

THE EL PASO PLAN

EL PASO COUNTY, TEXAS

TRUANCY PREVENTION PLAN

Approved by Commissioner's Court on _____

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FOREWORD

This plan is adopted in accordance with the Texas Education Code 25.0916 Uniform Truancy Policies in Certain Counties.

This El Paso Plan has three goals:

To outline the minimum standards of truancy prevention required by new state legislation;

To allow each school district to address the conduct causing truancy with the cooperation of the parents and students in order to minimize court involvement; and

To clearly outline what school documents are required for court filings and to clearly outline court procedure when students or parents resist all reasonable alternatives.

The prosecutors under the new law are the gatekeepers and first ask, “Was there any reasonable way the school administration could have solved this case at the school?” If so, the courtroom door stays shut. The days of using the court system as the parent’s or school’s primary disciplinarian are all but over.

The participants under this Plan will meet four times next year to determine:

Is each school district’s prevention plan working?

Are there problems or concerns with the screening of the cases by the district attorney’s office?

The meetings will all be held in the district attorney’s conference room, 2nd Floor, County Courthouse

1. Tuesday, February 16, 2016 at 3:00 p.m.
2. Tuesday, April 19, 2016 at 3:00 p.m.
3. Tuesday, July 19, 2016 at 3:00 p.m.
4. Tuesday, November 15, 2016 at 3:00 p.m.

This El Paso Plan has incorporated the Flow Chart and Commentary from the Office of Court Administration and those documents can be found at the end of this Plan.

County Wide Plan
Chapter 1
The School District's Role

Texas Education Code 25.0915 states in part:

- (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) Texas Family Code ; and
 - (2) Minimize the need for referrals to truancy court for conduct described by Section 65.003 (a), Texas Family Code.

The County Wide Plan begins with the school districts. Each school district and charter school district must create a plan to prevent truancy. Each District or Charter School's plan is unique to its setting but should as a minimum include the below elements:

Element 1. Each School District Plan must identify ways to get to know its own students. The district must have good contact information for each student and it must be regularly updated. See Enclosure 1 for ideas

Element 2. Each School District Plan must address how the district will notify a student's parent in writing at the beginning of the school year about the law regarding truancy. This can be done through the student/parent handbook; a letter home or any means that works for the District.

Element 3. Each School District Plan must include compliance with Texas Education Code 25.095 (b) that requires the school to send a Notice of Unexcused Absence to the parent once the student has accumulated three unexcused absences. The notice must inform the parent again that it is the parent's duty to monitor the student's school attendance and require the student to attend school and that the student is subject to truancy prevention measures under Texas Education Code 25.0915. The notice must request a conference between school officials and the parent to discuss the absences. See Enclosure 2 for a Notices of Absences sample letter in English. See Enclosure 3 for a Notices of Absence Letter in Spanish.

- Each School District Plan must have a way to keep track of whether or not the parent has received the letter.
- Each School District Plan must indicate the steps to be taken once the district becomes aware through its tracking process that the parent has not received the Notice of Absence letter. For example: If it was mailed and the mail came back, then the district needs to follow up with a residence check.
- The School District Plan should explain how to document all contact with student and or parent. For example: create a file (paper or electronic) for all students whose parents were sent a letter and continue to put all documents related to school attendance intervention and prevention in this file.

Element 4. Each School District Plan should explain what will take place during the parent and or parent and student conference where the 45 day Truancy Prevention Measures Plan (Texas Education Code 25.0915 (a-1)

is created. See Enclosure 4 for examples

Element 5. Each School District Plan must include documentation of the meeting. Specifically what the school promises; what the parent promises; and what the student promises. Any plan must include review dates: daily, weekly, or bi-weekly and this plan may last up to 45 days.

Element 6. Each School District Plan must document success or failure of the 45 day plan formulated at the parent/student/administrator conference. See Enclosure 5.

Enclosure 1

GET TO KNOW YOUR STUDENTS

In order to work with students and keep them in school, it is important to know who they are. Below are some suggestions to help schools know their students.

1. At Registration go over the below with the parent and record the responses:
 - i. Ask for preferred language.
 - ii. Explain the County Truancy Plan to Parent.
 - iii. Make sure school has a copy of the Texas DL or ID and DOB.
 - iv. Make sure school has at least two emergency contact numbers for the student.
 - v. Ask for names of two best friends of student and their contact numbers.
 - vi. If there is a Power of Attorney then the school must request a copy and keep it on file.
 - vii. Ask parent what the preferred way to contact them is (phone, e-mail, letter, through child) and the best time of the day.
 - viii. Orient parent to Power Parent, Parent Portal and/or school attendance phone numbers.

2. Also at registration ask if there is anything the school should be aware of such as:
 - a. Chronic illness—get documentation from doctor and make sure the nurse is involved at the outset.
 - b. Is there a drug problem? – maybe not with the student but in the household that could affect the student.
 - c. Was the student bullied in the past? --- get details of the bullying.
 - d. Is the student employed? – Why is he working – what are his hours?
 - e. Are there transportation issues as far as getting the child to school?
 - f. Are the parent and student homeless?
 - g. Is there a problem with peer pressure and the student?
 - h. Is the student pregnant? When are the appointments? – try to schedule after school. Pregnancy is not a reason to stay home unless there are complications accompanied by a doctor’s note.
 - i. Is the student a father or soon to be father? Is he responsible for taking the mother of his child to the doctor? Can the school work with the father to accommodate appointments?
 - j. Are the parents divorced or in the midst of a divorce? – does this hamper school attendance?
 - k. Have there been deaths of family or relatives that may impact school attendance?
 - l. Outline to the parents all courses the student and in some cases the parent may be required to attend in the event of truancy.

3. At registration or shortly thereafter warn the parents of the consequences if the student has unexcused absences.

Enclosure 2
COPY OF CONFERENCE / WARNING LETTER (ENGLISH)

August 28, 2015

Mr. _____

Ms. _____

Address: _____

El Paso, Texas 799__

RE: Student: _____

Date of Birth: _____

Dear Mr. and Mrs. _____:

I am sure you are aware of how important it is that you child receive a quality education. However, you may be unaware that it is your duty to monitor your child's attendance and make sure he/she is in school each and every day, in class and on time. Failure to do so could result in a criminal case being filed against you in Truancy Court. In addition if your child is 12 years old and younger than 19 he/she is subject to truancy prevention measures and could be referred to a Truancy Court.

School records at _____ High School for the _____ grade indicate that your child, _____, has had unexcused absences on:

08/24/15

08/25/15

08/26/15

Please consider this letter a warning. Should your child receive additional unexcused absences, a criminal charge may be filed against you, the parent, and prosecuted by the District Attorney's office.

Please contact your child's school immediately upon receipt of this letter to schedule a conference with school administration to discuss your child's unexcused absences. Failure to schedule a conference may result in filing a criminal charge in JP court and may serve as evidence of failure to require attendance.

Respectfully,

Assistant Principal
El Paso County, Texas
Contact Person:

Contact:

Name: _____

Address: _____

If you work and cannot attend a conference during school hours, please call and arrange an evening conference or a phone conference.

Enclosure 3
COPY OF CONFERENCE / WARNING LETTER (SPANISH)

Agosto 28, 2015

Sr. _____

Sra. _____

Domicilio: _____

El Paso, Texas 799____

Ref: Alumno _____

Fecha de Nacimiento: _____

Estimados Sr. y Sra. _____:

Estoy seguro de que ustedes están conscientes de qué tan importante es que su hijo reciba una educación de calidad. Sin embargo, es posible que usted desconozca que es su deber vigilar la asistencia a clases de su hijo/a y asegurarse de que se presente a clases diariamente y a tiempo. El no hacerlo puede tener como resultado que se presenten cargos criminales contra usted ante la Corte de Absentismo Escolar. Además, si su hijo cuenta con 12 años de edad y es menor de 19 años, su hijo/a está sujeto/a a que se apliquen medidas de prevención y que sea referido/a a la Corte de Absentismo Escolar.

