 25.0916. UNIFORM TRUANCY POLICIES IN CERTAIN COUNTIES.**

- (a) This section applies only to a county with two or more courts hearing truancy cases and two or more school districts.

**Truancy Committee – Texas Education Code §25.0916 (b)-(e)**

Texas Education Code §25.0916(b)-(e), was amended by HB2398, requires the establishment of a committee in qualifying counties and sets out the composition of the committee that will develop a uniform truancy policy for the county. Texas Education Code §25.0916 (b)-(e) provide as follows:

**Sec. 25.0916 (b)-(e)**

- (b) A committee shall be established to recommend a uniform truancy policy for each school district located in the county.

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<sup>9</sup> Texas Education Code §25.0915 (emphasis added).

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(c) Unless the county has already adopted a uniform truancy policy under this section, not later than January 1, 2016, the county judge or the county judge's designee and the mayor of the municipality in the county with the greatest population or the mayor's designee shall each appoint one member to serve on the committee as a representative of each of the following:

- (1) a juvenile court;
- (2) a municipal court;
- (3) the office of a justice of the peace;
- (4) the superintendent or designee of an independent school district;
- (5) an open-enrollment charter school, if one exists in the county;
- (6) the office of the prosecutor with original truancy jurisdiction in the county; and
- (7) the general public

(c-1) In addition to the members listed in Subsection (c), the chief juvenile probation officer or the officer's designee serves on the committee. The county judge or the county judge's designee and the mayor of the municipality in the county with the greatest population or the mayor's designee may make additional appointments as needed.

(d) Repealed by Acts 2015, 84<sup>th</sup> Leg., R.S., Ch. 935, Sec. 41(2), eff. September 1, 2015.

(e) The county judge and mayor of the municipality in the county with the greatest population shall:

- (1) both serve on the committee or appoint representatives to serve on their behalf;  
and
- (2) jointly appoint a member of the committee to serve as the presiding officer.

**Truancy Committee – Texas Education Code §25.0916 (f)**

Texas Education Code §25.0916(f) sets out the duties of the Truancy Committee as follows:

**Sec. 25.0916 (f)**

(f) Unless a county has already adopted a uniform policy under this section, not later than May 1, 2016, the committee shall recommend:

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- (1) a uniform process for filing truancy cases with truancy courts;
- (2) uniform administrative procedures;
- (3) uniform deadlines for processing truancy cases;
- (4) a local plan with strategies to address truancy, including effective prevention, intervention, and diversion methods to reduce truancy and referrals to a truancy court;
- (5) a system for tracking information and sharing truancy information among school districts, open-enrollment charter school, truancy courts, juvenile courts, and juvenile probation departments in the county; and
- (6) any changes to statutes or state agency rules the committee determines are necessary to address truancy.

**Presiding Officer's Report Due by December 1, 2017 §25.0916 (h)**

Pursuant to Texas Education Code §25.0916 (h), as amended, the presiding officer of the Truancy Committee is tasked with the responsibility of issuing a report by December 1, 2017, which addresses the implementation of the recommended Uniform Truancy Policy in the county. The statutory provision states as follows:

**Sec. 25.0916 (h)**

- (g) The committee's presiding officer shall issue a report not later than December 1, 2017, to the county judge and mayor of the municipality with the greatest population in the county on the implementation of the recommendations and compliance with state truancy laws by a school district located in the county.

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**Selection of Hidalgo County Treasury Committee Members**

Robert L. Acosta Director of Information Technology City of McAllen	Maxine Longoria Nash Chief Assistant Criminal D.A. – Juvenile/Civil Division Hidalgo County Criminal District Attorney's Office
Chris Ardis Retired Educator / Freelance Writer	Abiel Flores Attorney for the City of Mission
Dr. Eduardo Cancino Deputy Director / Division of Instructional Support	Mr. Eloy I. Hernandez Attorney for the City of Edinburg
Yolanda Chapa Hidalgo County Chief Administrator Hidalgo County Judge's Office	Sonia Mata Director of Data Processing McAllen ISD
Honorable Jesse Contreras 449 <sup>th</sup> District Court Judge	Honorable Jaime "Jerry" Munoz Justice of the Peace, Pct 2 Plc 2
Larry Esparza Attorney Hidalgo County Public Defender's Office	Mr. Robert L. Olivarez Superintendent Vanguard Academy
Olga Maldonado Chief of Police Mercedes Police Department	Honorable Toribio "Terry" Palacios Municipal Court Judge Edinburg Municipal Court
Dr. Anthony Garza Principal Johnny G. Economedes High School	Dr. Rene Gutierrez Superintendent Edinburg CISD
Juan Gonzalez Chief of Police San Juan Police Department	Renan Ramirez Chief I.T. Administrator Hidalgo County
Jaime "James" Guerrero Systems Support Manager Hidalgo County DA's Office	Mr. Eric Schreiber Chief Assistant Criminal D.A./Check Fraud Division Hidalgo County Criminal District Attorney's Office
Honorable Mario E. Ramirez, Jr. 332 <sup>nd</sup> District Court Judge	Honorable Israel Ramon, Jr. 430 <sup>th</sup> District Court Judge
Honorable Kathleen Henly Municipal Court Judge McAllen Municipal Court	Stan Ramos Administrative Operation Coordinator Hidalgo County Executive Office
Dr. Daniel P. King Superintendent Pharr San Juan Alamo ISD	Dr. Richard Rivera Superintendent Edcouch Elsa ISD
Mayor Henry Hinojosa City of Mercedes	Laura Guerra Ramirez Attorney at Law
Rosie Martinez Victims Unit Director Hidalgo County Criminal District Attorney's Office	Chief Israel "Buddy" Silva, Jr. (or designee) Director/Chief Juvenile Probation Officer Judge Mario E. Ramirez, Jr. Juvenile Justice Center
Dr. Marco Antonio Lara Deputy Director/Division of Admin. School Support	Jesse Vela Community Member
Roberto Leal Case Supervisor for J.P. Homer Jasso, Sr., Pct 4, Place 2	Honorable Jonathan Whermeister Municipal Court Judge Mission Municipal Court

