

19th JUDICIAL DISTRICT TRUANCY PROTOCOL

August, 2012

One of the primary goals with respect to truancy actions is to provide to the school districts and Respondent parents and students an opportunity to resolve the issues regarding the student's attendance in an effective and prompt matter so that each student is receiving an education as required by statute. The Court is attempting to address the problems affecting the child's school attendance and ensure the child has an opportunity to obtain a quality education by the entry of any appropriate orders that may achieve that goal.

The purpose of this protocol is to establish procedures for the parties when judicial proceedings are necessary.

INTRODUCTION

There is a procedure that is outlined by statute at C.R.S. 22-33-101 et.seq. with respect to truancy matters. The School Attendance Law requires that each child between the ages of 6 and 17 shall attend public school unless otherwise excused. It is the obligation of every parent to ensure that every child under the parent's care and supervision between the ages of 6 and 17 be in compliance with this statute See C.R.S. 22-33-104 (All case law is available online through the State of Colorado website.)

Each school board is required to adopt a written policy setting attendance policies and is required to set out what will be considered excused absences. Each board must determine in this attendance policy the maximum number of unexcused absences a child may incur before the attorney for the school district, the attendance officer, or the local board of education may initiate judicial proceedings pursuant to C.R.S. 22-33-108 and C.R.S. 22-33-107.1. Further, the district is obligated to create a plan with respect to children who are habitually truant. (A child is habitually truant if the child between the ages of 6 and 17 years is unexcused for more than 4 days in a single month or 10 days in any school year. C.R.S. 22-33-107).

INITIAL JUDICIAL PROCEEDINGS PETITION TO COMPEL ATTENDANCE

A. Once a school district has determined that in compliance with the statutes, it is necessary to start judicial proceedings, the district must comply with the preliminary requirements before a petition to compel attendance is filed.

1. The district must at the request of the attendance officer initiate proceedings to enforce the compulsory attendance provisions of the statute.
2. Court proceedings may be initiated only after the parent and the child have been given written notice by the attendance officer of the school district that proceedings will be initiated if the child does not comply with the provisions of the statute. This notice MAY be combined with the summons and the petition but it is preferred that the notice be issued before the summons and petition. (Sample letter attached)

3. The notice must state the provisions of the statute with which compliance is required and must state that the proceedings will not be brought if the child complies with the provision before the filing of the petition. It is preferred that a deadline be established for compliance and that the deadline be prior to the date for hearing on the petition to compel attendance.
4. A copy of this notice along with proof that it was properly served on the child and parents must accompany the petition to compel attendance.

B. The Petition to Compel Attendance must be served with a summons establishing a date for the parties to appear in court.

1. The Petition must set out that the child is subject to the school attendance laws; has failed to attend school as required by the statute; that the notice to the parents and child has been given; and that the child and/or parents have failed to insure that the child is in attendance. (See sample attached.)
2. The summons to appear must be served so that the Respondents have at least 5 days notice before an appearance is required.
3. The dates for appearance will be assigned to each district according to the district size and need for court dates. A master calendar will be available for each district to use for settings. The district must call or email the court judicial assistant responsible for such settings. Please call (970)351-7300 and ask for that person. A case number will be assigned to each case. It is preferred that larger districts obtain case numbers before the petitions are filed by email communication with the judicial assistant. Smaller districts may call or email the filing judicial assistant for instructions. We will provide case numbers and a date in advance in certain circumstances. In no event is the district to require that the judicial assistant complete and return the paperwork while someone waits.
4. Proof of service of the petition must be provided to the court before any orders will enter regardless of whether the parties appear. The proof may be brought to court at the time of the hearing. This will continue so long as adequate proof of service is provided. It is the district's responsibility to complete the service of the paperwork and provide the appropriate proof. This is called a "Certificate of Service".
5. The Court requires that a report with respect to the juvenile's attendance be prepared and presented to the court at every hearing as to the juvenile's attendance and attempts at getting the juvenile into compliance with the School Attendance Laws.
6. At the hearing, the Court expects that each party will be advised of their rights prior to the hearing. An advisement form will be provided by the Court for signing by the parties. It is helpful to the Court if the district makes sure that the advisement is signed before the proceedings begin. (See sample attached.) It must advise the parties of their right to have counsel, their right to have a hearing on the petition, and any possible penalties that may enter including jail and/or detention. Spanish language advisements should be anticipated. (Sample attached.)
7. If the parties deny that the petition should enter, a hearing will be set at a later date. The burden of proof is on the district to provide the necessary evidence by a preponderance (more likely than not) of the evidence.