El expediente de ____° grado de la Preparatoria _____ indica que su hijo(a), _____ faltó a la escuela sin justificación válida en las siguientes fechas:

08/24/15

08/25/15

08/26/15

Por favor considere esta carta como una notificación oficial. Si su hijo vuelve a faltar injustificadamente a la escuela, es posible que la escuela presente cargos criminales contra usted y puede ser procesado por la Oficina del Fiscal de Distrito.

Por favor comuníquese inmediatamente a la escuela de su hijo/a después de recibir esta carta, para hacer una cita con la administración para discutir las ausencias injustificadas de su hijo/a.

El no programar dicha conferencia puede tener como resultado que se presenten cargos ante la Corte del Juez de Paz y este hecho puede ser usado como evidencia de no exigir la asistencia de su hijo/a a clases.

Respetuosamente

Subdirector

Condado de El Paso, Texas

Contacto:

Nombre: _____

Domicilio: _____

Si usted trabaja y no puede atender la conferencia durante el horario escolar, por favor llame para planear una conferencia en la tarde or por telefono.

Enclosure 4

Suggestions for what to address during the Parent and or Student conference

Before anything else, welcome and list who is at the meeting.

- Explain the purpose of the meeting is to create a 45 day Truancy Prevention Plan.
- Ask outright what is keeping the student from school.
- Make sure each student and parent knows how many credits he/she has; what is needed for graduation.
- Be able to avoid power struggles with parent and students.
- Know what services are available through the school, and outside agencies.
- Be able to identify signs of depression, drug usage, gang involvement, anger, lack of manners, grief, new location adjustment, lack of self respect for possible referral.
- Know and explain the alternatives to regular school and when they are appropriate including, CCTA, online courses, GED.
- Make your contract terms clear and short. Use words everyone understands.
- Remind families of the schools policy regarding tardies.

The notes from the conference should be kept together with the file on the student for the agreed upon review and possibly for court. A check mark that a conference took place is not enough when referring to court. The ADAs want to know what took place during the conference. The person who conducts the conference and follows up with the plan should be the witness in court.

Enclosure 5

Filing for Court

Please refer to the Guide for Truancy and Parent Contributing Cases 2015, Chapter 2 of this document.

The ADAs who screen these cases will be looking for:

1. A properly filled out referral to truancy court (on student) and/or a properly filled out and notarized Parent Contributing complaint if filing on parent.
2. A copy of the 3 day warning letter signed by the parent or notes as to how the school determined the letter was received.
3. If the letter wasn't received what additional steps did the school take to notify the parent.
4. A copy with notes of what happened at the parent conference and if a 45 day plan was created, a copy of the 45 day plan.
5. Copies of results of reviews of the plan.
6. Current attendance of the student.
7. Statement certifying that the school applied the truancy prevention measures and that they failed to meaningfully address the student's school attendance and specify whether the student is eligible for or receives special education services.
8. Name of person who conducted conferences with parent and student and who is expected to testify in court.
9. Something indicating that the school has recently verified the address submitted with the paperwork. The address must be complete with zip code and a phone number (if available). A suggestion for verifying an address is to have the parent who is on a plan include their address and phone number on every excuse submitted to the attendance office.

Chapter 2

The District Attorney's Role

Once the school determines they will send the truant child to court, a procedure must be followed.

- The school must submit the documents listed on the following page to the appropriate Assistant District Attorney who will review them and decide whether or not the case will be filed in a truancy court.

- Once the documents are submitted, the appropriate Assistant District Attorney will review it and :
 1. Accept the case and file a petition to have it heard;
 2. Send the case back for more information/documentation; or
 3. Decline the case.

- The school will be notified of the ADA's decision in a timely manner.

Please read the Guide for Truancy and Parent Contributing Cases 2015 reprinted in this chapter if there are questions on the procedures or law. If the school still has questions, please contact the appropriate Assistant District Attorney.

Documents Needed When Submitting Cases to the Assistant District Attorney

1. A properly filled out referral to truancy court (on student) and/or a properly filled out and notarized Parent Contributing complaint if filing on parent
2. A copy of the 3 day warning letter signed by the parent or notes as to how the school determined the letter was received.
3. If the letter wasn't received what additional steps did the school take to notify the parent.
4. A copy with notes of what happened at the parent conference and if a 45 day plan was created, a copy of the 45 day plan.
5. Copies of results of reviews of the plan
6. Current attendance of the student.
7. Statement certifying that the school applied the truancy prevention measures and that they failed to meaningfully address the student's school attendance and specify whether the student is eligible for or receives special education services.
8. Name of person who conducted conferences with parent and student and who is expected to testify in court.
9. Something indicating that the school has recently verified the address submitted with the paperwork. The address must be complete with zip code and a phone number (if available). A suggestion for verifying an address is to have the parent who is on a plan include their address and phone number on every excuse submitted to the attendance office.

GUIDE FOR TRUANCY AND PARENT CONTRIBUTING CASES

2015

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AUGUST 3, 2015

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OVERVIEW OF NEW PROCEDURES IN TRUANCY COURT

PARENT CONTRIBUTING:

- Can no longer file on three or more days or parts of days within a four week period.
- Must send out warning letter or conference letter after the third unexcused absence
- Must take one or more actions described in 25.0915 Education Code: such as create a Truancy Prevention Plan with the parent (if elementary school) or parent and student (Middle and High School)
- If the plan is working, the case should never be filed in court.
- When the school determines the plan is not working anytime during the 45 days it shall IMMEDIATELY file if there are ten or more days or parts of days within a six-month period and the absences are unexcused. The ten day statute of limitations is still in effect so the filing must be no later than the 10th day after the 10th absence.

STUDENT REFERRAL TO TRUANCY COURT:

- School can no longer file a criminal complaint against the child (child is now defined for referral to Truancy Court as someone is at least 12 years old who has not reached his/her 19th birthday). The procedure is civil
- School must create a truancy prevention plan with the student and parent or take other actions described in 25.0915 Education Code.
- If the unexcused absences continue and there are ten or more days within a six month period, then the school must refer the child to a Truancy Court by completing and submitting a “Student Referral Form” (see page 16)
- The prosecutor will review the Referral Form and all attached documentation. If the Prosecutor decides to go forward with the case, he files a petition with the Truancy Court and the court hears the case. If the court makes a finding the child is truant, the court must create a remedial order for the child. The child must comply with the order. If he doesn’t he can be held in Contempt of Court and fined \$100. After two Contempt of Court findings the case may be referred to the JPD.

TRUANCY COURT TIMELINE

PARENT CONTRIBUTING TO NON-ATTENDANCE:

- Make sure parent is aware of school attendance law at the beginning of the year. This can be through the handbook. Please note that the law now requires a parent to monitor a child's attendance.
- After three absences within a four week period the school must send a letter to the parent (1) notifying the parent of the absences and inform the parent it is the parent's duty to monitor the student's school attendance and require the student to attend school (2) that the student is subject to truancy prevention measures and (3) request a conference between a school official and the parent to address absences. Ed Code 25.095(b)
- If the truancy measures that are in place are not working, then the school must file a complaint with a truancy court within ten days of the tenth absence.

