

Alabama Code 16-28-12. Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual distribution, receipt to be documented; school officials requi...

(a) Each parent, guardian, or other person having control or custody of any child required to attend school or receive regular instruction by a private tutor who fails to have the child enrolled in school or who fails to send the child to school, or have him or her instructed by a private tutor during the time the child is required to attend a public school, private school, church school, denominational school, or parochial school, or be instructed by a private tutor, or fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in any public school in accordance with the written policy on school behavior adopted by the local board of education pursuant to this section and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars (\$100) and may also be sentenced to hard labor for the county for not more than 90 days. The absence of a child without the consent of the principal teacher of the public school he or she attends or should attend, or of the tutor who instructs or should instruct the child, shall be prima facie evidence of the violation of this

section.

(b) Each local public board of education shall adopt a written policy for its standards on school behavior. Each local public school superintendent shall provide at the commencement of each academic year a copy of the written policy on school behavior to each parent, guardian, or other person having care or control of a child who is enrolled. Included in the written policy shall be a copy of this section. The signature of the student and the parent, guardian, or other person having control or custody of the child shall document receipt of the policy.

(c) Any parent, guardian, or other person having control or custody of any child enrolled in public school who fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in accordance with the written policy on school behavior adopted by the local board of education and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be reported by the principal to the superintendent of education of the school system in which the suspected violation occurred. The superintendent of education or his or her designee shall report suspected violations to the district attorney within 10 days. Any principal or superintendent of education or his or her designee intentionally failing to report a suspected violation shall be guilty of a Class C misdemeanor. The district attorney shall vigorously enforce this section to ensure proper conduct and required attendance by any child enrolled in public school.

(School Code 1927, §305; Code 1940, T. 52, §302; Acts 1993, No. 93-672, p. 1213, §1; Acts 1994, 1st Ex. Sess., No. 94-782, p. 70, §1.)

No parent, guardian or other person having control or charge of any child shall be convicted for failure to have said child enrolled in school or for failure to send a child to school or for failure to require such child to regularly attend such school or tutor, or for failure to compel such child to properly conduct himself as a pupil, if such parent, guardian or other person having control or

charge of such child can establish to the reasonable satisfaction of the court the following:

Terms Used In Alabama Code 16-28-13. Burden of proof on person in loco parentis

following: means next after. See [Alabama Code 1-1-1](#)

person: includes a corporation as well as a natural person. See [Alabama Code 1-1-1](#)

state: The word "state," when applied to the different parts of the United States, includes the District of Columbia and the several territories of the United States. See [Alabama Code 1-1-1](#)

(1) That the principal teacher in charge of said school which he attends or should attend or the tutor who instructs or should instruct said child gave permission for the child to be absent; or

(2) That such parent, guardian or other person is unable to provide necessary books and clothes in order that the child may attend school in compliance with law, and that such parent, guardian or other person had prior to the opening of the school, or immediately after the beginning of such dependency, reported such dependent condition to the juvenile court of the county and offered to turn the child over to the State Department of Human Resources as a dependent child; or

(3) That such parent, guardian or other person has made a bona fide effort to control such child and is unable to do so, and files in court a written statement that he is unable to control such child; or

(4) That there exists a good cause or valid excuse for such absence; or

(5) That such parent, guardian or other person has made a bona fide, diligent effort to secure the regular attendance of such child and that the absence was without his knowledge, connivance or consent.

A good cause or valid excuse, as used in this section, exists when on account of sickness or other condition attendance was impossible or entirely inadvisable or impracticable or when, by virtue of the extraordinary circumstances, the absence is generally recognized as excusable.

(School Code 1927, §306; Code 1940, T. 52, §303.)

In case any child becomes an habitual truant, or because of irregular attendance or misconduct has become a menace to the best interest of the school which he is attending or should attend, and the parent, guardian or other person files a written statement in court as provided in Section 16-28-13, stating that he is unable to control such child, the attendance officer must file a complaint before the judge of the juvenile court of the county, alleging the facts, whereupon such child must be proceeded against in the juvenile court for the purpose of ascertaining whether such child is a dependent, neglected or delinquent child.

(School Code 1927, §307; Code 1940, T. 52, §304.)

Every parent, guardian, or other person having control or charge of any child required to attend public school, private school, or church school, shall as soon as practical explain the cause of any absence of the child under his control or charge which was without permission of the teacher, and a failure to furnish such explanation shall be admissible as evidence of such child being a truant with the consent and connivance of the person in control or charge of said child, unless such person can show to the reasonable satisfaction of the court that he had no knowledge of such absence and that he has been diligent in his efforts to secure the attendance of such child.

(School Code 1927, §308; Code 1940, T. 52, §305; Acts 1982, No. 82-218, p. 260, §7.)