8. At each hearing the school district must prepare a Valid Court Order Written Report by law. (Sample attached) This report details attendance and efforts that have been made to improve attendance.
9. The districts are welcome to prepare a stipulation to be signed by all parties with respect to an order to compel attendance. If there is going to be an agreement, the court prefers that the agreement be in writing and signed by all parties before the hearing begins with all the conditions included in the stipulation. (Sample attached) If approved by the Court with each district, the Court will allow parties not to attend if an agreement is reached and supporting services are in place. The court will still call the case and enter the stipulation on the record.
10. If after hearing or upon an admission in person or by stipulation, the Court, in its discretion, may enter an order against the child or the child's parent or both compelling that the child attend school as provided by statute or compelling the parent to take reasonable steps to assure the child's attendance. Orders do not enter for children under 10 based on the theory of culpability. The court may require the child or parent or both to follow an appropriate treatment plan to achieve the goals of the statute. This request should be made of the court in conjunction with the request that an order enter compelling attendance.
11. Every attendance issue involves a social issue. Some simple guidance may work but many issues are complex. Treatment plans are designed to help the student and parents achieve compliance with the law by resolving the problem that brings the family to the Court. The Court has wide discretion as to what should be included. The Court will review the report that each school district files in consideration of those orders. The Court prefers that the school district discuss with parents the treatment plan before the parties appear, if possible. Whether there is agreement between all the parties or not, each school district is invited to establish treatment plans for the court's consideration. There are some resources available countywide that the school districts may wish to use, e.g., Juvenile Assessment Center through the Truancy Response and Intervention Program (TRIP). TRIP is the Court's default provider for assessments and services at this time. The Court will consider other alternatives for services to assist the family with the issues that brought the family to the court if the school district receives the Court's approval. (Program explanation and forms attached)
12. The Court requires that a proposed order compelling attendance be available for preparation and service on any parties at any time the court enters an order compelling attendance. It is the responsibility of the Petitioner school district to have that available for the court at the time of hearing. (See sample attached.) If parties are not present, the Court will provide a copy of the order for the Petitioner to serve pursuant to C.R.C.P. 5.
13. Upon entry of an order compelling attendance, the Court will close the matter and give leave to the Petitioner to file a contempt citation, if necessary.

ENFORCEMENT PROCEEDINGS CONTEMPT CITATIONS

This court understands that the statute provides for a review process but it is not the best use of the resources available to the court to review the matters after the initial appearance in almost all of the cases. Most students and parents only need one opportunity to comply with the statute.

For the others, this district has determined that if the Respondents have failed and/or refused to comply with the order of the court compelling attendance, enforcement will be by a contempt citation. A district may appear without an attorney but it must be one person designated by the district to attend to the contempt citation.