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**SECTION 2: HIGHLIGHTS OF ADDITIONAL CHANGES TO THE TEXAS EDUCATION CODE**

House Bill 2398 made numerous changes to the Texas Education Code. Some highlights of the changes are set out below. For other changes to the code, see the text of HB2398 which is included in the Resource Materials section of this Policy and available online at: [http://www.tmcec.com/index.php/download\\_file/view/5401/567/](http://www.tmcec.com/index.php/download_file/view/5401/567/).

**Compulsory School Attendance – Texas Education Code §25.085**

“House Bill 2398 made several amendments to Texas Education Code §25.085. All persons are [now] required to attend school until their 19<sup>th</sup> birthdays, rather than 18<sup>th</sup>. Those who voluntarily enroll in school after their 19<sup>th</sup> birthdays shall attend, and may not have their enrollments revoked on a day in which they are present in school. Students enrolled after age 19 are not subject to rules regarding truant conduct under new Section 65.003 of the Family Code. After the third unexcused absence of a student older than age 19, the school district shall issue a warning letter, regarding revocation of enrollment after five such absences. As an alternative to revocation of enrollment, a school district may impose a behavior improvement plan.

**Note:** In 2011, the Texas Legislature decided that students age 18 or older could not be criminally prosecuted for failing to attend school. Under the new law, 18 yr olds can be petitioned for truant conduct as long as the petition is filed before the individual’s 19<sup>th</sup> birthday.<sup>10</sup>

Texas Education Code §25.085, as amended by HB2398, related to compulsory school attendance now provides as follows:

**Sec. 25.085. COMPULSORY SCHOOL ATTENDANCE**

- (a) A child who is required to attend school under this section shall attend school each school day for the entire period the program of instruction is provided.
- (b) Unless specifically exempted by Section [25.086](#), a child who is at least six years of age, or who is younger than six years of age and has previously been enrolled in first grade, and has not yet reached the child’s 19<sup>th</sup> birthday shall attend school.
- (c) On enrollment in prekindergarten or kindergarten, a child shall attend school.
- (d) Unless specifically exempted by Section [25.086](#), a student enrolled in a school district must attend:

<sup>10</sup> H.B. 2398 Section by Section Analysis, Texas Municipal Courts Education Center, Section 7: Compulsory Attendance, pg. 3, available online through the TMCEC website at [http://www.tmcec.com/files/9314/3759/1085/HB\\_2398.pdf](http://www.tmcec.com/files/9314/3759/1085/HB_2398.pdf)

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- (1) an extended year program for which the student is eligible that is provided by the district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Section [25.084](#);
  - (2) an accelerated reading instruction program to which the student is assigned under Section [28.006\(g\)](#);
  - (3) an accelerated instruction program to which the student is assigned under Section [28.0211](#);
  - (4) a basic skills program to which the student is assigned under Section [29.086](#); or
  - (5) a summer program provided under Section [37.008\(l\)](#) or Section [37.021](#).
- (e) A person who voluntarily enrolls in school or voluntarily attends school after the person's 19<sup>th</sup> birthday shall attend school each school day for the entire period the program of instruction is offered. A school district may revoke for the remainder of the school year the enrollment of a person who has more than five absences in a semester that are not excused under Section [25.087](#), except a school district may not revoke the enrollment of a person under this subsection on a day which the person is physically present at school. A person whose enrollment is revoked under this subsection may be considered an unauthorized person on school district grounds for purposes of Section [37.107](#).
- (f) The board of trustees of a school district may adopt a policy requiring a person described by Subsection (e) who is under 21 years of age to attend school until the end of the school year. Section [65.003\(a\)](#), Family Code, does not apply to a person subject to a policy adopted under this subsection. Sections [25.093](#) and [25.095](#) do not apply to the parent of a person subject to a policy adopted under this subsection.
- (g) After the third unexcused absence of a person described by Subsection (e), a school district shall issue a warning letter to the person that states the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester.
- (h) As an alternative to revoking a person's enrollment under Subsection (e), a school district may impose a behavior improvement plan described by Section [25.0915](#) (a-1)(1)

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**Truancy Prevention Measures – Texas Education Code §25.0915**

Perhaps the best indicator of Texas' steady trend toward non-punitive responses to truancy is the Legislature's focus on prevention.<sup>11</sup> Districts have been required to deter truancy and minimize the need for court involvement since 2011.<sup>12</sup> However, before HB 2398, the definition and implementation of such efforts were largely left to local discretion.<sup>13</sup> House Bill 2398 increases the requirements for these measures, and expands the range of measures available to schools.<sup>14</sup> School districts are directed to adopt truancy prevention measures for students, *prior to* absences constituting truant conduct under Chapter 65 of the Family Code.<sup>15</sup> "These measures may include: a behavior improvement plan; school-based services; referral to counseling, mediation, mentoring, a Teen Court program; or community-based, in-school, or out-of-school services. Referrals to truancy court must be accompanied by a statement that the school employed truancy prevention measures. Referrals to truancy court must be dismissed if the court determines that the school did not comply with these requirements, did not timely file the referral, or the referral is otherwise defective. A school district shall employ a truancy prevention facilitator or juvenile case manager to implement truancy prevention measures, and that person shall meet at least annually with a case manager or other individual designated by a truancy court. Instead of a truancy prevention facilitator or juvenile case manager, a school district may designate an existing district employee to perform this function."<sup>16</sup>

