

Frequently Asked Questions (FAQs)

1. What is the difference between excused and unexcused absence?

Nine types of excused absence are defined in **Education Code §48205:**

1. Due to illness*
2. Due to quarantine under the direction of a county or city health officer
3. For the purpose of medical, dental, optometric, or chiropractic services
4. For the purpose of attending the funeral service of his or her immediate family. No more than one day is allowed if the service is in California; no more than three days are allowed if the service is outside of California
5. For the purpose of jury duty
6. Due to the illness or medical appointment during school hours of a child of whom the student is the custodial parent
7. For justifiable personal reasons, including, but not limited to: an appearance in court; attendance at a funeral service; observance of a holiday or ceremony of his or her religion; attendance at religious retreats; attendance at an employment conference; or attendance at an educational conference on the legislative or judicial process offered by a nonprofit organization when the student's absence is requested in writing by parent or guardian and approved by the principal or a designated representative pursuant to the uniform standards established by the governing board of the school district*
8. For the purpose of serving as a member of a precinct board pursuant to Section 12303 of the *Elections Code*
9. For the purpose of spending time with a member of the pupil's immediate family, who is an active duty member of the uniformed services, as defined in Section 49701, and has been called to duty for, is on leave from, or has immediately returned from, deployment in a combat zone or combat support position

***Excessive Excused Absences:**

The length of an excused absence is up to the discretion of the district superintendent. Individual school district governing boards also have discretion in establishing uniform standards for justifiable personal reasons for excused absences from school. In cases of parent or guardian-reported chronic illness, individual school district governing boards adopt methods for verification illness or quarantine pursuant to the **California Code of Regulations, Title 5, and §421**. An excused absence due to illness may be verified by a school or public school nurse or any other qualified school employee, as well as by a physician.

2. What is the impact of classifying an absence as either excused or unexcused?

The type of absences no longer impacts funding; schools do not receive funding for any days that a student is absent, whether excused or not. The type of absence does determine when a pupil can be defined as a truant and when a pupil is entitled to complete all assignments and tests missed during the absence. If a pupil accumulates unexcused absences of more than 30 minutes

on three separate days in a school year, the student must be reported as truant and the parent or guardian must be notified (**Education Code §48205[b]**).

School officials sometimes believe classifying absences is no longer important because all absences equally impact funding. However, knowing the type of absence is still very important in order to select appropriate early interventions.

Students with many excused absences may have a temporary disability which makes home and hospital instruction advisable, according to provisions of **Education Code §48206.3**. A pupil with a temporary disability due to physical, mental, or emotional reasons may need individualized instruction to maintain his or her level of academic performance while recovering.

When pupils are missing more school than appears necessary, a physician, public health nurse, or school employee may need to verify the reason for the student's absence. If pupils are having a continuing medical issue, the school may need to help with referrals to appropriate health agencies.

Education Code §60901(c)(1) defines a student as a Chronic Absentee as any student subject to compulsory education who is absent on 10% or more of the school days in the school year. Some schools choose to set a policy by which truancy notifications will be sent based on Chronic Absenteeism. For example, San Luis Obispo districts use the following formula: after 5 days of excused absences (when the illness has not been verified), the First Letter of Truancy or Excessive Excused Absences (Form 3) is sent; after 10 days of the same, the Second Letter of Truancy or Excessive Excused Absences (Form 5) is sent, a conference is set up with the family and ROI's are signed; and after 15 days of the same, the Third Letter of Truancy or Excessive Excused Absences, Referral to SARB (Form 11) is sent and a SARB meeting is set up.

3. What can be done about pupils who move to different schools or school districts after being referred to the SARB?

Using the Statewide Student Identifier (SSID), the unique numerical identifier assigned each student; the CDE releases annual dropout statistics each year. Because the number of "transfer" pupils who drop out continues to be high, SARBs should view pupils who move after referral to SARB as being at high risk for leaving school. SARBs should have access to information about pupils in the district who were identified as dropouts, and this information should lead SARBs to focus on pupils who may be "lost" in the transfer process.

