

NOW, THEREFORE, THE MALHEUR COUNTY COURT ORDAINS AS FOLLOWS:

A new chapter is added to the Malheur County Code to read as follows:

Title 3 Chapter 16
Truancy from Malheur County Schools

Chapter 16 Sections:

- 16.1 Title
- 16.2 Authority and Purpose
- 16.3 Jurisdiction
- 16.4 Definitions
- 16.5 Conduct prohibited
- 16.6 Violation Proceeding
- 16.7 Sanctions
- 16.8 Separate offense
- 16.9 Severance

16.1 Title

This chapter shall be known as “Truancy from Malheur County Schools”.

16.2 Authority and Purpose

A. The Malheur County Court has authority to regulate matters of County concern within the County, under the provisions of the Constitution of the State of Oregon and the revised statutes of the State of Oregon.

B. This chapter applies to students (Kindergarten (K) – 12th grades) enrolled in a full-time public school located within Malheur County, including within the incorporated cities of Nyssa, Ontario, Vale, Jordan Valley and Adrian, the city councils of which have consented pursuant to ORS 203.040.

C. This chapter does not apply to students attending private schools located within Malheur County, including within the incorporated city of Ontario.

D. The purpose of this chapter is to create rules for enforcement procedures intended to reduce the incidents of truancy within public schools in Malheur County. It is in the best interest of a student to attend school regularly and complete the educational courses of study.

16.3 Jurisdiction

The Malheur County Justice Court and Vale Municipal/Justice Court have jurisdiction and venue over infractions and proceedings of this chapter. Venue for truancy occurs at the school district office where the student is enrolled.

16.4 Definitions

“Chronic Absenteeism” means a Student is not attending School for 10 percent or more of School days in a School year.

“Law Enforcement Official” means Malheur County Sheriff Deputy, city police officer, or Malheur County Juvenile Department Counselor.

“Public School in Malheur County” or **“School”** means a full-time school operated by Adrian School District No.61, Annex Charter School District No. 29, Arock School District No. 81, Four Rivers Charter School, Harper Charter School No. 66, Jordan Valley School District No. 3, Juntura School District, Nyssa School District No. 26, Ontario School District No. 8C and Vale School District No. 84.

“Responsible Adult” means a person at least eighteen (18) years of age, who is the parent, guardian or otherwise authorized to have the care or custody of a Student.

“School Official” means any personnel appointed/designated by a School or the Education Service District Region 84 in Malheur County including but not limited to principal, vice-principal, superintendent, resource officer, or truancy enforcement specialist.

“Student” means a minor between the ages of 5 -18 who has not completed the twelfth (12th) grade and is enrolled in a Public School in Malheur County.

16.5 Conduct Prohibited

A. Except as otherwise provided herein, Students are required to attend School and shall not be chronically absent. For the purpose of this section “chronically absent” means to miss 10 percent or more of School days in a School year. It is unlawful for a Student to have Chronic Absenteeism from School as required by this chapter.

B. Every Responsible Adult having the custody or care of a Student shall make every reasonable effort to prevent the Student from violating this chapter, and shall supervise the Student by sending the Student to School and maintaining the Student in School so that the Student does not miss 10 percent or more of School days.

C. This chapter does not limit or supersede any provision of Oregon law, which exempts certain children from compulsory school attendance (ORS 339.030), nor does this ordinance limit the duties, powers and responsibilities of public school officials.

16.6 Proceedings

A. A Law Enforcement Official or School Official may issue a citation to a Student and Responsible Adult for violating this chapter as set out in section 16.5 above.

B. Prior to issuing a citation, the Superintendent of Education Service District Region 84 or School district superintendent shall provide the Student and Responsible Adult with written notification to include the following content:

(1) The Student is required to attend School, and the Student is deemed chronically absent in violation of this chapter and state rule.

(2) The failure of a Responsible Adult to send the Student to School and maintain the Student in School so that the Student does not miss 10 percent or more of School days is a violation of this chapter.