REFERRAL OF STUDENT TO TRUANCY COURT:

- If the child misses three or more days or parts of days within a four week period, the school must develop a plan to deal with the truant behavior (Ed Code 25.0915).
- If the school has the child sign a Behavior Improvement Plan, under Ed Code 25.0915 (a-1) (a), that cannot last longer than 45 days; the school must monitor the attendance. If the plan is working the school does not have to refer a child to truancy court but if the plan is not working (and that would easily be indicated by the student having ten or more days or parts of days with unexcused absences), then a referral must be made.
- The referral must be submitted to the proper truancy court using the referral form in the packet with the attached documentation. (see page 16)
- The prosecutor must promptly review the documentation and decide whether to file a petition to have the student adjudicated truant. The petition must be filed by the prosecutor before the 45th day of the last absence. Fam Code 65.055.
- After the petition has been filed the Truancy court shall set a date and time for a hearing. The hearing may not be held on or before the 10th day after the day the petition is filed (Fam Code 65.056(b)).
- The Truancy Court shall issue summons for the parties to appear.
- The Truancy Court shall hold an Adjudication Hearing. After the hearing if the court finds the child has engaged in truant conduct, the court shall proceed to issue a judgment finding the child has engaged in truant conduct and order the remedies the court finds appropriate under Fam Code 65.103 considering the best interests of the child. (Fam Code 65.101(h))
- The child shall comply with the Remedial Order – if the child doesn't he will be held in contempt of court.

**LIST OF DOCUMENTS NEEDED WHEN FILING PARENT
CONTRIBUTING CASES OR WHEN REFERRING
TRUANCY CASES TO A TRUANCY COURT**

WHAT THE PROSECUTOR NEEDS FROM THE SCHOOL DISTRICT

1. The Administrators and Attendance clerks have knowledge and proficiency with the Filing Requirements in the Education Code: Ed. Code 25.085, Ed. Code 25.087, Ed Code 25.0915, Ed Code 25.093, Ed. Code 25.095, Ed Code 25.0951, Ed. Code 25.0952,
2. A copy of the General Truancy Prevention Plan as required in Ed Code 25.0915(a).
3. The phone number and name of the person at the School District level responsible specifically for the Parent Contributing filings and Truancy Court referrals.

DOCUMENTS NEEDED WHEN FILING A COMPLAINT FOR PARENT CONTRIBUTING TO NON-ATTENDANCE WITH A TRUANCY COURT

1. The Specific Complaint (Parent Contributing – only one defendant per complaint i.e. if you file on both parents there must be two complaints)
2. A statement certifying that the school applied the truancy prevention measures required and they failed.
3. A copy of the student’s attendance record at the time of filing
4. A copy of the warning letter sent to the parents
5. A good address and phone number for the parent(s)so that the court can summon them to court.

DOCUMENTS NEEDED WHEN REFERRING A CHILD TO A TRUANCY COURT UNDER ED. CODE 25.0915

The documents you must submit are listed at the bottom of the Referral Cover Sheet page 16

DOCUMENTS NEEDED WHEN COMING TO COURT ON A PARENT CONTRIBUTING TO NON-ATTENDANCE CASE

1. Results of the warning letter (i.e. did parent contact school, who did he/she talk to – what happened as a result- specifically a contract with student, parent, school etc.) and/or any effort by the school regarding contact with the parent (i.e. address verification)
2. Current attendance and grades and any discipline issues of the child

DOCUMENTS NEEDED WHEN COMING TO COURT ON A TRUANCY CASE

1. Copy of all truancy prevention measures attempted as well as results of any Behavior Improvement Plan
2. Copy of current attendance, grades and any discipline matters
3. Anything else that would be helpful to the court in making a finding of truancy.

§ 25.087. ED CODE - EXCUSED ABSENCES

- a) A person required to attend school, including a person required to attend school under Section 25.085, may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled.
- b) A school district shall excuse a student from attending school for:
 - (1) the following purposes, including travel for those purposes:
 - i. observing religious holy days;
 - ii. attending a required court appearance;
 - iii. appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship;
 - iv. taking part in a United States naturalization oath ceremony; or
 - v. serving as an election clerk; or
 - (2) a temporary absence resulting from health care professionals if that student commences classes or returns to school on the same day of the appointment.
- (b-2) A school district may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:
 - (1) the district may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and
 - (2) the district adopts:
 - i. a policy to determine when an absence will be excused for this purpose; and
 - ii. a procedure to verify the student's visit at the institution of higher education.
- (b-3) A temporary absence for purposes of Subsection (b)(2) includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health care practitioner, as described by Section 1355.015(b), Insurance Code, to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.
- c) A school district may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran.
- d) A student whose absence is excused under Subsection (b), or (b-2), or (c) may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the school district. A student whose absence is excused under Subsection (b), or (b-2), or (c) shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the school work, the day of absence shall be counted as a day of compulsory attendance.

§ 25.0915. ED CODE - TRUANCY PREVENTION MEASURES

REFERRAL AND FILING REQUIREMENT

- (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). Family Code:
- (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 an 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.
- (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 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 timely 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 prevention measure 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 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 district employee or juvenile case manager to implement the truancy prevention measures as determined 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.

**§ 25.093. ED CODE - PARENT
CONTRIBUTING TO NONATTENDANCE**

If a warning is issued as required 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 amount of time specified under Section 65.003(a) Family Code, the parent commits an offense.

- (a) The attendance officer or other appropriate school official shall file a complaint against the 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
- (b) 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 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 deferral.
- (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 municipal court.
- (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 of 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.

§ 65.003. FAM CODE - TRUANT CONDUCT

(a) a child engages in truant conduct if the child is required to attend school under Sec 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 only be prosecuted 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.

§ 25.095. ED CODE - WARNING NOTICES

(a) A school district or open-enrollment charter school shall notify a student's parent in writing at the beginning of the school year that if the student is absent from school on 10 or more days or parts of days within a six-month period in the same school year :

(1) the student's parent is subject to prosecution under Section 25.093; and

(2) the student is subject to referral to a truancy court for truant conduct under Section 65.003 (a), Family Code.

(b) A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087. on three days or parts of days within a four-week period. The notice must:

- (1) inform the parent that:
 - (A) it is the parent's duty to monitor the student's school attendance and require the student to attend school; and
 - (B) the student is subject to truancy prevention measures under Section 25.0915 and
- (2) request a conference between school officials and the parent to discuss the absences.

(c) The fact that a parent did not receive a notice under Subsection (a) or (b) does not create a defense under Section 25.093 or under Section 65.003(a) Family Code.

(d) In this section, "parent" includes a person standing in parental relation.

§ 25.0951. ED CODE - SCHOOL DISTRICT COMPLAINT OR REFERRAL FOR TRUANCY

(a) If a student fails to attend school without excuse on 10 or more days or parts of days within a six- month period in the same school year, a school district shall within 10 school days of the student's 10th absence refer the student to a truancy court for truant conduct under Section 65.003 (a) Family Code.

(b) If a student fails to attend school without excuse as specified by Subsection (a), a school district may file a complaint against the student's parent in a county, justice, or municipal court for an offense under Section 25.093 if the school district provides evidence of the parent's criminal negligence. In this subsection, "parent" includes a person standing in parental relation.

(c) A court shall dismiss a complaint made by a school district under Subsection (b) that: (1) Does not comply with this section

- (1) Does not comply with this section
- (2) Does not allege the elements required for this offense;
- (3) Is not timely filed, unless the school district delayed the referral under subsection (d) or
- (4) Is otherwise substantively defective

(d) Notwithstanding Subsection (a) , a school district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct , if the school district::

- (1) is applying truancy prevention measures to the student under Section 25.0915; and
- (2) determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

§ 25.0952. ED CODE - PROCEDURES APPLICABLE TO PARENT CONTRIBUTING TO NON ATTENDANCE OFFENSE

In a proceeding based on a complaint under Section 25.093 the court shall, except as otherwise provided by this chapter, use the procedures and exercise the powers authorized by Chapter 45, Code of Criminal Procedure.

§65.103. FAM CODE - REMEDIAL ORDER.