A good practice would be to contact the next school or school district to determine if the pupil actually enrolled in a new school. If the pupil did not enroll, the pupil may still be living in the same school attendance area. If the pupil did move, it may be necessary to alert the next school district that they have a new pupil who was previously referred to SARB and should enroll in school.

School districts are required to make a full and impartial investigation of school attendance complaints pursuant to **Education Code §48290**. If it appears upon investigation that the parent

or guardian of the child has violated any of the provisions of the compulsory education law, that person should be referred to the SARB pursuant to **Education Code §48291**.

An effective SARB should use SSIDs to review its district's exit/withdrawal code data to be sure pupils are not "falling through the cracks" between schools. If resources are lacking to track pupils who have left school, a SARB could encourage the creation of such resources or improvement of existing resources pursuant to **Education Code §48320**.

4. When do SARB directives expire?

Although **Education Code §48291** does not advise SARBs on what their directives should be or when they should expire, directives must be clear as to what actions are to be taken and for what period of time. A parent or guardian cannot be charged with continually and willfully failing to respond to directives if the directives are not clear. For example, if a parent or guardian is to accompany the pupil to school, the directive must specifically state how long this arrangement is to be in effect. If a pupil is to be in class every day on time unless there is a valid excuse, the directive must be clear about whether this means for the rest of the current school year or the rest of the current semester. The SARB must use good judgment in issuing directives. Although directives create accountability, they never should be used in a punitive manner toward parents or guardians with past problems in parenting.

5. How should SARBs handle challenges to the content of school attendance or behavior records?

It is important that major challenges to the accuracy of school records be investigated prior to a SARB meeting. The SARB chairperson may be assigned by the superintendent to meet with a parent or guardian when there is a challenge to the accuracy of school records. These challenges should be resolved *before* calling for a SARB meeting by holding an informal meeting with the SARB chairperson, the parent or guardian, and the certificated person responsible for the school attendance or school behavior records in question. The SARB chairperson may ask the parent or guardian to document his or her objections to the school record in a letter directed to the superintendent of the school district. Resolving inconsistencies or inaccuracies in the records in advance can eliminate unnecessary SARB meetings, or avoid wasted time if a meeting becomes necessary.

As the superintendent's designee, the SARB chairperson should report his or her determination about the parent or guardian's challenge to the district superintendent. If mistakes have been made in school records, those mistakes need to be corrected. If a parent or guardian's allegations about school records are false and the superintendent agrees with the interpretation of his or her designee, the parent or guardian may appeal the superintendent's decision to the governing board in closed session pursuant to **Education Code §49070**. However, a disagreement over the accuracy of school records should not delay a SARB meeting if the superintendent agrees that the parent or guardian's allegations are false.

6. How many letters must be sent to the parent or guardian before a parent or guardian is notified of a hearing due to habitual truancy or irregular attendance?

Education Code §48263 does not set a minimum number of notification letters that must be sent prior to notification of a SARB meeting. However, a parent or guardian must be notified when a pupil becomes a truant (**Education Code §48260.5**), and there must be a conscientious effort to hold at least one meeting with the parent or guardian and the pupil before he/she can be designated as a habitual truant (**Education Code §48262**). Most school districts require three letters of truancy notification before a SARB referral, while others require four. The most important consideration is not the number of letters, but that the school has exhausted available interventions (including an attempted meeting with the parent or guardian and pupil) without having resolved the problem.

A designated SARB member should review the cases referred to SARB to determine whether the school has included sufficient documentation on the pupil's attendance or behavior problem and on the interventions that have been attempted. If sufficient documentation of the problem or the interventions is not included with the SARB referral, the case should be remanded to the school for further documentation about the causes of the problem.