1. If the Court has entered an order compelling attendance and the student is not in attendance as required, the Petitioner may file a contempt citation.
2. A contempt citation may be filed against any party that was subject to the order compelling attendance. It cannot be filed against a subsequent custodian who may not have been aware of the citation.
3. A contempt citation requires strict compliance with procedural rules set out in C.R.Civil Procedure 107. The Court may impose either punitive or remedial sanctions. Sanctions may include detention for the student or jail for the parent or any other appropriate action for the purpose of either punishment or to obtain compliance or obedience to a lawful order of the court.
4. The Petitioner must prepare for the court a motion and affidavit as well as a citation and order. The pleadings must conform with the law with regard to notice and advisement of rights. (See sample attached.)
5. The proper pleadings must be submitted to the court for ruling by the court as to whether a citation will issue.
6. If the court allows a citation to issue, the citation will be returned to the Petitioner with the date for hearing.
7. It is the Petitioner's responsibility to obtain proper service of the pleadings. There must be service on each party and it must be at least 20 days before the party is expected to appear in court.
8. The court requests that returns of service be filed at the time of the date set for hearing. Service must be proper under the statute.
9. If the Petitioner desires to cancel the hearing with respect to the citation, it must be with permission of the court and in writing. If that is not obtained, then the parties must appear. The Petitioner cannot excuse the Respondents appearance without the permission of the Court.
10. At the initial appearance, the court will advise the respondents of their rights. In order to assist the Court with the volume, the Petitioner may provide the parties with the advisement and discuss in negotiations a possible resolution of the issue.
11. The Court will expect that the Respondents will enter a plea at the initial advisement unless extraordinary circumstances exist.
12. If the plea is not guilty, the court will set the matter for hearing. The court will require that the citation be established with evidence beyond a reasonable doubt at a hearing to be set to a later date.
13. If the party is determined to be guilty either after hearing or by plea, the parties should expect to proceed to sentencing and be prepared to make argument with regard to sentence.
14. The Court requires that a Valid Written Report (form attached) be prepared for every hearing. It is a prerequisite when any type of enforcement may occur and presented to the court. See C.R. Juvenile Procedure 3.8 (attached)
15. Upon sentencing the court will expect that an order be available for the court's signature. There are very strict requirements for the contents of such an order.

The Valid Court Order (VCO) and a written report will be required at every hearing regarding the student and parent. (Sample attached.)

16. The court will review any sentences for compliance with the orders of the court upon a periodic basis. It is customary for the court to issue a stay on a sentence to determine if the parties are able to come into compliance with the court orders. Treatment plans are ordered again in an effort to resolve the problems that bring the family to the Court. The TRIP is available to the Court and the school district as resource. The Court will typically order Level III of the TRIP and any other necessary treatment. If the student is on probation, the TRIP and/or the school district will be asked to coordinate with the probation department to resolve the issues that bring the case to court. If the student is in compliance, the court will vacate the stayed sentence. If not, the sentence will be imposed as deemed necessary by the court. If the student is in compliance, the court may deem the contempt purged and the citation dismissed.
17. If the court sentences the juvenile to secure detention, there is a requirement for an order for detention that is separate from any other orders. The Secure Placement as Disposition Order (SPDO) must be available to the court when the Court directs but in no less than 5 business days from the date of the hearing. (Sample attached)

TERMINATION OF PROCEEDINGS DISMISSALS, PURGING OF CONTEMPT

The ultimate goal of this Court is successfully terminate proceedings with the student in attendance as required by statute. Most cases end with the Court entering an order compelling attendance. On occasion, a student may present reasons for dismissing the petition to compel attendance or the citation, *e.g.*, satisfactory attendance, move to another school, graduation or general equivalency decree. It is the petitioner's responsibility to determine if the petitioner wishes to continue prosecution. If the petitioner determines that it is no longer necessary to prosecute, a motion must be made to the court asking for the case or citation to be dismissed. The Court will then make that determination based upon the circumstances. (*Sample forms attached.*)

*Rebecca A. Koppes Conway
District Court Magistrate
August, 2012*

ATTACHMENTS

INDEX SAMPLES

1. Notice Letter to Student/Parent prior to Petition
2. Petition to Compel Attendance
3. Summons and Notice with respect to Petition to Compel Attendance
4. ADVISEMENT OF RIGHTS IN A TRUANCY PROCEEDING Dist. 6 Sample
5. Valid Written Report
6. Sample Order Compelling Attendance (VCO)
7. STIPULATION Dist. 6 Sample
8. VALID COURT ORDER APPROVING STIPULATION Dist. 6 Sample
9. Rule 3.8 C.R.Juvenile Procedure
10. Truancy Response and Intervention Program Description
11. Verified Motion for Contempt Citation, Order for hearing
12. Order with respect to Contempt Citation
13. Sample Secure Placement as Disposition Order (SPDO)
14. Motion and Order to Dismiss