(a) A truancy court may enter a remedial order requiring a child who has been found to have engaged in truant conduct to:

- (1) attend school without unexcused absences
- (2) attend a preparatory class for the high school equivalency examination administered under Section 7.111 Education Code, if the court determines that the individual is unlikely to do well in a formal classroom environment due to the individual's age;
- (3) if the child is at least 16 years of age, take the high school equivalency examination administered under Section 7.111 Education Code, if that is in the best interest of the child;
- (4) attend a non-profit, community based special program that the court determines to be in the best interest of the child, including:
 - (A) an alcohol and drug abuse program
 - (B) a rehabilitation program
 - (C) a counseling program, including a self-improvement program
 - (D) a program that provides training in self-esteem and leadership
 - (E) a work and job skills training program
 - (F) a program that provides training in parenting, including parental responsibility
 - (G) a program that provides training in manners
 - (H) a program that provides training in violence avoidance
 - (I) a program that provides sensitivity training; and
 - (J) a program that provides training in advocacy and mentoring.

(5) complete not more than 50 hours community service on a project acceptable to the court

(6) participate for a specified number of hours in a tutorial program covering the academic subjects in which the child is enrolled that are provided by the school the child attends.

(b) A truancy court may not order a child who has been found to have engaged in truant conduct to:

- (1) attend a juvenile justice alternative education program, a boot camp, or a for-profit truancy class. or
- (2) perform more than 16 hours of community service per week under this section.

(c) In addition to any other order authorized by this section, a truancy court may order the Department of Public Safety to suspend the driver's license or permit of a child who has been found to have engaged in truant conduct. If the child does not have a driver's license or permit, the court may order the Department of Public Safety to deny the issuance of a license or permit to the child. The period of the license or permit suspension or the order that the issuance of a license or permit be denied may not extend beyond the maximum time period that a remedial order is effective as provided by Section 65.104.

**§65.105. FAM CODE - ORDERS AFFECTING
PARENTS AND OTHERS**

(a) If a child has been found to engage in truant conduct, the truancy court may:

(1) order the child and the child's parent to attend a class for students at risk of dropping out of school that is designed for both the child and the child's parent.

(2) order any person found by the court to have, by a willful act or omission, contributed to, caused, or encouraged the child's truant conduct to do any act that the court determines to be reasonable and necessary for the welfare of the child or to refrain from doing any act that the court determines to be injurious to the child's welfare.

(3) enjoin all contact between the child and a person who is found to be a contributing cause of the child's truant conduct, unless that person is related to the child within the third degree of consanguinity or affinity, in which case the court may contact the Department of Family and Protective Services, if necessary.

(4) After notice to, and a hearing with, all persons affected, order any person living in the same household with the child to participate in social or psychological counseling to assist in the child's rehabilitation;

(5) order the child's parent or other person responsible for the child's support to pay all or part of the reasonable cost of treatment programs in which the child is ordered to participate if the court finds the child's parent or person responsible for the child's support is able to pay the costs.

(6) order the child's parent to attend a program for parents of students with unexcused absences that provides instruction designed to assist these parents in identifying problems that contribute to the child's unexcused absences and in developing strategies for resolving those problems; and

(7) order the child's parent to perform not more than 50 hours of community service with the child.

(b) A person subject to an order proposed under Subsection (a) is entitled to a hearing before the order is entered by the court.

(c) On a finding by the court that a child's parents have made a reasonable good faith effort to prevent the child from engaging in truant conduct and that, despite the parents' efforts the child continues to engage in truant conduct, the court shall waive any requirement for community service that may be imposed under this section.

COPY OF CONFERENCE/WARNING LETTER (ENGLISH)

August 28, 2015

Mr. _____

Ms. _____

Address: _____

El Paso, Texas 799 _____

RE: Student: _____

Date of Birth: _____

Dear Mr. and Mrs. _____:

I am sure you are aware of how important it is that you child receive a quality education. However, you may be unaware that it is your duty to monitor your child’s attendance and make sure he/she is in school each and every day, in class and on time. Failure to do so could result in a criminal case being filed against you in Truancy Court. In addition if your child is 12 years old and younger than 19 he/she is subject to truancy prevention measures and could be referred to a Truancy Court.

School records at _____ High School for the _____ grade indicate that your child, _____, has had unexcused absences on:

08/24/15 08/25/15 08/26/15

Please consider this letter a warning. Should your child receive additional unexcused absences a criminal charge may be filed against you, the parent, and prosecuted by the District Attorney’s office.

Please contact your child’s school immediately upon receipt of this letter to schedule a conference with school administration to discuss your child’s unexcused absences. Failure to schedule a conference may result in filing a criminal charge in JP court and may serve as evidence of failure to require attendance.

Respectfully,

Assistant Principal
El Paso County, Texas

COPY OF CONFERENCE/WARNING LETTER (SPANISH)

Agosto 28, 2015

Sr. _____

Sra. _____

Domicilio: _____

El Paso, Texas 799_____

Ref: Alumno _____

Fecha de Nacimiento: _____

Estimados Sr. y Sra. _____:

Estoy seguro de que ustedes están conscientes de qué tan importante es que su hijo reciba una educación de calidad. Sin embargo, es posible que usted desconozca que es su deber vigilar la asistencia a clases de su hijo/a y asegurarse de que se presente a clases diariamente y a tiempo. El no hacerlo puede tener como resultado que se presenten cargos criminales contra usted ante la Corte de Absentismo Escolar. Además, si su hijo cuenta con 12 años de edad y es menor de 19 años, su hijo/a está sujeto/a a que se apliquen medidas de prevención y que sea referido/a a la Corte de Absentismo Escolar.

El expediente de _____° grado de la Preparatoria _____ indica que su hijo(a), _____ faltó a la escuela sin justificación válida en las siguientes fechas:

08/24/15

08/25/15

08/26/15

Por favor considere esta carta como una notificación oficial. Si su hijo vuelve a faltar injustificadamente a la escuela, es posible que la escuela presente cargos criminales contra usted y puede ser procesado por la Oficina del Fiscal de Distrito.

Por favor comuníquese inmediatamente a la escuela de su hijo/a después de recibir esta carta, para hacer una cita con la administración para discutir las ausencias injustificadas de su hijo/a.

El no programar dicha conferencia puede tener como resultado que se presenten cargos ante la Corte del Juez de Paz y este hecho puede ser usado como evidencia de no exigir la asistencia de su hijo/a a clases.

Respetuosamente

Subdirector

Condado de El Paso, Texas

COVER SHEET FOR STUDENT REFERRAL TO TRUANCY COURT

IN THE JUSTICE COURT PRECINCT ____ OF EL PASO COUNTY, TEXAS

Name of Student: _____ DOB _____

Verified Address of student: _____

Name of Mother: _____

Address of mother: _____

Name of father: _____

Address of father: _____

Name of person standing in parent's place: _____

Address of person standing in parent's place: _____

Name of School: _____

Name of Administrator: _____ Cell Phone: _____

The above named student while required to attend school under Section 25.085 of the Texas Education Code did fail to attend school on ten or more days or parts of days within a six month period in the same school year.

Day 1 _____, 201____ All Day; Periods _____

Day 2 _____, 201____ All Day; Periods _____

Day 3 _____, 201____ All Day; Periods _____

Day 4 _____, 201____ All Day; Periods _____

Day 5 _____, 201____ All Day; Periods _____

Day 6 _____, 201____ All Day; Periods _____

Day 7 _____, 201____ All Day; Periods _____

Day 8 _____, 201____ All Day; Periods _____

Day 9 _____, 201____ All Day; Periods _____

Day 10 _____, 201____ All Day; Periods _____

Day 11 _____, 201____ All Day; Periods _____

Day 12 _____, 201____ All Day; Periods _____

Attached (1) CERTIFYING STATMENET AS REQUIRED BY 25.0915(B) Ed. Code (2) Copy of Behavior Improvement Plan or other steps taken under 25.0915 Ed. Code (3) current attendance.