(3) The Student and Responsible Adult may be cited to Justice Court for Chronic Absenteeism under this chapter.

(4) The Student and Responsible Adult must attend a conference with a designated School Official on a specified date and time where expectations for the Student's regular attendance at School will be outlined.

(5) The Student and Responsible Adult have the right to request an evaluation if the Student is not on an individualized education program (IEP). If the Student is on an IEP, the right to request a review of the IEP.

C. Following the notification and process in 16.6 B above, if the Student remains chronically absent from School in violation this chapter or the Student or Responsible Adult fails to attend the conference in 16.6 B.(4), an infraction citation will be issued. The citation shall be substantially in the form as set out in Malheur County Code 1-9A-4-4. The citation will direct the Student (if the Student is in the 6th through 12th grade) and the Responsible Adult to appear at Justice Court on a designated date and time.

D. If a Responsible Adult fails to appear at the date and time issued on the citation, the Justice of the Peace shall continue the matter and issue an order/show cause for the Responsible Adult to appear. A warrant will be issued for the Responsible Adult who fails to appear at such show cause proceeding.

16.6 Order to Attend School; Conditions; Fine to Responsible Adult; Refer to District Attorney

A. Order To Attend School. Upon finding a violation of this chapter, the Justice of the Peace shall enter an order requiring the Student to attend School and not miss 10 percent or more of School days; and order the Responsible Adult to send the Student to School and maintain the Student in School so that the Student does not miss 10 percent or more of School days.

B. Conditions Imposed to Suspend Imposition of Fine, Dismiss Violation and Discharge Responsible Adult. In addition to the Order in 16.6 A, if the Responsible Adult seeks suspension of the fine in 16.6 C, dismissal and discharge of the violation under this chapter, the Justice of Peace shall impose Conditions with which the Student and/or Responsible Adult must meet. Conditions imposed by the Justice of the Peace shall include, but are not be limited, to:

i. Review. Set future dates and time for the Student and Responsible Adult to personally appear and provide progress reports demonstrating the Student's proof of attendance, grades, and other School-related information determined by the Justice of the Peace.

ii. Require Student and/or Responsible Adult to complete and engage in recommendations of an age-appropriate and relevant class, group or program in person or on-line, such as, but not limited to: Needs Assessment by local mental authority; a parent mentor or parent effectiveness program, support group that promotes parenting, mental, behavioral, or emotional wellness, truancy intervention classes, or academic classes for the Student after school or on the weekend. Costs, if any, will be paid by a Responsible Adult.

C. Fine. A violation of this chapter is a Class A civil infraction under the Malheur County Code subject to a fine imposed on the Responsible Adult of up to \$500 for the first offense; and up to \$1,000 each subsequent offense. The fine shall be suspended, the civil infraction dismissed and the Responsible Adult discharged if the Order in 16.6 A. and the Conditions in 16.6 B. are met to the satisfaction of the court. If the Responsible Adult fails to comply with the Order in 16.6 A. and the Conditions in 16.6 B., the court shall impose the fine authorized by this chapter.

D. There may only be one suspension of the fine under this subsection with respect to a Responsible Adult.

E. The Justice of the Peace, School Official or a Law Enforcement Official shall, when the circumstances are appropriate, refer Responsible Adults to the District Attorney's Office for prosecution in Malheur County Circuit Court/Juvenile Court under ORS 163.577 (1) (c).

16.8 Separate offense

Each violation of this chapter shall be a separate offense.

16.9 Severance

In the event that any part of this chapter shall be held by a court to be invalid or unenforceable, the remaining sections shall be unaffected and shall remain in full force and effect.

Emergency

This ordinance is immediately necessary for the preservation of the public peace, health and safety; an emergency is hereby declared to exist and this ordinance shall take effect immediately upon its passage.

Dated this ____ day of _____ 2023

Judge Dan P. Joyce

Commissioner Don Hodge

Commissioner Ron Jacobs

ATTEST:

Kim Ross, Recording Secretary