7. What can be done when a parent or guardian refuses to appear for a SARB meeting?

Although **Education Code §48321.5** allows the SARB to summons parents or guardians to a meeting, and while it's preferable, their attendance is not necessary to proceed. (A sample SARB Summons (Form 20) is included in Appendix A of this handbook). A SARB meeting can be held without parents or guardians present. SARBs should make every effort to provide a copy of the SARB Agreement (Form 21) to the parent or guardian and encourage the all to sign the agreement. **Education Codes §48291/§48293** state that parents or guardians who continually and willfully fail to follow SARB directives, such as attendance at SARB meetings, can be referred for prosecution.

8. What should be done when a parent or guardian of a non-attending pupil states in September that he or she intends to file a Private School Affidavit (PSA) and establish a "home school" for a child?

Exemption from compulsory education laws on the basis of home schooling has two parts: first, parents or guardians schooling their student at home must file the Private School Affidavit, thereby registering the intent to educate their student privately. Second, the public school district listed in the Affidavit makes a determination of whether a home-schooled child has met statutory requirements and therefore is exempt from public school attendance. Exemptions shall be valid only after verification by the attendance supervisor of the district, or other person designated by the board of education, that the private/home school has complied with the provisions of **Education Code §33190**.

Education Code §33190 states parents or guardians must register or a PSA between October 1st and 15th. The parent or guardian is required to keep a copy of the PSA at the home (or place where the schooling is to take place). **Education Code §48222** states the parent or guardian must show the PSA to the local school district if requested.

Parents or guardians continuing to school at home who filed an Affidavit in the prior year have an exemption from compulsory public school attendance in place until September 30. Should absence notification be received in the new school year, showing a copy of the prior year's Affidavit to the appropriate school official should re-establish the attendance exemption.

Parent or guardian should be warned that if there is continual and willful failure to enroll a student in a school, a criminal complaint will be filed. Parent or guardian should be notified that the time for filing a PSA is between the first and fifteenth of October of each year, and failure to file in time could result in referral to SARB. Schools can refer a family to SARB if they are unable or unwilling to demonstrate registration as a PSA after October 1st.

Parents or guardians intending to school at home whose students have been identified as eligible for special education services under an individualized education program (IEP) or identified as truant should communicate directly with the school district to satisfy all requirements before pursuing schooling at home. If the pupil has an Individualized Education Plan (IEP) or if the parent or guardian has requested an assessment, the attendance supervisor should contact the special education director in the school district. The public school district is responsible for providing a "free and appropriate education" (FAPE) to eligible school children with no additional costs to parent or guardian and within specified timeframes. The special education director may be concerned about liability if the district misses deadlines required in fulfilling FAPE requirements.

If the student's absence is found to be due to a health issue, the parents or guardians should be informed about the availability of home and hospital instruction (**Education Code §48206**) or about a Section 504 accommodation plan.

9. Do SARB members from the community or volunteer aides working for the SARB have access to a pupil's confidential cumulative records?

Education Code §49076 authorizes a school district to permit access to pupil records without consent from parent or guardian to SARB members who have been appointed pursuant to **Education Code §48321**. Any adult volunteer aide who has been investigated, selected, and trained by a SARB to monitor compliance with SARB directives also may have access to confidential records.

10. What should SARB's do if a parent or guardian refuses to sign the Board's directives?

SARB panel directives do not need to be signed by the parent or guardian to be enforceable, but the SARB must be able to document that the parent or guardian was notified of the directives. If

the parent or guardian subsequently fails to respond to SARB directives, the SARB must be able to document that the failure to respond was both continual and willful. When there is a pattern of disregarding SARB directives, a court referral is required.

11. Can a five-year-old student enrolled in transitional kindergarten or kindergarten be referred to a SARB meeting?

Education Code §48263 states that any minor who is irregular in attendance at school or is habitually insubordinate or disorderly during school may be referred to a SARB meeting. However, the pupil is not subject to compulsory education until the age of six. The SARB may provide intensive guidance or community support and may make directives, but the pupil may not be considered a habitual truant, because the pupil is not yet subject to compulsory education. Therefore, parents and guardians may not be cited or prosecuted for the absences.