The addition of §25.0915(f) under this legislation specifically tasks the Texas Education Agency (TEA) with establishing minimum standards and best practices for truancy prevention measures.<sup>17</sup> This section further requires TEA to adopt rules to provide for sanctions for a school district that is not in compliance with these minimum standards and best practices.<sup>18</sup> However, for the 2015-2016 school year, TEA has indicated that it will not establish minimum standards beyond those imposed by the legislation, and will use a complaint-based model for issues of non-compliance under this section.<sup>19</sup>

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<sup>11</sup> Texas Bar Journal, December 2015, *Truancy Transformed – How House Bill 2398 Decriminalized Failure to Attend School*, by Sarah Orman and Cristina Blanton, Texas Association of School Boards Legal Services, pg. 871

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> H.B. 2398 Section by Section Analysis, Texas Municipal Courts Education Center, Section 9: Truancy Prevention Measures, pg. 4, available online through the TMCEC website at [http://www.tmcec.com/files/9314/3759/1085/HB\\_2398.pdf](http://www.tmcec.com/files/9314/3759/1085/HB_2398.pdf)

<sup>15</sup> Id., emphasis added.

<sup>16</sup> Id.

<sup>17</sup> Texas Education Code §25.0915(f)

<sup>18</sup> Id.

<sup>19</sup> See Tex. Educ. Agency, *Legislation passed by the 84<sup>th</sup> Texas Legislature relating to truancy and on-campus discipline* (Aug. 25, 2015), [http://tea.texas.gov/About\\_TEA/News\\_and\\_Multimedia/Correspondence/TAA\\_Letters/Legislation\\_passed\\_by\\_the\\_84th\\_Texas\\_Legislature\\_relating\\_to\\_truancy\\_and\\_on-campus\\_discipline/](http://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/Legislation_passed_by_the_84th_Texas_Legislature_relating_to_truancy_and_on-campus_discipline/)

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“The list of prevention measures has been expanded to include more concrete measures such as mediation and Teen Court. The requirements of the statute are more substantial and exact. This is intended to further reduce the number of school attendance cases involving children referred to the legal system. As amended, truancy prevention measures will play the role currently played by deferred disposition and school attendance orders imposed by courts. A trip to court and face-to-face visit with a judge is no longer an immediate option.”<sup>20</sup>

Texas Education Code §25.0915, as amended by HB2398, related to truancy prevention measures now provide as follows:

**Sec. 25.0915. TRUANCY PREVENTION MEASURES**

(a) A school district shall adopt truancy prevention measures designed to:

- (1) address student conduct related to truancy in the school setting before the student engages in conduct described by Section [65.003\(a\)](#), Family Code; and
- (2) minimize the need for referrals to truancy court for conduct described by Section [65.003\(a\)](#),

(a-1) As a truancy prevention measure under Subsection (a), a school district shall take one or more of the following actions:

(1) impose:

(A) a behavior improvement plan on the student that must be signed by and employee of the school, that the school district has made a good faith effort to have signed by the student and the student’s parent or guardian, and that includes:

- i. a specific description of the behavior that is required or prohibited for the student;
- ii. the period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or
- iii. the penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or

(B) school-based community service; or

(2) refer the student to counseling, mediation, mentoring, a teen court program, community-based services, or other in-school or out-of-school services aimed at addressing the student’s truancy.

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<sup>20</sup> H.B. 2398 Section by Section Analysis, Texas Municipal Courts Education Center, Section 9: Truancy Prevention Measures, pg. 4, available online through the TMCEC website at [http://www.tmcec.com/files/9314/3759/1085/HB\\_2398.pdf](http://www.tmcec.com/files/9314/3759/1085/HB_2398.pdf)

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- (a-2) A referral made under Subsection (a-1)(2) may include participation by the child's parent or guardian if necessary.
- (a-3) A school district shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:
- (1) pregnancy;
  - (2) being in the state foster program;
  - (3) homelessness; or
  - (4) being the principal income earner for the student's family.
- (a-4) If a student fails to attend school without an excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Section [25.0951\(a\)](#), the school district shall initiate truancy prevention measures under this section on the student.
- (b) Each referral to truancy court for conduct described by Section [65.003\(a\)](#), Family Code, must:
- (1) be accompanied by a statement from the student's school certifying that:
    - (A) the school applied the truancy prevention measures adopted under Subsection (a) or (a-4) to the student; and
    - (B) the truancy prevention measures failed to meaningfully address the student's school attendance; and
  - (2) specify whether the student is eligible for or receives special education services under Subchapter A, Chapter 29.
- (c) A truancy court shall dismiss a petition filed by a truant conduct prosecutor under Section [65.054](#), Family Code, if the court determines that the school district's referral:
- (1) does not comply with Subsection (b);
  - (2) does not satisfy the elements required for truant conduct;
  - (3) is not time filed, unless the school district delayed the referral under Section [25.0951\(d\)](#); or
  - (4) is otherwise substantively defective.
- (d) Except as provided by Subsection (e), a school district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy measures required by this section and any other effective truancy prevention measures as determined by the school district or campus. At least annually, the truancy prevention facilitator shall meet to discuss effective truancy prevention measures with a case

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manager or other individual designated by a truancy court to provide services to students of the school district in truancy cases.