COPY OF PARENT COMPLAINT FORM

IN THE JUSTICE COURT OF EL PASO COUNTY, TEXAS PRECINCT NUMBER _____

State of Texas)
)
vs.) No. _____
)
_____)

COMPLAINT

In the Name and by the Authority of the State of Texas, I _____, do solemnly swear that I have good reason to believe that heretofore, to-wit: that on or about the ____ day of _____, 20__, (date of child's last absence) in the County of El Paso, State of Texas, _____ hereinafter referred to as Defendant, the parent or person standing in parental relation of _____, a child, who is required to attend school under Section 25.085 of the Texas Education Code did with criminal negligence fail to require the child to attend school as required by law and the child has unexcused absences for all or part of the following

Ten or more days or parts of a day within a six month period:

- | | |
|---------------------|----------------------------|
| Day 1 _____, 201__ | ___ All Day; Periods _____ |
| Day 2 _____, 201__ | ___ All Day; Periods _____ |
| Day 3 _____, 201__ | ___ All Day; Periods _____ |
| Day 4 _____, 201__ | ___ All Day; Periods _____ |
| Day 5 _____, 201__ | ___ All Day; Periods _____ |
| Day 6 _____, 201__ | ___ All Day; Periods _____ |
| Day 7 _____, 201__ | ___ All Day; Periods _____ |
| Day 8 _____, 201__ | ___ All Day; Periods _____ |
| Day 9 _____, 201__ | ___ All Day; Periods _____ |
| Day 10 _____, 201__ | ___ All Day; Periods _____ |

Against the peace and dignity of the State.

_____ Affiant

El Paso County, Texas
Sworn to and subscribed
before me the undersigned
authority on _____

_____ Notary Public, State of Texas

MEMO REQUEST FOR DISMISSAL

MEMO

To: Assistant District Attorney

{Matt Moore (mmoore@epcounty.com) or Ann Ward (award@epcounty.com)}

Re: Request for Dismissal

Date:

I, (print name) _____, Principal or Assistant Principal of
_____ school

request the Assistant District Attorney to ask the Judge of the Justice of the Peace Court number _____ to dismiss the case against _____ (print name of defendant).

The Defendant is charged with: _____

I wish to have the case dismissed because:

_____ The plead absences have been corrected or several of the plead absences have been corrected and there are no longer enough days plead for the Court to proceed.

_____ The parent has come to the school, signed a contract, two months have elapsed and the student has had no more unexcused absences or tardies.

_____ The student has signed a contract with the school, two months have elapsed and the student has had no more unexcused absences or tardies.

_____ The student has moved out of the jurisdiction, this has been verified by the Truant officer and/or school records have been requested from the new school.

_____ The student was charged with a Class C citation for _____ and the case has been satisfactorily handled administratively

_____ Other – Please give a complete description of the reason(s) requested _____

Respectfully submitted,

_____ (title)

_____ phone number

CHAPTER 3

The Role of the Justices of the Peace

Truancy Court proceedings are now found in Chapter 65 of the Texas Family Code. The purpose of the chapter is to encourage school attendance through a simple civil procedure through which children are held accountable for excessive school absences. The best interest of the child is the primary consideration in adjudicating truant conduct.

1. A truancy court shall dismiss a petition filed by a truant conduct prosecutor if the court determines that the school district's referral: a) lacks a certifying statement; b) does not satisfy the elements of truant conduct; c) is not timely filed unless delayed by the school district in order to continue working with a successful plan; or d) is otherwise substantively defective.
2. After a petition has been filed a truancy court shall set a date and time for an adjudication hearing that is at least ten days after the filing date.
3. The court shall summon the child named in the petition along with the child's parent(s) and any other person necessary to the proceedings.
4. A copy of the petition must accompany the summons.
5. The summons can be served by any suitable person under the direction of the court in person or by mail at least five days before the date of the hearing.
6. At the beginning of the adjudication hearing, the truancy court judge shall explain to the child and the child's parent: a) allegations made against the child, b) the nature and possible consequences of the proceeding; c) the child's privilege against self-incrimination; d) the child's right to trial and to confront witnesses; e) the child's right to representation by an attorney, however an attorney is not provided; f) and the child's right to a jury trial unless waived.
7. If during the hearing or immediately before the hearing an allegation of the child's mental illness occurs, the court shall stop the proceedings to determine whether the allegation is true.
8. At the conclusion of the adjudication hearing the court or jury shall either: a) find beyond a reasonable doubt the child has engaged in truant conduct; or b) find no truant conduct occurred and the court shall dismiss the case with prejudice.
9. If the court or jury finds that the child did engage in truant conduct the court must orally pronounce its judgment and its remedial actions in the child's presence and enter those actions in its written order.
10. After the order has been entered, the court shall advise the child and parent of the child's right to appeal and procedures for sealing the child's records

COVER SHEET FOR STUDENT REFERRAL TO TRUANCY COURT

IN THE JUSTICE COURT PRECINCT ___ OF EL PASO COUNTY, TEXAS

Name of Student: _____ DOB _____

Verified Address of student: _____

Name of Mother: _____

Address of mother: _____

Name of father: _____

Address of father: _____

Name of person standing in parent's place: _____

Address of person standing in parent's place: _____

Name of School: _____

Name of Administrator: _____ Cell Phone: _____

The above named student while required to attend school under Section 25.085 of the Texas Education Code did fail to attend school on ten or more days or parts of days within a six month period in the same school year.

Day 1 _____, 201____ All Day; Periods _____

Day 2 _____, 201____ All Day; Periods _____

Day 3 _____, 201____ All Day; Periods _____

Day 4 _____, 201____ All Day; Periods _____

Day 5 _____, 201____ All Day; Periods _____

Day 6 _____, 201____ All Day; Periods _____

Day 7 _____, 201____ All Day; Periods _____

Day 8 _____, 201____ All Day; Periods _____

Day 9 _____, 201____ All Day; Periods _____

Day 10 _____, 201____ All Day; Periods _____

Day 11 _____, 201____ All Day; Periods _____

Day 12 _____, 201____ All Day; Periods _____

Attached (1) CERTIFYING STATMENET AS REQUIRED BY 25.0915(B) Texas Education Code (2) Copy of Behavior Improvement Plan or other steps taken under 25.0915 Texas Education Code (3) current attendance.

IN THE JUSTICE COURT OF EL PASO COUNTY, TEXAS
PRECINCT NUMBER _____
A DESIGNATED TRUANCY COURT

In the Matter of)
)
Initials of Juvenile) **No.**
+DOB)
PETITION BASED ON TRUANT CONDUCT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, NAME OF ATTORNEY, Assistant District Attorney, and would show the court (s)he has good reason to believe and does believe the following:

That JUVENILE, the subject of this petition, was at the time of the conduct alleged in this petition a (male/female) twelve years of age or older and under 19 years of age, to wit: _____ years of age who resides at _____

That the names and residence addresses of the parents are:

Mother's name:
Residence:

Father's name:
Residence:

The Respondent has missed school ten or more days or parts of days within a six month period and these absences were unexcused thereby violating Texas Family Code 65.003.

Dates, time and place of unexcused absences:
_____ (name of school) located in El Paso County, Texas on:

Day 1 _____, 20__	___ All Day; Periods _____
Day 2 _____, 20__	___ All Day; Periods _____
Day 3 _____, 20__	___ All Day; Periods _____
Day 4 _____, 20__	___ All Day; Periods _____
Day 5 _____, 20__	___ All Day; Periods _____
Day 6 _____, 20__	___ All Day; Periods _____
Day 7 _____, 20__	___ All Day; Periods _____
Day 8 _____, 20__	___ All Day; Periods _____
Day 9 _____, 20__	___ All Day; Periods _____
Day 10 _____, 20__	___ All Day; Periods _____
Day 11 _____, 20__	___ All Day; Periods _____
Day 12 _____, 20__	___ All Day; Periods _____

Wherefore, your petitioner prays that after proper notice to all persons affected and hearing, JUVENILE be adjudicated truant, and that the court order the child and/or parents of the said child to comply with any REMEDIAL ORDER issued by this court and that court costs be assessed.

