



**South Gloucestershire Council Code of Conduct
(Revised September 2013)
Penalty Notices
for unauthorised or irregular attendance at school or exclusion from
school**

*The Education (Penalty Notice) (England) (Amendment) Regulations 2012
and The Education (Pupil Registration)(England)(Amendment) Regulations
2013*

Guidance for Schools

Penalty Notices may be requested by the Head Teachers of all local authority maintained schools and academies in South Gloucestershire and will be issued and administered by South Gloucestershire Council. They may be issued to one or both parents/carers regarding each of their children if more than 10 sessions of unauthorised absence accumulate in a 7 week period (i.e. 70 sessions of possible attendance at school). A session is a morning or an afternoon. Any person with day to day care of the child may be issued with a Notice; this could include grandparents, step-parents and partners.

It is important to note that it is the Head Teacher's responsibility to decide whether or not to authorise an absence. Absence must be accurately recorded and it is an offence not to maintain accurate registers.

Schools must regularly ensure that information regarding unauthorised absence from school and Penalty Notices is available to parents and it should be contained in relevant policies (eg Attendance policy) student planners, newsletters, open day and new starter information packs.

Other than for holidays in term time, the decision regarding the issue of a Penalty Notice will be taken as part of the legal process between the school and local authority (ie at Attendance Panels and Reviews).

The following are examples when Penalty Notices are most likely to be issued:

1. For holidays taken in term time (G code):
2. For lateness after the register has closed (U code)
3. For afternoon absences eg where pupils have left the school site and not returned for afternoon registration
4. During Year 11
5. Occasional absences not authorised by the school

More serious absence will generally be dealt with via a prosecution under Section 444 of the Education Act 1996 or by application for an Education Supervision Order.

1. Holidays taken in term time

Regulation 7 of the 2006 Regulations is amended to prohibit the proprietor of a maintained school granting leave of absence to a pupil except where an application has been made in advance and the proprietor considers that there are exceptional circumstances relating to the application.

The local authority strongly urges parents not to take their children out of school for family holidays. Under the new regulations a Head Teacher can agree to a holiday in term time only where there are 'exceptional circumstances'. No holiday should be agreed unless the Head Teacher is satisfied that there are such exceptional circumstances.

When a holiday is taken and the school has not authorised the absence, the school may request that the LA issues a Penalty Notice. Before requesting this, the school must ensure that, as far as possible, the parent was aware that this may occur. Requests for Notices should be made by the school and signed by the Head Teacher or nominated Deputy as soon as possible after the holiday is taken. This should be no longer than 15 school days following the pupil's return. Although parents will have been warned that a Notice may be issued if they chose to continue with the holiday, no caveat regarding 15 days to effect an improvement will be given. If a school has grounds for suspecting a holiday has been taken without a request being received and they have recorded the absence as unauthorised, a Notice may be issued.

2. Lateness after the register has closed

Schools must have a clear policy about the time that the registers will close. DFE guidance suggests that this should be approximately 30 minutes after the start of the day but schools may vary this. Parents will normally have been invited to school for a meeting to discuss lateness and an action plan agreed. Parents should be issued with a warning to effect an improvement prior to the receipt of a Notice.

3. Absence in the afternoons

Parents will normally have been invited to school for a meeting to discuss absence and an action plan agreed. Parents should be issued with a warning to effect an improvement prior to the receipt of a Notice.

4. During Year 11

If poor attendance was prevalent in Year 10 and a School Attendance Meeting has taken place prior to the pupil starting year 11, Attendance Panels and Reviews should be pursued during terms 1 to 2. If attendance deteriorates during terms 1 – 4, with no prior meetings, action should still be taken to try and address the issues. A Penalty Notice should be considered if the situation does not improve. Parents should be issued with a warning prior to the receipt of a Notice.

5. General Non-School attendance. Repeated absences

All unauthorised absence should be addressed by the school with the parent. Schools should request a meeting with parents where there are a high number of 'broken weeks'. A request for a Penalty Notice Warning letter may be made in exceptional circumstances where school attendance is a concern and where it is felt to be more appropriate than a prosecution. (Note: Non-payment of a Penalty Notice may still result in prosecution. Section 444 1996 Education Act)

Penalty Notices cannot be issued:

- If the request does not comply with the South Gloucestershire code of conduct
- if the child is not of statutory school age
- if there are 10 sessions or less of unauthorised absence in a 7 week period (70 sessions)
- if the child is in the care of the local authority (unless the pupil is still living at home)
- if there is no evidence that the school made the parents aware that a Notice may be issued

1. Penalty Notice relating to exclusion

The Education and Inspections Act 2006, Section 103, places a duty on parents in relation to an excluded child.

Penalty Notices relating to exclusion became a new power available to local authorities from 1st September 2007. A parent must ensure their child is not present in a public place* during school hours** without reasonable justification during the first 5 days of each and every exclusion from school. These days are known as 'specified days of exclusion'

** Public place means any highway or any place to which the public has access (a school is not a public place for this purpose)*

*** School hours is defined as 'a school session or a break between sessions on the same school day'*

A Penalty Notice is a fine issued by the Quality Assurance Senior Advisor on behalf of the local authority and administered by the Department for Children Adults and Health.

2. The Introduction of Penalty Notices

Penalty Notices are amongst the interventions available to promote better behaviour and attendance. Good behaviour and regular attendance at school are essential to improve a child's educational prospects and to avoid putting them at risk of criminal and anti-social behaviour.

3. The Meaning of 'reasonable justification'

The local authority will carefully consider reasons given by the parent if a child is found in a public, prior to issuing a Penalty Notice. A medical emergency,

hospital appointments and other medical appointments may be considered reasonable but a pupil found shopping is unlikely to be.

4. Fines Payable

The fine is £60 if paid within 21 days of receipt of the notice; rising to £120 if paid within 28 days. The payment must be made in full – part payments will not be accepted - details of how to pay are printed on the Penalty Notice.

5. No Right Of Appeal

There is no right of appeal against the Penalty Notice but if you believe it to be wrongly issued you should immediately contact:

The Senior Education Officer (Penalty Notices)
South Gloucestershire Council
Department for Children, Adults & Health
Education, Learning and Skills Division
PO Box 2083
Council Offices
Castle Street
Thornbury
Bristol BS35 9BR

6. Failure to pay (Penalty Notice for Exclusion)

If a parent/carer has not paid the Penalty Notice in full before the 28 days allowed, the local authority is required to commence legal proceedings in the Magistrates Court for the original offence of failing to ensure a child is not in a public place during the 'specified days of exclusion'.

If found guilty under Section 103 of the Education and Inspections Act, the parent carer could receive a fine of up to £1,000

7. Failure to pay (Penalty Notice for School Absence)

If a parent/carer has not paid the Penalty Notice in full before the 28 days allowed, the local authority is required to commence legal proceedings in the Magistrates Court for the original offence of failing to ensure a child attends school.

If found guilty under Section 444 of the 1996 Education Act, the parent/carer could receive a fine of up to £1,000 or other sentencing options available to the court.

Penalty Notice Flow Chart