SAMPLE LETTER

DATE

ADDRESSEE

RE: Student name and date of birth

Dear _____:

This letter is to inform you that School District _____ is obligated to begin legal action against you and your child, _____, to compel attendance at school if you do not obey Colorado compulsory attendance laws. You are advised that Colorado Revised Statute 22-33-104 requires that every child between the ages of 7 and 17, unless excused, shall attend public schools for at least 172 days each school year. The statute also requires that every parent of a child between the ages of 7 and 17 shall ensure that their children attend school.

Under State of Colorado law and the School District's policy, a child who has four (4) or more unexcused absences in any month or ten (10) or more unexcused absences during the school year is considered "habitually truant." By reviewing the attendance data attached to this letter, you will see that your child is currently considered habitually truant by state law.

[Any other information the district wishes to include with regard to management of the matter should be included here.]

If you wish to discuss this matter further, please contact _____ at _____ immediately upon receipt of this letter.

Sincerely,

DISTRICT COURT, WELD COUNTY, COLORADO Court Address: 901 9 th Avenue, Greeley, CO 80631 Mailing Address: P.O. Box 2038, Greeley, CO 80632 (970)351-7300	 <hr/> Case Number: Division: 2
SCHOOL DISTRICT _____ IN THE INTEREST OF: Respondent Student And Concerning Respondent.	
PETITION TO COMPEL ATTENDANCE	

THE PETITIONER, _____, County of Weld, State of Colorado, through its duly designated Attendance Officer and _____ states as follows in support of this Petition:

1. _____, Respondent Child is a male/female child who resides with _____ at _____ within the boundaries of School District _____, County of _____, State of Colorado (“Petitioner”).
2. Petitioner is a political subdivision authorized to bring judicial proceedings to enforce the compulsory attendance provisions of C.R.S. 22-33-101 et.seq.
3. This Court has jurisdiction pursuant to C.R.S. 22-33-108.
4. Venue is proper in Weld County pursuant to C.R.S. 22-33-108(1.5) as the Respondent Child resides or is present therein.
5. The date of birth of the student is _____ and has attained the age of seven years and is under the age of seventeen years.
6. Respondent Student is not otherwise exempt from attending the public school facilities of the School District.
7. Despite being subject to compulsory school attendance laws, the Respondent Child has failed to regularly attend school, having four unexcused absences from public school in one month or ten unexcused absences from the public school during any school year.
8. Pursuant to C.R.S. 22-33-108(5), Respondent Student and Respondent Parent have been given written notice by the Attendance Officer of the School District or the State that proceedings will be initiated if the Respondent Student does not comply with the provisions of the

compulsory school attendance laws. A copy of such written notice is attached hereto as Exhibit A.

9. Despite proper notice, Respondent student has failed to regularly attend school.

Therefore, Petitioner requests that:

The Respondents be required to appear before this Court on a day and time certain to show cause why an Order should not be entered compelling the Respondent Student to attend school, as provided by the provisions of Article, 33, Title 22, Colorado Revised Statutes of 1973, as amended.

An interpreter is (not) necessary for this hearing.

Further, a copy of this Petition, together with appropriate Notice be served on Respondents.

Date:

Name and Title

Address of Petitioner or counsel for Petitioner:

Subscribed and affirmed, or sworn to before me in the County of _____, State of _____, this _____ day of _____, 20 _____.