Respectively submitted,

Jaime Esparza
District Attorney, 34th Judicial District
Bar Number 06666450
500 E. San Antonio, Suite 201
El Paso, Texas 79901
915-546-2059

By _____
Assistant District Attorney
State Bar No.

Enclosure 3

215-XXXX-TRU

In the matter of _____)	In the Truancy Court
child)	Justice of the Peace Precinct _
DOB)	El Paso County, Texas

SUMMONS FOR RESPONDENT IN TRUANCY CASE

Summons for (name of juvenile), who may be found at _____

To the person named above:

A petition, attached to this summons, has been filed against you alleging Truant Conduct. You may file an answer to this allegation with the above court, either orally or in writing. If you do not answer, it will be presumed that you generally deny the allegations.

Regardless of whether you file an answer, you are ORDERED to personally appear at (time) on (date) at the Justice of the Peace, Precinct ____, located at (address) for a Truant Conduct adjudication hearing. Failure to appear at the hearing may result in a writ of attachment being issued for you causing you to be picked up and brought directly to the court.

Se ha registrado en su contra una petición, la cual se adjunta a esta notificación, en la que se alega que usted ha cometido Absentismo Escolar. Usted puede responder a este alegato, ya sea oralmente o por escrito, ante la corte mencionada arriba. Si usted no responde, se supondrá que usted niega el alegato.

Independientemente de si usted envía una respuesta, se le ORDENA presentarse personalmente a las (hora) el (fecha) ante el Juez de Paz, Distrito ____, localizado en (dirección) a una audiencia de fallo. Si usted no se presenta a dicha audiencia, se girará una orden de arresto en su contra para recogerlo y presentarlo ante la corte.

Witness my official signature on this the _____ day of _____ 2015.

 Judge _____ Presiding Judge
 Justice of the Peace, Precinct ____
 El Paso County, Texas

Enclosure 4

XXX-XXXXX-TRU

In the Matter of _____,
Child, D.O.B. _____

In The Truancy Court

Justice of the Peace, Precinct XX

El Paso County, Texas

SUMMONS FOR PARENT OF RESPONDENT IN TRUANCY CASE

To: Mother/Father/ Guardian (name/address)—one summons per party

The Parent is ORDERED to bring the juvenile, (NAME) to appear personally at (time) (date) at (address of court) _____ before Judge _____ Justice of the Peace, Precinct XX, to answer to the State’s Petition for Truant Behavior which was filed on _____ in said court wherein the said petition alleges the following facts which Petitioner says will constitute the said juvenile a truant child, to wit: all as fully set out in the accompanying true copy of the Petition of said Petitioner, the State of Texas.

Se le ordena al Padre/Madre traer al menor, (Nombre) y presentarlo personalmente a las (hora) el (fecha) en (dirección de la corte) _____ ante el Juez _____ Juez de Paz, Distrito XX, para que responda a la Petición del Estado por haber cometido Ausentismo Escolar, la cual fue registrada el _____ en dicha corte, en la que se alegan los siguientes hechos que de acuerdo al Demandante, tendrá como consecuencia que el menor se considere un menor ausente, a saber: estos hechos se presentan en la copia adjunta a la Petición de dicho Demandante, en este caso, el Estado de Texas.

Witness my official signature on this the _____ day of _____ 20XX.

Judge _____ (Presiding Judge)
Justice of the Peace, Precinct XX
El Paso County, Texas

ENCLOSURE 5

XXX-XXXXX-TRU

In the Matter of _____,
Child, D.O.B. _____

In The Truancy Court
Justice of the Peace, Precinct XX
El Paso County, Texas

TRUANT CONDUCT RIGHTS INFORMATION SHEET

1. You have the right to answer NOT TRUE to the allegations, which will require the petitioner to prove the truant conduct beyond a reasonable doubt.
2. You have the right to a trial by jury, and may not be charged a fee for not waiving that right. If you have a trial by jury, the jury must be unanimous in finding that you engaged in truant conduct.
3. You have the right to an interpreter if you are deaf or if you do not speak the English language.
4. You have a right to confront the witnesses against you.
5. You have the right not to testify against yourself in this case.
6. You have the right to be represented by an attorney. Note that this does not entitle you to have an attorney appointed, though the court may in the interest of justice.
7. You have the right to appeal the court’s decision in this case. You will have 21 days from the date of adjudication to appeal.
8. You have the right to have the records in this case sealed when you turn 18, if you comply with the court’s orders in the case. If the records are sealed, they may not be revealed or used against you in any way.

I understand the rights above and acknowledge receiving notice of them by signing below

Signature: Respondent	Date	Signature: Parent	Date
Signature: Guardian	Date	Signature: Attorney	Date
Signature: District Attorney	Date	Signature: Case Manager	Date

ENCLOSURE 6

XXX-XXXXX-TRU

In the Matter of T.T.,
Child.

In The Truancy Court

Justice of The Peace, Precinct XXXXX

El Paso County, Texas

TRUANT CONDUCT RESPONDENT'S ANSWER

I, Test Test, have reviewed the petition alleging that I engaged in truant conduct under Chapter 65 of the Texas Family Code. After being informed of the allegations against me, the nature and possible consequences of the proceedings, my privilege against self-incrimination, my right to trial and to confront witnesses against me, my right to representation by an attorney, and my right to a jury trial, I appear and file my answer of (check one):

- TRUE.** I agree that the allegations are true, and waive my rights to a jury trial, against self-incrimination, and to confront witness against me. I understand that a remedial order will now be entered by the judge in this case.
- NOT TRUE.** I wish to enforce my right to a trial, and for the petitioner to have to prove the allegations of truant conduct beyond a reasonable doubt. I understand that I have the right to a jury trial in this case and I do/do not (circle one) wish to waive that right. I understand that I may not be charged any fees for not waiving my right to a jury trial.

Respondent

Date

Respondent's Parent/Guardian

Date

Respondent's Attorney, if any

Date

ENCLOSURE 7

**In the Justice of the Peace Court of El Paso, Texas, Precinct ____
A Designated Truancy Court**

In the matter of _____ ,
child D.O.B. _____

Case # XXX-XXXXXX-TRU

REMEDIAL ORDER FOR STUDENT

Today the court finds the above identified student to have engaged in truant conduct and in the best interest of the student orders:

- The student shall attend school with no unexcused absence
- Enroll in GED program or other program: _____
- The student shall not change schools without notifying the court
- The student shall attend and satisfactorily participate in a non-profit community based special program listed below to address:
 - Alcohol / Drug Abuse Rehabilitation
 - Training in Self Esteem and Leadership
 - Training in Parenting and Parent Responsibility
 - Violence Avoidance
 - Therapeutic Needs
 - JPD P&I Program
 - Counseling
 - Other: _____
 - Manners
 - Sensitivity
 - Anger Management
 - Motivation
 - Bullying
 - Pay Cost of Program
 - Work and Job Skills Training
- There shall be no contact between the student and the person contributing to the truant conduct. Person(s) being _____.
- The student shall complete _____ hours of community service on a project acceptable to the court (no more than 50 hours).
- The student shall participate for _____ hours of school based tutoring in the academic subjects in which the student is enrolled.
- Pay Court Cost.
- Attend a compliance hearing on _____ at _____.

If you fail to comply with this order you may be held in Contempt of Court and assessed a \$100.00 fine.