12. What can be done when poor attendance appears to be related to bullying?

There is no question that poor school attendance can be related to bullying, whether the pupil with poor attendance is the student engaged in bullying behavior, the target, or a bystander who feels anxious or uncomfortable. The American Medical Association estimates that 160,000 children a day refuse to go to school for fear of being bullied. It is important that bullying in any form be swiftly addressed.

Bullying is not simply a peer conflict issue, but is a type of social cruelty that involves imbalance of power, intent to harm, or threat of further aggression. The solution is often not just working with the pupils with poor attendance, but building school engagement as part of the effort to improve the school's social environment. Professional development for all staff may be necessary as part of a comprehensive safe school plan. Students must be engaged in school in positive ways, such as clubs, sports, or other pro-social activities.

Parents and guardians may need help in assisting their children who are bullied in school. Steps should be taken to approach bullying by addressing school environment, staff training, family communication, individual child support, and the classroom curriculum. School officials now have authority to suspend or expel a student who engages in bullying behavior (**Education Code §48900[r]**). In addition, Assembly Bill 1156 (in effect as of July 1, 2012), requires CDE to contract with an outside agency to provide training in the prevention of bullying, and allows for changes in school assignment for pupils who have been victims of bullying.

13. How can SARBS help homeless pupils?

Homeless pupils are still required to attend school. Students who experience loss of their home are afforded special rights under the McKinney-Vento Homeless Education Improvement Act, which enables them to enroll immediately and attend regularly. McKinney-Vento grants homeless pupils the right to attend their school of origin or the school in the area in which they

are temporarily residing. If the school of origin is chosen, they are entitled to transportation. If the parent or guardian chooses to enroll the student in a new school, they are to be accepted immediately, even if they do not have all necessary documents for enrollment, such as immunization records and transcripts. School districts must provide a homeless liaison to act as an advocate for homeless children and ensure that their rights under McKinney-Vento are protected.

Humboldt County Office of Education's Foster/Homeless Youth Liaison is a regular attendee of regional SARB meetings. HCOE's Liaison is available to partner with School District McKinney-Vento staff well before a SARB meeting. If a child is found to be homeless during a SARB hearing, the liaison will assist the School District's staff in finding appropriate support services, resources, and interventions to help the student and family.

14. How should SARBs respond to foster pupils referred to the SARB?

Foster pupils placed by courts may have experiences similar to homeless pupils. Foster youth are also required to comply with the compulsory education laws. These pupils may have multiple moves in a school year and miss days of school for a variety of reasons beyond the school district's control. Assembly Bill (AB) 490, the Educational Rights and Stability for Foster Youth Act of 2004, made sweeping changes to the way foster children enroll in and attend school. Fashioned similarly to the McKinney-Vento Homeless Education Improvement Act, the Foster Youth Act provides that foster children may attend their school of origin at the time of placement change so long as it is in the pupil's best interest. Further, it calls for immediate enrollment of the pupil even if the pupil does not have all required documents. It calls upon schools and placing agencies to work together to assure transportation and timely document exchanges. It also allows for equal access to curricular and extra-curricular activities and requires each district to appoint a foster youth liaison to ensure that the pupil's rights are implemented.

The SARBs should refer foster youth to the foster youth liaison (either their local District liaison or HCOE's), who can coordinate services with the local Department of Children's Services or with the juvenile court. It also is important for schools to include the person holding educational rights for the student in the SARB process. (This may or may not be a parent or guardian.) The identification of the education rights holder can be obtained from the local Department of Children's Services or the juvenile court.

15. What is the role of SARBs with respect to pupils enrolled in Independent Study programs?

Many public school pupils subject to compulsory education participate in independent study programs rather than attend the regular school for the full school day. Independent study serves a wide range of pupils with a high degree of flexibility and individualization, including pupils who are gifted, as well as pupils who face particular challenges that make classroom attendance

difficult. However, some pupils do not meet the requirements of their written independent study agreements or do not attend their independent study meetings.