My Commission Expires: _____

Notary Public/Deputy Judicial assistant

DISTRICT COURT, WELD COUNTY, COLORADO Court Address: 901 9 th Avenue, Greeley, CO 80631 Mailing Address: P.O. Box 2038, Greeley, CO 80632 (970)351-7300	 <hr/> Case Number: Division: 2
SCHOOL DISTRICT _____ IN THE INTEREST OF: Respondent Student And Concerning Respondent.	
NOTICE RE PETITION TO COMPEL ATTENDANCE	

TO: Respondents

You are required to appear before this Court on _____ at _____ m. in Division _____, Weld County Courthouse, 901 Ninth Avenue, Greeley CO 80631 to show why _____ (student) should not be compelled to attend the public school facilities of School District _____ of the County of Weld, State of Colorado.

EACH RESPONDENT NAMED IN THIS ACTION MUST APPEAR AT THE DATE AND TIME SPECIFIED ABOVE INCLUDING THE RESPONDENT STUDENT UNLESS EXCUSED SPECIFICALLY BY THE COURT.

You are advised of the following rights with respect to this matter:

1. You have the right to admit or deny the allegations in the Petition to Compel;
2. You are presumed to be innocent of the allegations and charges levied against you in the Petition;
3. You have the right to require proof by the person bringing the charges alleged in the Petition beyond a reasonable doubt;
4. You have the right to present evidence and witnesses to challenge the Petition;
5. You have the right to cross examine all adverse witnesses;
6. You have the right to have subpoenas issued to compel attendance of witnesses out a hearing on the Petition;
7. You have the right to remain silent as any statements may be used against you
8. You have the right to testify at a hearing on the Petition which would result in your waiving your right to silence;
9. You have the right to appeal any adverse decision;
10. If you do not wish to have the matter heard by a magistrate, you may request a district court judge;
11. You have the right to speak at sentencing if a conviction is entered against you.

If you admit to the allegations in the Petition, the Court could enter an order compelling the Respondent student to attend school and for the Respondent parent/guardian to take reasonable

steps to ensure such attendance. Once such an Order is in place, the court may impose a fine or imprisonment or both if the expressly finds:

- A. that the Respondent was subject to an Order;
- B. the Respondent had the ability to obey the Order;
- C. The Respondent willfully failed or refused to obey the order
- D. The Respondents conduct was offensive to the authority and dignity of the Court.

Date:

Name and Title

Address of Petitioner or counsel for Petitioner:

Subscribed and affirmed, or sworn to before me in the County of _____, State of _____, this _____ day of _____, 20 _____.

My Commission Expires: _____
Notary Public/Deputy Judicial assistant

DISTRICT COURT, WELD COUNTY, COLORADO
Court Address: 901 Ninth Avenue, Greeley, CO 80631
Phone Number: 970-351-7300

Petitioner: SCHOOL DISTRICT NO. _____, COUNTY OF WELD,
STATE OF COLORADO

Respondents: _____, Child, and
_____, Parent(s)

Attorney or Party Without Attorney:

COURT USE ONLY

Case Number _ JV _____
Div.: 2 _____

ADVISEMENT OF RIGHTS IN A TRUANCY PROCEEDING

The Respondent Child is hereby advised that s/he has the following rights:

- A. You have the right to admit or deny the allegations in the Petition to Compel Attendance (the "Petition");
- B. You are presumed to be innocent of the allegations and charges levied against you in the Petition;
- C. You have the right to require proof by the person bringing the charge alleged in the Petition beyond a reasonable doubt;
- D. You have the right to present evidence and witnesses to challenge the Petition;
- E. You have the right to cross examine all adverse witnesses;
- F. You have the right to have subpoenas issued to compel attendance of witnesses at a hearing on the Petition;
- G. You have the right to remain silent as any statements may be used against you;
- H. You have the right to testify at a hearing on the Petition which would result in your waiving your right to silence;
- I. You have the right to appeal any adverse decision;
- J. You have the right to speak at sentencing if a conviction is entered against you.