Signed on : _____ day of _____ 2015

Student

Presiding Judge _____
Justice of the Peace Precinct XX
El Paso County , Texas

ENCLOSURE 8

In the matter of _____, child
D.O.B. _____

Case # XXX-XXXXX-TRU

ORDER FOR PARENT, GUARDIAN, OR RESPONSIBLE PARTY OF TRUANT STUDENT

Today the court finds the above identified student to have engaged in truant conduct and in the best interest of the student orders: _____ (Parent, Guardian or Responsible Party)

- Ensure student shall attend school with no unexcused absence
- Enroll student in GED program or other program: _____
- The student shall not change schools without notifying the court
- Monitor the student's attendance and pick up or print out weekly attendance reports to bring to review hearing
- Ensure student shall attend those programs ordered in the remedial order for the student. Further, the parent shall attend and participate in a non-profit community based special program listed below to address:

- | | |
|--|---|
| <input type="checkbox"/> Alcohol / Drug Abuse Rehabilitation | <input type="checkbox"/> Manners |
| <input type="checkbox"/> Training in Self Esteem and Leadership | <input type="checkbox"/> Sensitivity |
| <input type="checkbox"/> Training in Parenting and Parent Responsibility | <input type="checkbox"/> Anger Management |
| <input type="checkbox"/> Violence Avoidance | <input type="checkbox"/> Motivation |
| <input type="checkbox"/> Therapeutic Needs | <input type="checkbox"/> Bullying |
| <input type="checkbox"/> JPD P&I Program | <input type="checkbox"/> Pay Cost of Program |
| <input type="checkbox"/> Counseling | <input type="checkbox"/> Work and Job Skills Training |
| <input type="checkbox"/> Other: _____ | |

- Ensure that there shall be no contact between the student and the person contributing to the truant conduct. Person(s) being _____.
- Complete with the student _____ hours of community service on a project acceptable to the court (no more than 50 hours).
- Pay Court Cost of \$_____ by _____.
- Attend a compliance hearing on _____ at _____.

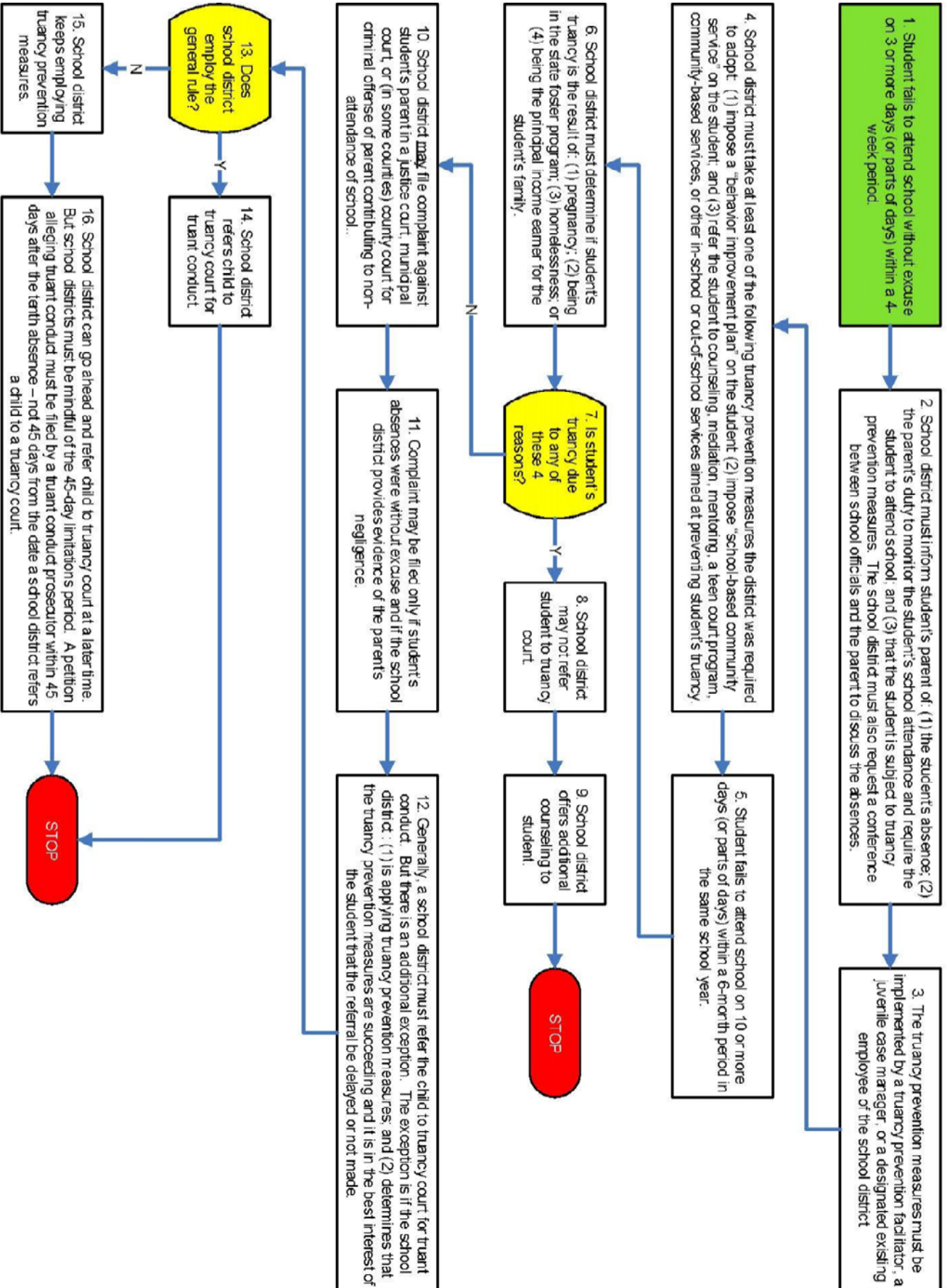
If you fail to comply with this order you may be held in Contempt of Court and assessed a \$100.00 fine.

Signed on : _____ day of _____ 20XX

Parent /Guardian/Responsible Party

Presiding Judge _____
Justice of the Peace Precinct XX
El Paso County , Texas

School Responsibilities Regarding Truancy



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

July 2015

Ted Wood Assistant General Counsel
Office of Court Administration State of Texas
E-mail: ted.wood@courts.state.tx.us
(512) 936-1183
FAX: (512) 463-1648

Box 1. Student fails to attend school without excuse on 3 or more days (or parts of days) within a 4-week period.

This is the event that moves a school district into action in regard to a student who is missing school.

Move to Box 2.

Box 2. School district must inform student's parent of: (1) the student's absence; (2) the parent's duty to monitor the student's school attendance and require the student to attend school; and (3) that the student is subject to truancy prevention measures. The school district must also request a conference between school officials and the parent to discuss the absences.

"A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

(1) inform the parent that:

(A) it is the parent's duty to monitor the student's school attendance and require the student to attend school; and

(B) The student is subject to truancy prevention measures under Section 25.0915; and

(2) request a conference between school officials and the parent to discuss the absences."

Education Code§ 25.095(b).

Go to Box 3.

Box 3. The truancy prevention measures must be implemented by a truancy prevention facilitator, a juvenile case manager, or a designated existing employee of the school district.

"(d) Except as provided by Subsection (e), a school district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention 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 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 district employee or juvenile case manager to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus."

Education Code§ 25.0915(d), (e).

Go to Box 4.

Box 4. School district must take at least one of the following truancy prevention measures the district was required to adopt: (1) impose a "behavior improvement plan" on the student; (2) impose "school-based community service" on the student; and (3) 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 preventing student's truancy.

"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 an 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."

Education Code§ 25.0915(a-1).

Advance to Box 5.

Box 5. Student fails to attend school on 10 or more days (or parts of days) within a 6-month period in the same school year.

The hope is that the truancy prevention measures keep children in school and serve to reduce multiple absences from school. The idea of the new truancy reforms is to reduce the number of students that ever accrue the ten absences that make them eligible for court action. But, there will still be many cases in which a student will be absent from school on ten different days. When this happens, school districts are required to take action.

"If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a school district shall within 10 school days of the student's 10th absence refer the student to a truancy court for truant conduct under Section 65.003(a), Family Code." Education Code § 5.0951(a).

The foregoing is a general rule. There are some exceptions as the succeeding boxes on the flowchart will demonstrate.

Go to Box 6.

Box 6. School district must determine if 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.