- (e) Instead of employing a truancy prevention facilitator, a school district may designate an existing employee or juvenile case manager to implement the truancy prevention measures required by the school district or campus.
- (f) The agency shall adopt rules:
  - (1) creating minimum standards for truancy prevention measures adopted by a school district under this section; and
  - (2) establishing a set of best practices for truancy prevention measures.
- (g) The agency shall adopt rules to provide for sanctions for a school district found to be not in compliance with this section.

**Parent Contributing to Nonattendance – Texas Education Code §25.093**

“House Bill 2398 decriminalizes truancy by repealing §25.094 of the Education Code, the statute that made failure to attend school a crime. But the bill does not repeal Section 25.093 which creates the offense of parent contributing to nonattendance. While HB 2398 does not repeal Section 25.093, the bill does change the amount of the fine for a conviction. Under the old law, the offense of parent contributing to nonattendance was a Class C misdemeanor. The maximum fine in a Class C misdemeanor case is \$500. The amended version of the statute no longer classifies parent contributing to nonattendance as a Class C misdemeanor. Rather, the amended statute just refers to the offense as a misdemeanor. This allows the penalty to be changed from the general fine amount applicable to all Class C misdemeanors to another amount. Here, the amount of the fine is set at an amount not to exceed \$100 for a first offense. The fine amount increases in stair-step fashion for subsequent parent-contributing-to-nonattendance offenses.<sup>21</sup>

Texas Education Code §25.093, as amended by HB2398, related to Parent Contributing to Nonattendance now provides as follows:

**Sec. 25.093. PARENT CONTRIBUTING TO NONATTENDANCE**

- (a) If a warning is issued by Section [25.095\(a\)](#), the parent with criminal negligence fails to require the child to attend school as required by law, and the child has absences for the

<sup>21</sup> H.B. 2398 Section by Section Analysis, by Ted Wood, former Assistant General Counsel, Office of Court Administration, Education Code §25.093. Parent Contributing to Nonattendance, pg. 10, *available online through the TMCEC website at: <http://www.tmcec.com/files/6214/3775/9537/05 - TJJD - Section by Section Complete.pdf>*

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amount of time specified under Section [65.003\(a\)](#), Family Code, the parent commits an offense.

- (b) The attendance officer or other appropriate school official shall file a complaint against parent in:
- (1) the constitutional county court of the county in which the parent resides or in which the school is located, if the county has a population of 1.75 million or more;
  - (2) a justice court of any precinct in the county in which the parent resides or in which the school is located; or
  - (3) a municipal court of the municipality in which the parent resides or in which the school is located.
- (c) An offense under Subsection (a) is a misdemeanor, punishable by fine only, in an amount not to exceed:
- (1) \$100 for a first offense;
  - (2) \$200 for a second offense;
  - (3) \$300 for a third offense;
  - (4) \$400 for a fourth offense;
  - (5) \$500 for a fifth or subsequent offense.
- (c-1) Each day the child remains out of school may constitute a separate offense. Two or more offenses under Subsection (a) may be consolidated and prosecuted in a single action. If the court orders deferred disposition under Article [45.051](#), Code of Criminal Procedure, the court may require the defendant to provide personal services to a charitable or educational institution as a condition of the referral.
- (d) A fine collected under this section shall be deposited as follows:
- (1) one-half shall be deposited to the credit of the operating fund of, as applicable;
    - (A) the school district in which the child attends school;
    - (B) the open-enrollment charter school the child attends; or
    - (C) the juvenile justice alternative education program that the child has been ordered to attend; and
  - (2) one-half shall be deposited to the credit of:
    - (A) the general fund of the county, if the complaint is filed in the justice court or the constitutional county court; or
    - (B) the general fund of the municipality, if the complaint is filed in the municipal court.

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- (e) At the trial of any person charged with violating this section, the attendance records of the child may be presented in court by any authorized employee of the school district or open-enrollment charter school, as applicable.
- (f) The court in which a conviction, deferred adjudication, or deferred disposition for an offense under Subsection (a) occurs may order the defendant to attend a program for parents students with unexcused absences that provides instruction designed to assist those parents in identifying problems that contribute to the students' unexcused absences and in developing strategies for resolving those problems if a program is available.
- (g) If a parent refuses to obey a court order entered under this section, the court may punish the parent for contempt of court under Section 21.002, Government Code.
- (h) It is an affirmative defense to prosecution for an offense under Subsection (a) that one or more of the absences required to be proven under Subsection (a) was excused by a school official or should be excused by the court. The burden is on the defendant to show by a preponderance of the evidence that the absence has been or should be excused. A decision by the court to excuse an absence for purposes of this section does not affect the ability of the school district to determine whether to excuse the absence for another purpose.
- (i) In this section, "parent" includes a person standing in parental relation.