If you admit to the allegations in the Petition, the Court could enter an order compelling the Respondent student to attend school and for the Respondent parent(s) or Guardian(s) to take reasonable steps to ensure such attendance. Once such an Order is in place, the court may impose a fine or imprisonment or both if the court expressly finds:

- A. that the Respondent(s) was subject to an order;
- B. the Respondent(s) had the ability (in the past) to obey the order;
- C. the Respondent(s) willfully failed or refused to obey the order; and
- D. the Respondent(s)' conduct was offensive to the authority and dignity of the court.

TODAY YOU MUST DO ONE OF THE FOLLOWING THINGS:

- Speak with the attorney for Weld County School District 6;
- Set the case for a hearing on the Petition; or
- Enter a plea

PLEASE CIRCLE "YES" OR "NO" TO THE FOLLOWING QUESTIONS:

Do you understand your rights as explained above? Yes No

Do you understand these questions? Yes No

If not, what don't you understand?

Respondent's Current Address:

Respondent's Home Phone #:

Respondent's Student Signature:

Parent/Guardian/Legal Custodian's Signature:

Date

<p>DISTRICT COURT, WELD COUNTY, COLORADO Court Address: 901 Ninth Avenue, Greeley, CO 80631 Phone Number: 970-351-7300</p> <hr/> <p>Petitioner: SCHOOL DISTRICT NO. , COUNTY OF WELD, STATE OF COLORADO</p> <p>Respondents: _____, Child, _____, Parent</p> <hr/> <p>Attorney or Party Without Attorney:</p>	<p style="text-align: center;">COURT USE ONLY</p> <hr/> <p style="text-align: center;">Case Number: JV Div.: 2</p>
<p>STIPULATION</p>	

COME NOW the parties and submit the following Stipulation for the Court’s review and approval:

1. Petitioner has filed the pending action to compel the attendance of the Respondent Student.
2. Respondents admit that the above named child is not exempt from attending the public school facilities of Petitioner and has at least four (4) unexcused absences in a single month or ten (10) unexcused absences in a single school year.
3. Respondents submit to the jurisdiction of the court and to the entry of all Valid Court Orders necessary to effectuate and accomplish the provisions of this Stipulation.
4. Respondent Student agrees to regularly attend school in Weld County School District No. 6. Respondent Student agrees to attend all classes on time for every scheduled period. Respondent Parents/Guardians agree to use all reasonable efforts and to take all necessary measures to assure that said child attends school on time every day. No absence will be excused on the grounds of illness unless the Respondent produces a doctor’s note or is seen by the School Nurse.
5. Respondents further agree to cooperate with Weld County School District No. 6, including all truancy liaisons, in creating and participating with all recommendations and programs offered to improve the attendance of the Respondent Student. This includes undertaking and cooperating with the following:
 - a. Arrange for tutoring to assist with academic needs through the School District.
 - b. Meet with the Attendance Liaison when requested to do so;
 - c. Obtain, complete and turn in homework assignments and to provide progress reports when requested by the Attendance Liaison and/or Truancy Case Manager;
 - d. Agree to attend all scheduled appointments with another agency or organization if the Student or Parent/Guardian is referred to such agency or organization for assistance.

6. Respondents further agree to participate with the TRUANCY RESPONSE AND INTERVENTION PROGRAM (T.R.I.P.) through the Juvenile Assessment Center. **RESPONDENTS AGREE TO CONTACT A CASE MANAGER AT 2835 WEST 10TH STREET, GREELEY COLORADO PHONE NUMBER (970)351-5460 WITHIN 3 BUSINESS DAYS FROM THE DATE THE STIPULATION WAS APPROVED AND ORDERED BY THE COURT, AND TO ATTEND ALL MEETINGS AND COOPERATE WITH ALL REFERRALS, PROGRAMS AND RECOMMENDATIONS MADE BY THE DIRECTOR OR STAFF.**

7. If the Respondents have failed to comply with any term of the Stipulation, Petitioner will pursue an action for citation for contempt of court against Respondents. In such an action, the Court may enter any available sentencing options, including jail for adults or detention for juveniles, out-of-home placement, and community service.