When pupils do not make progress in independent study or show up for independent study meetings with teachers (as required by all independent study agreements), they should be referred back for regular classroom instruction. If pupils remain absent after being enrolled in the regular classroom, further intervention activities at the school should begin immediately. If interventions are not successful, pupils may be referred to a SARB for further diagnosis and intervention. A student cannot be involuntarily assigned to Independent Study.

16. How can SARBS help pupils enrolled in Home and Hospital Instruction?

When public school pupils incur an extended disability or illness that makes attendance in a regular day class or an alternative educational program impossible or inadvisable, the district where the pupil is residing at the time (whether it be in the home or a hospital) is responsible for providing instruction at the home or local hospital to maintain the pupil's level of academic performance. **Education Code §48208** states that a school district shall, within five working days of receipt of notification from a parent or guardian, determine whether or not the pupil is eligible for individualized instruction. If the pupil is eligible, individualized instruction is to start no later than five working days after a positive determination has been made. If the parent or guardian or pupil interferes with the instruction needed to maintain academic performance during the absence from school, a referral to SARB can be made.

17. How should the school or SARB deal with absences due to lice infestations?

Although stressful to deal with, head lice do not transmit disease to humans. Head lice policies in schools traditionally have emphasized that a pupil infested with head lice should be excluded from school and not able to return to school until no nits (lice eggs) were found in their hair (a "no-nit" policy). However, there is no evidence that a no-nit policy prevents or shortens lengths of outbreaks (Pollack et al., 2000, Williams et al., 2001). The American Academy of Pediatrics, the National Association of School Nurses, and the Centers for Disease Control and Prevention all oppose classic no-nit policies. In light of current research, the California Department of Public Health (CDPH) recommends a no-lice policy.

The above information is provided in 2012 guidelines for schools from the CDPH in developing policies and procedures for the care of head lice cases. The Department recommends an active educational campaign for parents or guardians on the accurate diagnosis and correct treatment of head lice cases to prevent lice transmission in schools and reduce lost school days due to head lice. The CDPH website <http://www.cdph.ca.gov/healthinfo/discond/Pages/Headlice.aspx> provides information on the essential components of a no-lice policy, and on the description, detection, environmental control, and treatment of head lice, as well as a list of references and a link to the parent brochure "*A Parent's Guide to Head Lice*".

In most cases, pupils with head lice are treated in a timely manner by their caregivers and are able to return to school in 1 to 2 days. Therefore, a school district may develop a policy limiting excused absences for head lice to 3 days. However, head lice infestations in some pupils can develop into a chronic state, lasting for weeks or months. A chronic case is a pupil found infested with live lice during three separate months during a school year or for six consecutive weeks.

Head lice infestations do not always start in school. According to the CDPH, pupils are less likely to contract head lice at school than they are in the home environment, where they may share beds or have close contact with siblings and playmates.

Caregivers frequently report great stress and express anger in trying to adequately treat their pupil's chronic lice, and all family members may suffer embarrassment. Ideally, a School Attendance Review Team member or other trained school employee could intervene with the family of a student experiencing repeated lice episodes by providing education, assistance, and support to prevent a chronic condition. When reported to SARB for excessive absences due to head lice, the SARB can help pupils and their families find possible solutions.

18. How do we respond to a parent or guardian who states her child misses too much school due to asthma?

Asthma is the most common chronic disease of childhood, and is the leading cause of school absenteeism attributed to health issues. Asthma is a lung condition characterized by periodic episodes of inflammation, narrowing of the breathing passages, and increased mucous production, which can cause coughing, wheezing, and difficulty in breathing. Factors that can trigger these episodes include allergy, infection, temperature changes, irritants (e.g., air pollution, dust, and cigarette smoke), and exercise.

In 2010, the Center for Disease Control reported that 9.4 percent of children have been diagnosed with asthma. In California an estimated 1.47 million school days were lost due to asthma in 2007. The incidence of asthma in children has more than doubled in the past 20 years in the U.S.

