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| **Private & Confidential – Addressee Only**      | Our ref: |       |
|  | Date: |       |
|  |  |  |

**PENALTY NOTICE / LEGAL ACTION WARNING**

Dear

**Pupil’s name:**       **D.O.B:**

It is noted that you are the parent of, or have day to day care of      , a child who is a registered pupil at this school and is not in regular attendance as required by the Education Act 1996, Section 7.

     has been recorded as having       school sessions (equivalent to       school days) lost due to unauthorised absences between the dates of       and      .

It is recommended that you take immediate steps to ensure that the child named above attends school regularly. If this is not achieved and there are further unauthorised absences a referral will be made to the Local Authority and you may be prosecuted in the Magistrates Court under section 444 of the Education Act 1996 for failing to ensure regular attendance at school. However, depending upon the circumstances, you may be provided with an opportunity to discharge the offence by paying a penalty notice which imposes a fine of £60 if paid within 21 days, rising to £120 if paid between 22 days and 28 days. Should you fail to pay within the prescribed timescales, you will be prosecuted for the original offence.

Please note: If you have previously been the subject of a prosecution for any child in relation to irregular school attendance and the attendance of       does not improve to a satisfactory level immediately, you may be required to attend a formal pre-court interview. This interview will be carried out under caution to investigate the circumstances.

When deciding upon the most appropriate action, the Local Authority has a duty to consider if the making of an Education Supervision Order would be appropriate. If an assessment of the situation indicates that this may be appropriate, and no improvement is achieved, you may be invited to a pupil planning meeting.

It is important for you to note that the above absences may be included if any further action is taken against you.

Another parent/carer or someone with day-to-day responsibility regarding the above named child may have also received this letter. Each adult holds separate responsibility and will also be required to take appropriate action to ensure there are no further unauthorised absences.

Further information on school attendance and Essex County Council’s policies may be found at [www.essex.gov.uk](http://www.essex.gov.uk). Should you have any queries or wish to discuss your child’s attendance, please contact the school.

The attached ‘Legal information for Parents and Carers’ provides you with further information on legal proceedings in relation to irregular school attendance.

Yours sincerely,

Telephone:

Fax:

Internet:

Email:

Enc: Legal Information Fact Sheet

c.c.

**School Attendance**

**Information from the Local Authority – Attendance Compliance Team**

**Legal information for Parents and Carers**

**The Education Act 1996**

**By law** –all children of compulsory school age must receive an appropriate full time education suitable to their age, ability, aptitude or any special educational needs they may have. The school starting date is the beginning of the term after which the child reaches their 5th birthday. The school leaving date is the last Friday in June of the academic year in which the child reaches their 16th birthday.

**Parents / Carers** – are responsible for

* registering their child at a school or making other arrangements which provide

an efficient education

* ensuring their child attends school regularly at the school at which they are registered
* applying for a planned absence of leave from school
* notifying the school when their child is absent unexpectedly

**Schools** – must either

* give permission for your child to be absent from school and mark the absence as authorised

**or**

* mark the absence as unauthorised

**The Law –**says that parents/carers whose children are absent from school without

good reason are committing an offence

**Next steps**

If your child accrues further unauthorised absences, a referral may be made to the Local Authority. Depending upon the circumstances, one, or a combination, of the following may be initiated:

**Invited to respond to a Parental Response Questionnaire**

You may be sent a questionnaire which requires a response from you. This questionnaire gives you the opportunity to provide the Local Authority of any details regarding your child’s unauthorised absence from school and to provide supporting evidence in your defence.

**Issued with a Penalty Notice**

You may be issued with a Penalty Notice. Penalty Notices are issued to each parentfor each child for the sum of £60 to be paid within 21 days. If the penalty is not paid within this time it will increase to £120 which must be paid within the following 7 days (a total of 28 days from issue). If the higher payment is not paid the Local Authority will instigate legal proceedings. There is no right of appeal and payment will not be accepted after the 28th day.

**Prosecution**

Depending upon the circumstances, a prosecution may be initiated without a Penalty Notice being issued first, or if you have failed to pay a Penalty Notice. Prosecutions take place in the magistrate’s courtunder section 444(1) of the Education Act 1996. This offence carries a fine of up to £1000 for each parent.

**Or**

In the magistrates court under section 444(1A) of the Education Act 1996. This offence carries a fine up to £2,500 and/or a 3 months custodial sentence for each parent if it is found that you knew about your child’s absences and failed, without reasonable justification, to ensure attendance.

If you fail to attend court for the hearing the matter may either be dealt with in your absence or, occasionally, a warrant issued for your arrest. If found guilty, the magistrates will sentence you in accordance with their sentencing powers.

The magistrates may also consider imposing a Parenting Order which consists of two elements: a core element requiring the parent to attend guidance sessions to help them in dealing with their children and a control element requiring a parent to exercise control over ensuring attendance and communicate with the relevant authorities

**Education Supervision Order (ESO)**

If the Local Authority assess that an Education Supervision Order is the most appropriate course of action, an application will be made through the family court under the Children Act 1989 section 36. Such an order placed upon your child allows a supervising officer, appointed by the court, to provide advice, guidance and give directions to you and/or your child aimed at ensuring regular school attendance. If you do not comply with a reasonable direction you may be prosecuted for breaching the Order and you may also be prosecuted for failing to ensure regular school attendance

**Defences to non-school attendance**

The legal reasons (defences) for non-school attendance are –

* the child is prevented from attending school due to sickness or other unplanned or unavoidable causes
* the child is absent due to a day of religious observance in the parent’s/carer’s religion
* the school has granted and authorised the leave
* the child lives more than 2 miles if under 8 years or 3 miles if over 8 years from the school and the local authority has failed to provide transport.

 It is not a defence where parents have chosen to register a child at a school

 outside the catchment area and no transport has been provided.