8. The parties acknowledge that they sign this Stipulation voluntarily, knowingly, and without threat of coercion or intimidation and that they have had full opportunity to inquire as to the meaning and effect of any and all provisions hereof and that they represent and state that they understand all provisions hereof in full.

Dated this ____ day of _____, 200__.

School District

, Child

, Parent

, Parent

DISTRICT COURT, WELD COUNTY, COLORADO Court Address: 901 Ninth Avenue, Greeley, CO 80631 Phone Number: 970-351-7300 <hr/> Petitioner: SCHOOL DISTRICT NO. 6, COUNTY OF WELD, STATE OF COLORADO Respondents: _____ Child, _____, Parent	COURT USE ONLY <hr/> Case Number 07 JV Div.: 2
VALID COURT ORDER APPROVING STIPULATION	

UPON review of the Stipulation of the Parties and the Court being fully advised in the premises, hereby approves the Stipulation.

IT IS THEREFORE ORDERED that:

1. The terms, conditions and obligations set forth under the Stipulation are approved and are now an order of this Court;
2. Respondent Student is to comply with the provisions of C.R.S., Section 22-33-104, as amended, and to regularly attend school in Weld County School District No. 6. Such attendance shall be on time every day for every period. Respondent Parents/Guardians agree to use all reasonable efforts and to take all necessary measures to assure that said child attends school on time every day.
3. This matter is closed and the Petitioner is granted leave to file a Motion for Citation for Contempt of Court.

Respondents were personally served with this Order in open Court.

Respondents to be served with this Order pursuant to C.R.C.P. 5.

Entered this ____ day of _____, 2007.

BY THE COURT

Magistrate Judge

SAMPLE ORDER COMPELLING ATTENDANCE

Weld County, District Court 901 9 th Avenue Greeley, Colorado 80631 (970)351-7300	Court Use Only
Petitioner, v. <div style="text-align: center;">a Minor, and</div> <div style="text-align: right;">, Parents,</div> Respondents.	
	Case No. Division 2 Courtroom
VALID COURT ORDER COMPELLING ATTENDANCE AND APPROVING STIPULATION	

THIS MATTER comes before the Court in the exercise of its jurisdiction provided by C.R.S. 22-33-108 upon the Petition to Compel Attendance concerning the above named child and parents/guardians. Personally before the Court were School District _____, County of Weld State of Colorado Respondent Child Respondent Mother Respondent Father _____.

As for the other parties, this matter was heard before the Court as an adjudicatory hearing, in the above-cited petition which alleges that the said child's habitual truancy categorizes the child as a status offender, as that term is defined in In the Interest of J.E.S., 817P.2nd 508 (Colo. 1991) and 28 CFR 31.304(h)

THE COURT FINDS THE FOLLOWING:

- that the Respondents have within a reasonable time been served with a written copy of the allegations;
- that the Respondents have been advised of their legal rights;
- That said child having achieved the age of seven years and being under the age of 17 years, is required to attend school pursuant to the Colorado school Attendance Law of 1963, § 22-33-101, et. seq., C.R.S. (2007).
- That it appears to the Court that unless ordered to do so, said child will continue to fail and refuse to comply with the Colorado School Attendance Law of 1963.
- that proof beyond a reasonable doubt exists that said Respondents are guilty as alleged in the Petition because the Respondent student has four (4) or more unexcused absences in a single month and /or ten (10) or more unexcused absences in a school year and Respondent Parent/Guardian(s) have failed to ensure adequate school attendance.
- that the child and /or parent/guardian was warned that the child could be sanctioned for violating this order and such sanction could include placement in a secure detention or correctional facility;
- that a written copy of this order should be provided to the child, the child's attorney, and the child's parent or legal guardian;

IT IS, THEREFORE, ORDERED

As to signing parties, the terms, conditions, and obligations set forth under the Stipulation are approved and are now an order of this Court

