

22-33-104. Compulsory school attendance.

(1) (a) Except as otherwise provided in subsection (2) of this section, every child who has attained the age of seven years and is under the age of seventeen years, except as provided by this section, shall attend public school for at least the following number of hours during each school year:

Editor's note: This version of the introductory portion to paragraph (a) is effective until July 1, 2008.

(a) Except as otherwise provided in subsection (2) of this section, every child who has attained the age of six years on or before August 1 of each year and is under the age of seventeen years, except as provided by this section, shall attend public school for at least the following number of hours during each school year:

Editor's note: This version of the introductory portion to paragraph (a) is effective July 1, 2008.

(I) One thousand fifty-six hours if a secondary school pupil;

(II) Nine hundred sixty-eight hours if an elementary school pupil in a grade other than kindergarten;

(III) Nine hundred hours if a full-day kindergarten pupil; or

(IV) Four hundred fifty hours if a half-day kindergarten pupil.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), a school or schools shall not be in session for fewer than one hundred sixty days without the specific prior approval of the commissioner of education.

(c) A student who participates in an on-line program pursuant to the provisions of article 30.7 of this title shall be deemed to attend school in accordance with the requirements of this subsection (1).

(d) Nothing in this section shall be interpreted to require a child who begins attending preschool or kindergarten at five or six years of age to advance to first grade in the following school year. A parent of a child who began attending preschool or kindergarten at five or six years of age may notify the child's school of the parent's wish that the child not advance to first grade in the following school year, and a school that receives such notice shall not advance the child to first grade in the following school year.

Editor's note: Paragraph (d) is effective July 1, 2008.

(1.5) (Deleted by amendment, L. 2006, p. 1211, § 2, effective July 1, 2007.)

(2) The provisions of subsection (1) of this section shall not apply to a child:

(a) Who is temporarily ill or injured or whose absence is approved by the administrator of the school of attendance;

(b) Who is enrolled for a minimum of one hundred seventy-two days in an independent or parochial school which provides a basic academic education. "Basic academic education" for the purpose of this article means the sequential program of instruction provided by an independent or parochial school. Such program shall include, but not be limited to, communication skills of reading, writing, and speaking, mathematics, history, civics, literature, and science.

(c) Who is absent for an extended period due to physical, mental, or emotional disability;

(d) Who has been suspended, expelled, or denied admission in accordance with the provisions of this article; except that, when a pupil is expelled for the remainder of the school year, the parent, guardian, or legal custodian is responsible for seeing that either the provisions of subsection (1) of this section are complied with during the period of expulsion from the school district or that the pupil meets the conditions for exemption specified in paragraph (b) or (i) of this subsection (2);

(e) To whom a current age and school certificate or work permit has been issued pursuant to the "Colorado Youth Employment Opportunity Act of 1971", article [12](#) of title [8](#), C.R.S.;

(f) Who is in the custody of a court or law enforcement authorities;

(g) Who is pursuing a work-study program under the supervision of a public school;

(h) Who has graduated from the twelfth grade;

(i) Who is being instructed at home:

(I) By a teacher licensed pursuant to article 60.5 or 61 of this title; or

(II) Under a nonpublic home-based educational program pursuant to section [22-33-104.5](#).

(III) (Deleted by amendment, L. 2003, p. 2131, § 24, effective May 22, 2003.)

(j) Who is enrolled in a school where the state board of education has approved a lesser number of days.

(3) Unless within one of the exceptions listed in subsection (2) of this section, a child who is deaf or blind, and who has attained the age of six years and is under the age of seventeen, shall attend, for at least one hundred seventy-two days during the school year, a school which provides suitable specialized instruction. The provisions of this subsection (3) shall not apply to a child if the Colorado school for the deaf and the blind refuses him admission and it is impractical to arrange for attendance at a special education class, as provided in article 20 of this title, within daily commuting distance of the child's home. If any school providing instruction for deaf or blind children offers fewer than the necessary one hundred seventy-two days of instruction, the school shall file with the school district in which it is located a report showing the number of days classes were held and the names and ages of the children enrolled.

(4) (a) The board of education shall adopt a written policy setting forth the district's attendance requirements. Said policy shall provide for excused absences, including those listed as exclusions from compulsory school attendance in accordance with subsection (2) of this section; except that paragraph (d) of said subsection (2), relating to suspension and expulsion, shall be considered an unexcused absence for purposes of the attendance policy. An attendance policy developed pursuant to this section may include appropriate penalties for nonattendance due to unexcused absence, including, but not limited to, the imposition of academic penalty for classes missed while unexcused.

(b) The attendance policy adopted pursuant to this subsection (4) shall specify the maximum number of unexcused absences a child may incur before the attorney for the school district, the attendance officer, or the local board of education may initiate judicial proceedings pursuant to section [22-33-108](#).

Calculation of the number of unexcused absences a child has incurred includes all unexcused absences occurring during any calendar year or during any school year.

(5) (a) The general assembly hereby declares that two of the most important factors in ensuring a child's educational development are parental involvement and parental responsibility. The general assembly further declares that it is the obligation of every parent to ensure that every child under such parent's care and supervision receives adequate education and training. Therefore, every parent of a child who has attained the age of seven years and is under the age of seventeen years shall ensure that such child attends the public school in which such child is enrolled in compliance with this section.