A pupil, parent, or guardian at a SARB meeting will commonly name asthma as a reason for excessive school absences. However, pupils may have varying degrees of asthma, so the mere statement that a child has asthma should not be an automatic excuse for missing school. Symptoms and the disease of asthma can be controlled, and pupils should not have to limit their activity, according to the American Academy of Allergy, Asthma and Immunology. Asthma management and control of symptoms should start with regular medical care from a pupil's health care provider.

Several national health organizations have developed standards of asthma care and improved outcomes by developing policy guidelines. Included in the guidelines are recommendations for written Asthma Care Plans for children with persistent asthma.

Using best practices, an Asthma Care Plan is developed by the child's primary health care provider in conjunction with the child and family, and is put in writing and shared with the child's school and school nurse. The care plan identifies the severity of the child's asthma and should address two components: 1) daily management related to regular medications and asthma control measures, and 2) procedures to implement in case of an asthma emergency.

School nurses can play an important part in the management of pupils with asthma. A school nurse present at a SARB meeting can briefly assess the pupil's degree of asthma and control measures in use, determine if the pupil is under regular medical care, and refer the family to a medical care provider if necessary. At school, the school nurse oversees the implementation of the Asthma Care Plan, incorporating it into an Individualized School Health Care Plan for pupils with severe, frequent asthma episodes. The school nurse monitors and evaluates plan outcomes, provides education, and communicates with the pupil's health care provider.

A law went into effect January 1, 2005 that allows pupils with asthma to carry and self-administer their prescribed asthma medication, e.g. rescue inhalers. A full copy of the law (AB 2132) can be downloaded at www.leginfo.ca.gov. A fact sheet on this law is available, and further answers to questions about asthma and California schools may be obtained at www.californiabreathing.org.

19. How can the school or SARB help a pupil who says she is pregnant and thinks she should stop attending school?

Teen mothers are less likely to graduate from high school than other young women who bear children at later ages. Many face daunting challenges of combining and meeting the demands of school, work, and parenting, and must deal with unreliable transportation, childcare, housing, and income. Some young parents or guardians may be unaware that absence of a custodial parent due to their child's illness or medical appointment during school hours is allowed by law. **(Education Code §46010 and §48205).**

One option for expectant teens not attending regular high school is continuation education, an alternative high school diploma program. It is for students who are sixteen years of age or older, have not graduated from high school, are still required to attend school, and who are at risk of not graduating.

Many students in continuation education are behind in high school credits. Others may need a flexible school schedule because they have jobs outside of school. Some students choose continuation education because of family needs or other circumstances. For more information about this option, visit the CDE Web page on Continuation Education at <http://www.cde.ca.gov/sp/eo/ce/>.

Independent study is another option for students who are expecting a child or parenting. Independent study must be voluntary, and only those students who complete at least a minimum day are eligible for independent study attendance credit.

Expectant adolescents and school-age parents have special considerations, such as childbirth and postpartum recovery; medical appointments; illness of the child, parent or guardian, or both; and unexpected emergencies that are difficult for most schools to accommodate. Independent study may enable these students to achieve success both in schooling and in parenting their young child.

Independent study can offer flexible scheduling, the opportunity to work at the student's own pace, specialized curriculum that targets the unique needs of these students and their children (e.g., prenatal nutrition, childbirth preparation, family planning, parenting skills, and child growth and development) and opportunities for a one-on-one and small group instructional approach. For more information about independent study, visit the CDE Web page on Independent Study at <http://www.cde.ca.gov/sp/eo/is/>.

20. What special considerations should be made when a pupil eligible under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973 is referred to a SARB?