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**SECTION 3: TITLE 3A, CHAPTER 65, TEXAS FAMILY CODE TRUANCY COURT PROCEDURES**

"The decriminalization of truancy by the Texas Legislature does not mean that legislators did not want to continue to hold children accountable for missing school. On the contrary, legislators know the importance of keeping kids in school. They know that having negative consequences for missing school can serve to encourage school attendance. So the legislators added a brand new title to the Family Code. Section 65.001 (b) explicitly states that the goal of the new title is to hold children accountable for missing school. Section 65.001(b) also recognizes that courts will have a major role in this accountability. Accordingly, Title 3A is created to set out the procedures courts will use in effectuating this accountability. The act of missing school will no longer result in a criminal conviction. But make no mistake the courts will continue to hold children accountable for missing school."<sup>22</sup>

The changes to the Texas Education Code and Texas Family Code made by HB2398 became effective September 1, 2015. The changes in law made by this Act apply only to an offense committed, or conduct that occurs, on or after the effective date of this Act.

**Scope and Purpose of Title 3A, Chapter 65**

The practices and procedures required by the new Chapter 65 or the Family Code are too detailed to discuss here. The text of Title 3A, Chapter 65, Truancy Court Proceedings is included in the Resource Materials section of this Policy and is also available online at the following link: <http://statutes.legis.state.tx.us/Docs/FA/htm/FA.65.htm>.

The scope and purpose of this new chapter are set out in *Subchapter A. General Provisions* are noted below:

**Sec. 65.001. SCOPE AND PURPOSE**

- (a) This chapter details the procedures and proceedings in cases involving allegations of truant conduct.
- (b) The purpose of this chapter is to encourage school attendance by creating simple civil judicial procedures through which children are held accountable for excessive school absences.

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<sup>22</sup> H.B. 2398 Section by Section Analysis, by Ted Wood, former Assistant General Counsel, Office of Court Administration, Commentary to Family Code §65.001, Scope and Purpose, pg. 18, available online through the TMCEC website at: <http://www.tmcec.com/files/6214/3775/9537/05 - TJJD - Section by Section Complete.pdf>

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(c) The best interest of the child is the primary consideration in adjudicating truant conduct of the child.

**Definitions Provided in Chapter 65**

**Sec. 65.022. DEFINITIONS. In this chapter:**

- (1) "Child" means a person who is 12 years of age or older and younger than 19 years of age.
- (2) "Juvenile court" means a court designated under Section [65.003](#) to exercise jurisdiction over proceedings under Title 3.
- (3) "Qualified telephone interpreter" means a telephone service that employs licensed court interpreters, as defined by Section [157.001](#), Government Code.
- (4) "Truancy court" means a designated under Section [65.004](#) to exercise jurisdiction over cases involving allegations of truant conduct.

"There are two tremendously significant points to be gleaned from Section 65.002: First, truancy courts are not the same thing as juvenile courts. Truancy courts are the courts that will exercise jurisdiction over cases involving allegations of truant conduct. More details about truancy courts are contained in Section 65.002. Juvenile courts, on the other hand, exercise jurisdiction over cases under Title 3 of the Family Code. Truant conduct case [no longer] fall under Title 3. Rather, truant conduct cases fall under new Title 3A [after the amendments made by HB 2398].

Second, the definition of the term "child" for purposes of the new truancy provisions includes 17-year-olds and 18-year-olds. This is a significantly broader definition of the term "child" than in the Juvenile Justice Code. In the Juvenile Justice Code, the term "child" means a person who is "ten years of age or older and under 17 years of age." Tex. Fam. Code Ann. §51.02(2) (West 2014)."<sup>23</sup>

**What is Considered Truant Conduct after HB 2398?**

"The concepts of "delinquent conduct" and "conduct indicating a need for supervision" are a familiar part of juvenile law. *See* Tex. Fam. Code Ann. §51.03 (West 2014). "Truant conduct" is a similar concept. Section 65.003(a) defines truant conduct. Subsection (b) declares that the act of truant conduct may be prosecuted only as civil case in a truancy court. This subsection makes it clear that truant conduct is not a criminal offense. This subsection also makes it clear that there is only one type of court in which truant conduct can be prosecuted – a truancy court.

<sup>23</sup> H.B. 2398 Section by Section Analysis, by Ted Wood, former Assistant General Counsel, Office of Court Administration, Commentary to Family Code §65.002, Definitions, pg. 18, *available online through the TMCEC website at: <http://www.tmcec.com/files/6214/3775/9537/05 - TJJD - Section by Section Complete.pdf>*

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A person can engage in truant conduct only if that person is required to attend school. Truant conduct occurs when such a person "fails to attend school on 10 or more days or parts of day within a six-month period in the same school year." This exact same conduct constituted the criminal offense of failure-to-attend-school. *See* Tex. Educ. Code Ann. §25.094 (Vernon 2012). And this exact same conduct constituted "truancy" which was a form of conduct indicating a need for supervision. *See* Tex. Fam. Code Ann. §§51.03(b)(2), 54.021 (Vernon 2014)."

Notably, however, the absence of a child from school "on three or more days or parts of days within a four-week-period" [no longer] constitutes truant conduct. But [prior to the amendments made by HB2398,] this kind of absence did constitute the criminal offense of failure to attend school. *See* Tex. Educ. Code Ann. §25.0904 (Vernon 2012). And this conduct did constitute "truancy" which was a form of conduct indicating the need for supervision. *See* Tex. Fam. Code Ann. §§51.03(b)(2), 54.021 (Vernon 2012).<sup>24</sup>

Texas Family Code §65.003 related to Truant Conduct, as promulgated by HB2398, provides as follows:

**Sec. 65.003. TRUANT CONDUCT.**

- (a) A child engages in truant conduct if the child is required to attend school under Section [25.085](#), Education Code, and fails to attend school on 10 or more days or parts of days within a six-month period in the same school year.
- (b) Truant conduct may be prosecuted only as a civil case in a truancy court.
- (c) It is an affirmative defense to an allegation of truant conduct that one or more of the absences required to be proven have been excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute truant conduct. The burden is on the child to show by a preponderance of the evidence that the absence has been or should be excused or that the absence was involuntary. A decision by the court to excuse an absence for purposes of this subsection does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

**Which Courts are Designated as Truancy Courts?**

"Texas Family Code §65.004 creates truancy courts that did not exist prior to HB2398. While the courts are new, there are no new courtrooms and no new judges. Rather, truancy courts are

<sup>24</sup> Id. at pg. 19, Commentary to Family Code §65.003, Truant Conduct.