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Editor's note: This version of paragraph (a) is effective July 1, 2008.

(b) Parents whose children are enrolled in an independent or parochial school or a non-public home-based educational program pursuant to the provisions of subsection (2) of this section shall be exempt from the requirements of this subsection (5).

Source: **L. 63:** p. 862, § 5. **C.R.S. 1963:** § 123-20-5. **L. 73:** pp. 1254, 1314, §§ 5, 6. **L. 74:** (2)(j) added, p. 363, § 1, effective March 19. **L. 77:** (1) amended, p. 1071, § 4, effective May 24. **L. 80:** (1) amended, p. 551, § 2, effective April 30. **L. 83:** (2)(b) amended, p. 755, § 1, effective June 3. **L. 84:** (4) added, p. 597, § 2, effective April 5. **L. 86:** (1) amended, p. 801, § 4, effective July 1. **L. 87:** (2)(i) amended, p. 829, § 1, effective July 1. **L. 88:** (2)(j) amended, p. 768, § 2, effective July 1. **L. 93:** (5) added, p. 457, § 1, effective April 19; (2)(d) amended, p. 454, § 6, effective July 1. **L. 94:** (4) amended, p. 678, § 3, effective April 19. **L. 97:** (1.5) added, p. 41, § 1, effective July 1. **L. 98:** (1), (2)(d), and (2)(i) amended, p. 654, § 1, effective August 5. **L. 2000:** (2)(i)(I) amended, p. 1857, § 60, effective August 2. **L. 2003:** (1) and (2)(i)(III) amended, p. 2131, § 24, effective May 22. **L. 2006:** (1), (1.5), and (5)(a) amended, p. 1211, § 2, effective July 1, 2007. **L. 2007:** (1)(c) amended, p. 1089, § 15, effective July 1; IP(1)(a) and (5)(a) amended and (1)(d) added, p. 70, § 1, effective July 1, 2008.

Editor's note: The introductory portion to (1)(a) and subsections (1)(d) and (5)(a) were contained in a 2007 act that was passed without a safety clause. The act establishes an effective date of July 1, 2008, for this provision. For further explanation concerning the effective date, see page vii of this volume.

Cross references: For the legislative declaration contained in the 2006 act amending subsections (1), (1.5), and (5)(a), see section 1 of chapter 265, Session Laws of Colorado 2006.

ANNOTATION

Am. Jur.2d. See 68 Am. Jur.2d, Schools, §§ 253-262.

C.J.S. See 78A C.J.S., Schools and School Districts, §§ 734-739.

Law reviews. For article, "Children in Need: Observations of Practice of the Denver Juvenile Court", see 51 Den. L.J. 337 (1974). For article, "Truancy in Colorado: A Truancy Reduction Model in the Public Schools", see 34 Colo. Law. 19 (November 2005).

The state, for its own protection, may require children to be educated. *People ex rel. Vallimar v. Stanley*, 81 Colo. 276, 255 P. 610 (1927).

Compulsory attendance law constitutionally enacted. The general assembly did not exceed its constitutional authority in enacting the compulsory school attendance law. In *Interest of Y.D.M.*, 197 Colo. 403, 593 P.2d 1356 (1979).

List of exclusions from compulsory attendance not exhaustive. Although this section specifically enumerates several circumstances which, if proven, render the compulsory attendance law inapplicable, this list of justifications is not exhaustive. In *Interest of Y.D.M.*, 197 Colo. 403, 593 P.2d 1356 (1979).

Placing burden on child to show absences excused is not unfair. It is not manifestly unfair to place on the child the burden to show that her absences from school were excused, for the facts which prove or disprove a claimed excuse are uniquely within the knowledge of the child and its parents or custodian. In *Interest of Y.D.M.*, 197 Colo. 403, 593 P.2d 1356 (1979).

Common-law defense of duress has not been abrogated by the compulsory attendance statute, and the court must instruct the jury on this defense if requested. In *Interest of Y.D.M.*, 197 Colo. 403, 593 P.2d 1356 (1979).

Denial of credit because of absences may be invalid. Where a school district's policy denies academic credit to students with more than seven absences, even if the absences are due partially to suspensions and excused absences, such policy is inconsistent with this section, and is thus invalid or inconsistent with state law. *Gutierrez v. Sch. Dist. R-1*, 41 Colo. App. 411, 585 P.2d 935 (1978) (decided prior to 1984 amendment adding subsection (4)).

For previous exemption of those over 14 who have completed eighth grade, see *Washington County High Sch. Dist. v. Bd. of Comm'rs*, 85 Colo. 72, 273 P. 879 (1928).

Exemption of subsection (2) requires only enrollment, not attendance, at independent or parochial school. Legislative change substituting word "enrolled" for word "attends" was clear evidence of intent not to require physical presence at independent or parochial school. Periodic attendance for testing only by students otherwise tutored at home was therefore adequate satisfaction of compulsory attendance statute. *People in Interest of D.B.*, 767 P.2d 801 (Colo. App. 1988).