Students eligible for services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 may be subject to the SARB process when they do not comply with compulsory education laws. Compulsory attendance is required even if parents or guardians contest the school's offer of placement and services. A basic theme in the IDEA and Section 504 is that, to the extent possible, pupils with disabilities should have the same educational opportunities as their non-disabled peers. With appropriate accommodation, most disabilities should not prevent a child from attending school on a regular basis. Some disabilities, which may fall under the other health-impaired eligibility category, may require a shortened school day. It also is possible that a school phobia, emotional disturbance, or low incidence disability may make attendance at a regular comprehensive school setting inappropriate.

In addressing pupils with special needs, SARB staff should take care to determine the cause for the student's attendance problem. Are the causes intrinsic, and possibly disability related, or extrinsic? An Individualized Education Plan (IEP) or Section 504 Plan team member should be part of the SARB process to explain the child's disability, how it may affect attendance, and the accommodations that have been provided. The identified causes will help determine whether the solution may be found through a SARB hearing, or through the IEP or 504 Accommodation Plan process. Deference should be given to the latter processes when the concern is the provision of an appropriate education, e.g., addressing placement, services, and accommodations.

Appropriate staff should screen the case to address questions such as whether the parent or guardian or pupil appears to be causing the problem, whether the pupil is appropriately identified and placed, what environmental factors seem to be affecting attendance, and whether the lack of attendance is due to frustration at school. Behaviors that may be disability related include difficulty learning, restlessness, poor peer relationships, emotional outbursts, and speech and language problems.

The IDEA requires schools to address the behaviors of special needs pupils, such as attendance issues, when such behavior impedes the pupil's learning. Title 34, Code of Federal Regulations (CFR) Section 300.324 requires the IEP team to consider the use of behavioral interventions and supports and other strategies to address the behavior. The SARB process provides a means by which the school may ensure that all appropriate interventions have been considered. Interventions proposed may be included in the pupil's IEP.

The SARB process also helps to ensure against the over-identification of special needs pupils. Generally, a pupil's eligibility for special education should not be determined without first ensuring that the pupil is fully engaged in the academic offerings of the school. A successful SARB intervention would help school staff rule out the negative impact of irregular attendance on pupil performance.

Under the IDEA and Section 504, a change of placement recommended by a SARB cannot be implemented until an IEP or Section 504 plan team conducts a manifestation determination review to determine if the child's conduct is a manifestation of the child's disability, and approves the placement.

Title 34, Code of Federal Regulations (CFR) Section 300.530(e) requires an IEP team to convene within 10 school days of any decision to change a pupil's placement to determine whether the behavior that prompted the decision was caused by, or had a direct and substantial relationship to, the child's disability or directly resulted from the school's failure to implement the IEP.

If the team determines the behavior is due to the child's disability, an IEP or Section 504 plan team would then review the placement to ensure it is appropriate. If the team determines the behavior is not a result of the disability, the student is subject to the school's normal disciplinary policies.

Although IDEA provides that special education pupils may receive services until the age of 22, compulsory education under **Education Code §48200** extends only to age 18. After the age of 18, special education pupils attend school at their own discretion.

21. What do I do if the parent or guardian does not attend the SARB meeting?

1. If parent or guardian received letter, hold SARB without parent or guardian and then do a home visit to get the SARB contract signed; or
2. If parent or guardian received letter, hold SARB without parent or guardian and send certified letter requesting them a meeting with you at the office by a certain date to sign the SARB contract; or
3. Schedule another SARB meeting and send a subpoena to the parent or guardian to appear via certified mail; AND
4. At the second SARB meeting, the school can request the Board decide whether making a referral to the District Attorney's Office for consideration of prosecution is appropriate. If so, the SARB Chair and School Administrator or Designee will complete the DA Referral packet. This packet is to be forwarded to HCOE's SARB Liaison.

22. What do I do if the parent or guardian declines to sign the SARB contract?

1. Write “parent or guardian declined to sign.”
2. Be sure to give parent or guardian a copy of the SARB contract.
3. Advise parent or guardian that he or she is still responsible for following SARB directives.
4. Declining to sign the contract is not sufficient reason to refer to the District Attorney. We ask the parent or guardian to sign so that we have proof everyone knows what is expected.