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simply certain existing courts authorized to exercise a special area of jurisdiction. Thus, truancy courts are very much like juvenile courts which are actually selected district and county-level courts designated locally to exercise juvenile jurisdiction.

Subsection (a) declares that three types of courts are truancy courts. The courts designated as truancy courts are: (1) constitutional county courts in counties with a population of 1.75 million or more; (2) all justice courts; and (3) all municipal courts. No local designation by a juvenile board (or any other governmental entity) is necessary to make these courts truancy courts. The named courts are automatically truancy courts by virtue of Subsection (a).

Subsection (b) details the cases over which these new truancy courts may exercise subject matter jurisdiction. The grant of jurisdiction is exceedingly simple; there is only one kind of case over which truancy courts are given jurisdiction. That kind of case is a case involving allegations of truant conduct. A truancy court has jurisdiction over no other type of case.

Subsection (c) authorizes agreements between certain municipalities in regard to the handling of truant conduct cases.

Subsection (d) declares that truancy courts retain jurisdiction over students even after they turn 19. The jurisdiction remains in the truancy court until the case is finally disposed."<sup>25</sup>

Texas Family Code §65.004 related to Truancy Courts; Jurisdiction, as promulgated by HB2398, provides as follows:

**Sec. 65.004. TRUANCY COURTS; JURISDICTION.**

- (a) The following are designated as truancy courts:
  - (1) in a county with a population of 1.75 million or more, the constitutional court;
  - (2) justice courts; and
  - (3) municipal courts.
  
- (b) A truancy court has exclusive original jurisdiction over cases involving allegations of truant conduct.
  
- (c) A municipality may enter into an agreement with a contiguous municipality or a municipality with boundaries that are within one-half mile of the municipality seeking to enter into the agreement to establish concurrent jurisdiction of the municipal courts in

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<sup>25</sup> H.B. 2398 Section by Section Analysis, by Ted Wood, former Assistant General Counsel, Office of Court Administration, Commentary to Family Code §65.002, Definitions, pg. 18, available online through the TMCEC website at: <http://www.tmcec.com/files/6214/3775/9537/05 - TJJD - Section by Section Complete.pdf>

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the municipalities and provide original jurisdiction to a municipal court in which a truancy case is brought as if the municipal court were located in the municipality in which the case arose.

- (d) A truancy court retains jurisdiction over a person, without regard to the age of the person, who was referred to the court under Section 65.051 for engaging in truant conduct before the person's 19<sup>th</sup> birthday, until final disposition of the case.

**What Does this Mean for Hidalgo County?**

The population of Hidalgo County is not 1.75 million or more; therefore, pursuant to Texas Family Code §65.004, only the Justices of the Peace and Municipal Courts in Hidalgo County are considered to be Truancy Courts.

Not all courts in Hidalgo County that are designated as Truancy Courts by §65.004 will hear cases of truant conduct. The Justice and Municipal courts in Hidalgo County that previously handled failure to attend cases under the old law will continue to handle referrals sent to them as truant conduct; however, for purposes of these types of cases lone, these courts will be sitting as Truancy Courts.

**In Which Truancy Court Should the Case be Filed?**

Typically, a child will attend a school in the county in which he or she lives. But this is not always the case. Section 65.006 permits truant conduct cases to be filed in the county in which the student's school is located. The statute also permits truant conduct cases to be filed in the county in which the student lives.

Texas Family Code §65.004 related to Truancy Courts; Jurisdiction, as promulgated by HB2398, provides as follows:

**Sec. 65.006. VENUE**

Venue for a proceeding under this chapter is the county in which the school in which the child is enrolled is located or the county in which the child resides.

These are just some of the provisions contained within the new Title 3A, Chapter 65 of the Texas Family Code. For other statutory provisions contained within this chapter, please see the complete text of Title 3A, Chapter 65, Truancy Court Proceedings included in the Resource Materials section of this Policy. The information is also available online at the following link: <http://statutes.legis.state.tx.us/Docs/FA/htm/FA.65.htm>.

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**SECTION 4: RECOMMENDED PROCEDURES AND FORM FOR HIDALGO COUNTY**

The recommended procedures and forms for Hidalgo County are set out below. These recommendations from the committee follow a series of meetings and subcommittee meetings held by the Hidalgo County Truancy Committee. Sample policies from various counties were reviewed as well as numerous sample forms from other counties throughout the state, as well as forms available through the Texas Municipal Court Education Center (TMCEC), the Texas Justice Court Training Center (TJCTC), the Office of Court Administration, and the Texas Association of School Boards.

These materials set out the recommendations of the Hidalgo County Truancy Committee for the adoption of the Hidalgo County Uniform Truancy Policy. This packet contains forms, procedures and reference materials to assist in the implementation of the Policy adopted by Hidalgo County. **For purposes of compliance with Education Code §25.0916, it is recommended that all school districts, open-enrollment charter schools, and Truancy Courts within Hidalgo County adopt the procedures and forms set out in this Policy.** These procedures and forms may be modified or revised by the Hidalgo County Truancy Committee, as necessary, to maintain compliance with the mandates of HB2398 and future legislation.