As mentioned above, there are some exceptions to the general rule that a school district must refer a student to a truancy court upon the student's tenth absence. A main exception (involving four situations) is set out in Education Code, Section 25.0915(a-3) which reads as follows:

"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.

Go to Box 7.

Box 7. Is student's truancy due to any of these 4 reasons?

If yes, then go to Box 8. If no, then move to Box 10.

Box 8. School district may not refer student to truancy court.

See commentary in connection with Box 6. Go to Box 9.

Box 9. School district offers additional counseling to student.

See commentary in connection with Box 6. Stop.

Box 10. School district may file complaint against student's parent in a justice court, municipal court, or (in some counties) county court for criminal offense of parent contributing to non- attendance of school.

"If a student fails to attend school without excuse as specified by Subsection (a), [10 absences] a school district may file a complaint against the student's parent in a county, justice, or municipal court for an offense under Section 25.093 if the school district provides evidence of the parent's criminal negligence."

Education Code § 25.0951(b).

Go to Box 11.

Box 11. Complaint may be filed only if student's absences were without excuse and if the school district provides evidence of the parent's negligence.

See statute set out in connection with Box 10 above.

Go to Box 12.

Box 12. Generally, a school district must refer the child to truancy court for truant conduct. But there is an additional exception. The exception is if the school district: (1) is applying truancy prevention measures; and (2) determines that the truancy prevention measures are succeeding and it is in the best interest of the student that the referral be delayed or not made.

"Notwithstanding Subsection (a) [general requirement for school district to refer case to truancy court], a school district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if the school district:

- (1) is applying truancy prevention measures to the student under Section 25.0915; and
- (2) determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made."

Education Code § 25.0951(d).

Go to Box 13.

Box 13. Does school district employ the general rule?

If yes, then go to Box 14. If no, then go to Box 15.

Box 14. School district refers child to truancy court for truant conduct.

Stop.

Box 15. School district keeps employing truancy prevention measures.

Go to Box 16.

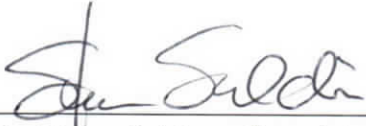
Box 16. School district can go ahead and refer child to truancy court at a later time. But school districts must be mindful of the 45-day limitations period. A petition alleging truant conduct must be filed by a truant conduct prosecutor within 45 days after the tenth absence - not 45 days from the date a school district refers a child to a truancy court.

The relevant statute on the 45-day limitations issue is Section 65.055 which reads as follows:

"A petition may not be filed after the 45th absence giving rise to the act of truant conduct."

Stop.

The following entities have read and agree to follow this plan:



Dr. Steven Saldivar, Superintendent
Anthony Independent School District



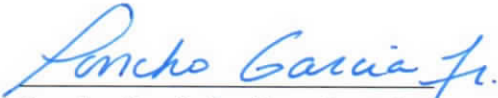
Dr. Pedro Galaviz, Superintendent
Canutillo Independent School District



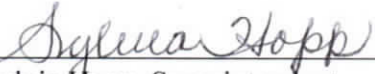
Juan Martinez, Superintendent
Clint Independent School District



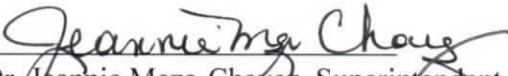
Juan Cabrera, Superintendent
El Paso Independent School District



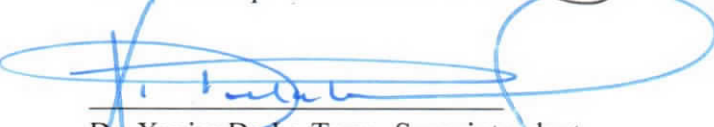
Poncho Garcia Jr., Superintendent
Fabens Independent School District



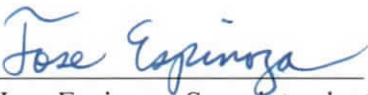
Sylvia Hopp, Superintendent
San Elizario Independent School District



Dr. Jeannie Meza-Chavez, Superintendent
Tornillo Independent School District

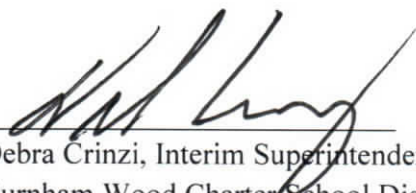


Dr. Xavier De La Torre, Superintendent
Ysleta Independent School District

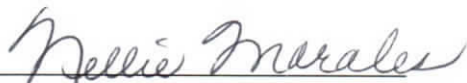


Dr. Jose Espinoza, Superintendent
Socorro Independent School District

The following entities have read and agree to follow this plan:



Debra Crinzi, Interim Superintendent
Burnham Wood Charter School District



Nellie Morales, Superintendent
La Fe Preparatory School District Pk-7

Laura Dominguez, Director
Premier High School/Responsive Ed. 6-12



Omar Yanar, Superintendent
El Paso Leadership Academy School District



Sarahi Gross, Superintendent / Executive Director
El Paso Academy Charter School District



^{Fevzi}
_{FD} Sebzi Simsek, Superintendent
Harmony Science Academy School District

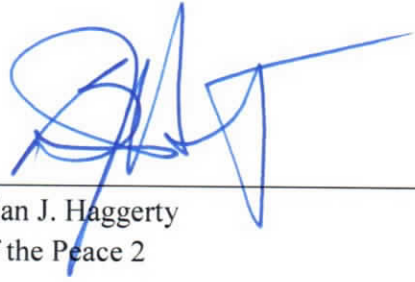


Maria I. Baquera, District Director
Paso Del Norte Academy Charter School District

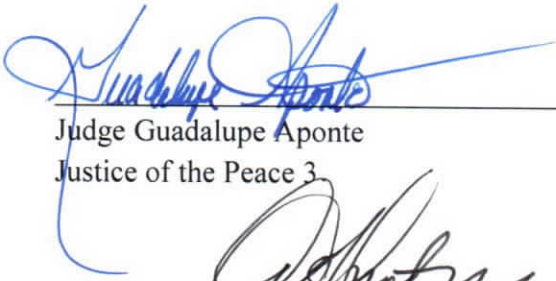
The following entities have read and agree to follow this plan:



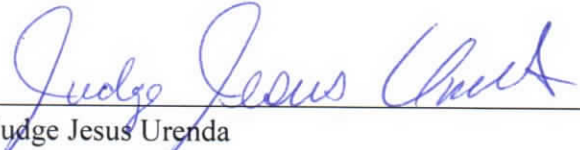
Judge Robert T. Pearson
Justice of the Peace 1



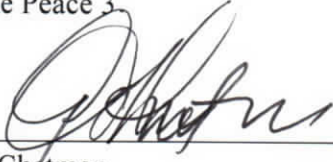
Judge Brian J. Haggerty
Justice of the Peace 2



Judge Guadalupe Aponte
Justice of the Peace 3



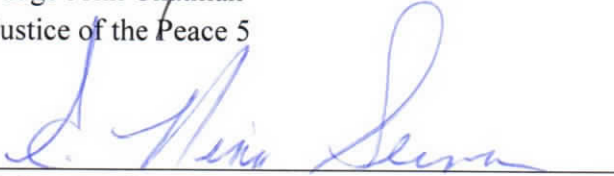
Judge Jesus Urenda
Justice of the Peace 4



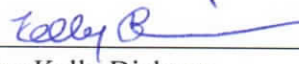
Judge John Chatman
Justice of the Peace 5



Judge Ruben Lujan
Justice of the Peace 6-1



Judge Enedina Nina Serna
Justice of the Peace 6-2



Judge Kelly Dickson
Justice of the Peace 7

The following entities have read and agree to follow this plan:

APPROVED AS TO FORM:

Jo Anne Bernal
El Paso County Attorney

APPROVED AS TO CONTENT:

Jaime Esparza
34th Judicial District Attorney

Dated this _____ day of _____, 2015

The County of El Paso

Veronica Escobar
El Paso County Judge