23. When do SARB contracts expire?

The Attorney General’s Office recommends including an expiration date on the SARB contract. Best practice is to use logical expiration dates tied to natural transition points, like the end of the year for the highest grade level of the school the student is enrolled in. If the student’s attendance is still a concern when the contract is near expiration the SARB should re-hear the case and update the contract. As students get older they may require different supports and directives.

24. Can a referral to the District Attorney be based on violation of a contract that was issued years earlier? (The expiration date is set as the student’s 18th birthday.)

It isn’t a good idea. Say a student has good attendance from 3rd through 7th grade, but their attendance becomes a problem again in grade 8. Going straight to citation wouldn’t be fair. Best practice would be to work through the SARB intervention process again. Notices of truancy and habitual truancy should be sent in response to the student’s truancy. School level meetings should also be held in an attempt to intervene. If those fail, the SARB should meet to consider the student’s current needs and issue directives responsive to those needs. If the student or the parent or guardian fails to follow the new directives, referral for prosecution would be appropriate.

25. What do I do if I have student who is not enrolled in school, but lives in my school district?

Do a home visit first to find out if the student is enrolled in any type of educational program. The CALPADS system may be used to determine the student’s last enrollment in a California public school. If the student is not enrolled, give family two days to enroll the student in some type of educational program. If the family does not enroll the student in your school after 2 days, request the local law enforcement agency accompany you on a 2nd home visit. You are requesting law enforcement complete a welfare check, and that you be part of that visit. Many times, the presence of law enforcement makes all the difference. If the parent or guardian has still not enrolled the student in any program, contact the DA’s office immediately for a non-enrollment letter and refer the case to the next SARB. You do not need to send truancy letters or arrange for a school meeting under these circumstances.

26. What do I do if the school sent out truancy letters and held a SART last school year, but did not get a chance to hold a SARB in the same school year? Do we need to start the process over with new truancy letters and a new school meeting before referring the family to SARB?

Best practice is to hold SARB during the first full month of the next school year, to prevent the problem from impacting the student's attendance. There's no legal requirement that the SARB hearing be held the same school year as the SART. The first notification of truancy, conscientious effort to meet with the parent or guardian (SART) and notice of habitual truancy must occur during same school year. If need be, the SARB hearing responding to the report of habitual truancy can be held at the start of the year.

27. What do I do if the school sent out truancy letters last school year, but never held a SART and the student is starting the new school year with more absences?

Start the process anew. Send truancy letters in response to new truanicies and schedule the SART as soon as it is clear that the pattern is continuing. If the pattern continues send the notice of habitual truancy. Refer to SARB if necessary. (See question 6 for a more in depth explanation of the process.)

28. How many times can a student miss school before SARB recommends law enforcement cite the parent or guardian for violating the SARB contract?

The school may request the SARB members make the referral to law enforcement for a citation or directly to the District Attorney for prosecution at the second SARB meeting. It is at that meeting when it is determined the parent or guardian and/or student failed to make the necessary changes.

The criteria for requesting a citation against the parent or guardian is whether the parent or guardian continually and willfully failed to respond to SARB directives or services provided by SARB per **Education Code §48291**.

The number of absences needed depends on the age of the student. If the student is 6 years old, up to 8th grade, the court will look at the parent or guardian to enforce compulsory education laws. Under these circumstances, a parent or guardian who does not take their child to school on three different days is continually and willfully violating SARB directives. They may be subject to a misdemeanor, **Penal Code §270.1**.

A parent or guardian of a student in middle school or high school who has poor attendance is not really being cited because of the absences. The parent or guardian is being cited for knowing that their child has poor attendance and not doing what SARB "directed" them to do to fix the problem. When you draft the SARB contract, its best to include things the parent or guardian has control over: some examples include:

- calling the school on a regular basis regarding attendance;

- waiting until their child gets on the school bus before leaving;
- waiting until their child enters the school before leaving;
- shadowing the student at school if the student ditches classes at school
- completing parenting classes