These materials are intended to facilitate a general understanding of the law and are not intended to address all legal or procedural issues raised by the legislative changes. Governmental entities, school districts and open-enrollment charter school are advised to discuss the Hidalgo County Uniform Truancy with their own legal counsel and to consult with them for advice regarding application of the changes implemented by HB2398.

**Subsection A:** School Procedures and Recommended Forms

The recommended procedures and forms in Hidalgo County are included in the forms section of this Policy.

For purposes of compliance with Education Code §25.0916, it is recommended that all school districts, open-enrollment charter schools, and Truancy Courts within Hidalgo County adopt the procedures and forms set out in this policy.

**Subsection B:** Truancy Prosecutor's Procedures and Recommended Forms

The recommended procedures and forms for Truancy Prosecutors in Hidalgo County are included in the forms section of this Policy.

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This policy does not contain all forms and pleadings that will be necessary for the complete processing of truant conduct referrals. Additional forms and pleadings are available through the Texas Truancy Manual on the TMCEC website and will continue to be incorporated into the recommended forms section of this Policy.

**Subsection C:** Truancy Court Procedures and Recommend Forms

The recommended procedures and forms for Truancy Courts in Hidalgo County are included in the forms section of this Policy.

For purposes of maintaining uniformity, it is recommended that all Truancy Courts within Hidalgo County adopt the procedures and forms set out in this Policy.

This policy does not contain all forms and pleadings that will be necessary for the complete processing of truant conduct referrals. Additional forms are available through the Texas Truancy Manual on the TMCEC website and will continue to be incorporated into the recommended forms section of this Policy.

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**SECTION 5: ADOPTION OF OFFICE OF COURT ADMINISTRATION (O.C.A.)  
FLOWCHARTS AND STEP-BY-STEP COMMENTARIES**

The Hidalgo County Uniform Truancy Policy does not attempt to address in detail all legal or procedural issues related to truancy matters. However, in an effort to provide insight and understanding of what the law now requires from schools and the new Truancy Courts, this Policy adopts and incorporates the flowcharts and step-by-step commentaries drafted by former Assistant General Counsel with the Office of Court Administration, Ted Wood.

**Subsection A: School Procedures**

- **Office of Court Administration Flowchart for School Responsibilities Regarding Truancy**

The first flowchart, titled *School Responsibilities Regarding Truancy* (hereinafter sometimes referred to as the "*School Flowchart*"), systematically outlines procedures and requirements aimed at keeping kids in school. These procedures and requirements deal with children before they have been (if they ever will be) referred to Truancy Court.

- **Office of Court Administration Step-by-Step Commentary Accompanying Flowchart for School Responsibilities Regarding Truancy**

To assist schools to better understand these procedures and requirements, it is recommended that the *School Flowchart* be reviewed in conjunction with the *Step-by-Step Commentary Accompanying Flowchart for School Responsibilities Regarding Truancy*.

**Subsection B: Truancy Court Procedures**

- **Office of Court Administration Flowchart for Truancy Court Procedures**

The second flowchart, titled *Truancy Court Procedures* (hereinafter sometimes referred to as the "Court Flowchart"), provides an in-depth guide to the new court procedures required by the new Chapter 65 of the Family Code.

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- **Office of Court Administration Step-by-Step Commentary Accompanying Flowchart for Truancy Court Procedures**

It is recommended that the *Court Flowchart* be reviewed in conjunction with the *Step-by-Step Commentary Accompanying Flowchart for Truancy Court Procedures*.

These flowcharts and step-by-step commentaries are included in **Appendix 1** to this Policy and may also be accessed online at the following links:

**School Flowchart and Step-by-Step Commentary:**

<http://www.txcourts.gov/media/1022896/school-responsibilities-regarding-truancy.pdf>

<http://www.txcourts.gov/media/1022899/commentary-accompanying-school-responsibilities-regarding-truancy-flowchart.pdf>

**Court Flowchart and Step-by-Step Commentary:**

<http://www.txcourts.gov/media/1022914/truancy-court-procedures.pdf>

<http://www.txcourts.gov/media/1022902/commentary-accompanying-truancy-court-procedures.pdf>

Additional information regarding truancy reform is available on the Office of Court Administration website at:

<http://www.txcourts.gov/publications-training/training-materials/truancy-reform.aspx>

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**SECTION 6: ADOPTION OF TEXAS ASSOCIATION OF SCHOOL BOARDS (T.A.S.B.)  
STATEWIDE POLICY**

**Adoption of TASB Policy FED (Legal) and TASB Policy FED (Exhibit)**

The Hidalgo County Uniform Truancy Policy does not attempt to address in detail all legal or procedural issues related to truancy matters. However, in an effort to provide insight and understanding into what the law now requires from schools and the new Truancy Courts, this Policy adopts and incorporates the policies published by TASB relating to HB2398. Specifically, the adoption of TASB Policy FED (Legal) and TASB Policy FED (Exhibit) as standards to be followed by Hidalgo County School Districts, **subject to local procedures and forms adopted and recommended by the Hidalgo County Truancy Committee through this Policy.**

TASB Policy FED (Legal) and TASB Policy FED (Exhibit) are incorporated into this Policy and are included in **Appendix 2**. These policies are also available to school districts through TASB Policy Service as part of the school district's TASB membership.

**What is TASB?**

Created in 1949, the Texas Association of School Boards (TASB) is a voluntary, nonprofit, statewide educational association that serves and represents local Texas school districts. TASB's membership includes all 1,030 Texas school districts, 20 regional education service centers, 50 community colleges, 16 tax appraisal districts, and 137 shared service arrangements. The Association represents the largest group of publicly elected officials in the state (more than 7,000 school board members) that serves over 4.9 million Texas students.

**How do School Districts Acquire their Policies?**

As a service to its members, TASB provides a manual and online services which contains policies governing the operation of a school district. The policies are included because they are required by law or by the Texas Education Agency; because they are recommended by the Texas Association of School Boards as essential to effective District governance and management; or because the Board wishes to make a statement in a particular policy area.<sup>26</sup>

The legally referenced (LEGAL) policies track the language of the U.S. and Texas Constitutions; federal and state statutes, including the Texas Education Code; attorney general opinions; the

<sup>26</sup> Introduction to TASB Policy Online, Policy A18 (LEGAL)-L, Date Issued: 3/12/14, Update 99, pg. 1 of 6

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Texas Administrative Code, including Commissioner's and State Board of Education rules; and other sources of authority defining the legal context for local school district governance and management.<sup>27</sup>

Local policies are identified by the designation (LOCAL) directly below the alphabetical code, in the upper right corner of each page and again in the lower left corner. Local policies that are preceded by a (LEGAL) policy in the same code generally expand on, or qualify, the legally referenced provisions. Other (LOCAL) policies stand alone, reflecting the Board's intentions in areas not otherwise addressed by law.<sup>28</sup>

**TASB Legal Services: Snapshot Truancy Guide for the 2015 – 2015 School Year**

A quick reference guide published by the Texas Association of School Boards (TASB) titled *TASB Legal Services: Snapshot Truancy Guide for the 2015-2016 School Year* is included in the Resource Materials and is available online at: [https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/principals\\_guide\\_to\\_truancy\\_july15.pdf](https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/principals_guide_to_truancy_july15.pdf)

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<sup>27</sup> Id at pg. 2 of 6

<sup>28</sup> Id at pg. 4 of 6

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**SECTION 7: TEXAS TRUANCY MANUAL – A COLLABORATIVE EFFORT BETWEEN THE  
TEXAS JUSTICE COURT TRAINING CENTER AND THE TEXAS MUNICIPAL  
COURT EDUCATION CENTER**

Information from the TJCTC and TMCEC websites is provided as an additional resource to assist with implementation of the mandates of HB2398 and to provide additional information beyond what can be discussed in this Policy. It is recommended that these websites be consulted for informational purpose; however the information on these websites is **subject to local procedures and forms adopted and recommended by the Hidalgo County Truancy Committee through this Policy.**

Also included as an additional resource is a list of Frequently Asked Questions (FAQs) available on the TMCEC website at <http://tmcec.com/truancy/truancy-faq/>

The Texas Justice Court Training Center (TJCTC) and the Texas Municipal Court Education Center (TMCEC) worked together to create a Texas Truancy Manual with information on processing Truant Conduct cases and forms to utilize in those areas.<sup>29</sup> The Texas Truancy Manual may be accessed online at <http://tmcec.com/truancy/texas-truancy-court-resource-manual>.

"The Texas Truancy Court Resource Manual is a collaborative effort of our organizations to help justice and municipal courts address the challenge of construing and applying more than 50 new statutes in the absence of legal precedent. The matter is further complicated because there are numerous issues that Title 3A simply does not address. The same is true in terms of resource materials. Part bench book, part forms book, and admittedly, part best educated guess: because of the dynamic and evolving nature of the subject matter, this on-line resource is a work in progress and subject to periodic revision. So please check back regularly and make sure to carefully review the revision history for the links below."<sup>30</sup>

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<sup>29</sup> Texas Justice Court Training Center website, Announcements, TJCTC and TMCEC Release Truancy Resource Manual, March 20, 2016, at <http://www.tjctc.org/>.

<sup>30</sup> Texas Municipal Court Education Center website, Texas Truancy Transition, Truancy Resource Manual, at <http://tmcec.com/truancy/texas-truancy-court-resource-manual>.

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It is the recommendation of the Hidalgo County Truancy Committee that procedures and forms, as set out above, and in the accompanying attachments, be approved and adopted by the Hidalgo County Commissioners' Court as the Hidalgo County Uniform Truancy Policy.

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Yolanda Chapa

Presiding Officer

Hidalgo County Truancy Committee

**April 26, 2016**

Date

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Be it remembered that on April 26, 2016, the Hidalgo County Commissioners' Court considered the recommendations of the Hidalgo County Truancy Committee for the adoption of the Hidalgo County Uniform Truancy Policy. Having considered the recommendations of the Committee, the Hidalgo County Commissioners' Court hereby approves the recommendations of the Committee and approves this proposal as the Hidalgo County Uniform Truancy Policy.

**April 26, 2016**

\_\_\_\_\_  
Ramon Garcia

Hidalgo County Judge

\_\_\_\_\_  
Date

\_\_\_\_\_  
A.C. Cuellar, Jr.

Commissioner, Precinct 1

\_\_\_\_\_  
Eduardo "Eddie" Cantu

Commissioner, Precinct 2

\_\_\_\_\_  
Joe M. Flores

Commissioner, Precinct 3

\_\_\_\_\_  
Joseph Palacios

Commissioner, Precinct 4