Respondent child is to comply with the provisions of C.R.S. 22-33-104, as amended, and is to regularly attend school in Weld County School District _____. Such attendance shall be on time every day for every period. Respondent Parent(s)/Guardian(s) shall use all reasonable efforts and take all necessary measure to assure that said child attends school on time every day. No absence will be excused on the grounds of illness unless the Respondent produces a doctor's note or is seen by the School Nurse. Student will comply with the rules of school and participate with acceptable behavior and cooperate with any programs that the court may order,

Respondents shall participate in the TRUANCY RESPONSE AND INTERVENTION PROGRAM (T.R.I.P.) through the Juvenile Assessment Center. To this end, the **RESPONDENT STUDENT AND PARENT/GUARDIANS AGREE TO CONTACT A CASE MANAGER AT 2835 WEST 10TH STREET, GREELEY COLORADO PHONE NUMBER (970)351-5460 WITHIN 3 BUSINESS DAYS FROM THE DATE THE STIPULATION WAS APPROVED AND ORDERED BY THE COURT, AND TO ATTEND ALL MEETINGS AND COOPERATE WITH ALL REFERRALS, PROGRAMS AND RECOMMENDATIONS MADE BY THE DIRECTOR OR STAFF.**

IT IS FURTHER ORDERED that the matter shall be closed. Petitioner is given leave to file petitions for contempt of court, if necessary, if the parties fail to comply with court orders.

Respondents were personally served with this Order in open Court.

Respondents to be served with this Order pursuant to C.R.C. P. 5

The matter will be continued for an appearance review on _____ at _____ p.m.

BY THE COURT:

Dated:

District Court Magistrate

Rule 3.8. Status Offenders

Juveniles alleged to have committed offenses which would not be a crime if committed by an adult (i.e., status offenses), shall not be detained for more than 24 hours excluding non-judicial days unless there has been a detention hearing and judicial determination that there is probable cause to believe the **juvenile** has violated a valid court order. A **juvenile** in detention alleged to be a status offender and in violation of a valid court order shall be adjudicated within 72 hours exclusive of non-judicial days of the time detained. A **juvenile** adjudicated of being a status offender in violation of a valid court order may not be disposed to a secure detention or correctional placement unless the court has first reviewed a written report prepared by a public agency which is not a court or law enforcement agency. The report shall address the juvenile's behavior and the circumstances which brought the **juvenile** before the court and shall assess whether all less restrictive dispositions have been exhausted or are clearly inappropriate. The court is not bound by the recommendations contained in the report. Nothing herein shall prohibit the court from ordering the placement of juveniles in shelter care where appropriate, and such placement shall not be considered detention within the meaning of this **rule**. Juveniles alleged to have violated C.R.S. 18-12-108.5 or adjudicated delinquent for having violated C.R.S. 18-12-108.5 are exempt from the provisions of this **rule**.

COMMITTEE COMMENT

The reference to "valid court orders" is taken from the federal **Juvenile** Justice and Delinquency Prevention Act (JJDP) of 1974, as amended, which is found at 42 U.S.C.A. 5601-5751. The Office of **Juvenile** Justice and Delinquency

Prevention in April, 1995, issued final regulations to implement that portion of the of the JJDP, as amended in 1992,

this addresses the detention and secure confinement of status offenders. These regulations, which are found at 28 C.F.R. 31.303 (f)(3) set forth the legal requirements for issuing of "valid court orders," the violation of which by a status

offender may, in certain circumstances, authorize **juvenile** courts to detain and/or commit such youth to secure confinement. The appendix to these rules contains a form for issuing a valid court order and a form order for making a secure placement disposition for violation of a valid court order.

The Committee's intent in drafting this **rule** is not to encourage more frequent use of detention for status offenders.

The Committee recognizes that Congress and the OJJDP assumed that courts would exhibit self-restraint and exercise the valid court order exclusion only in cases of status offenders who chronically fail to follow court orders.

The Colorado supreme court in *In the Interest of J.E.S.*, 817 P.2d 508 (Colo. 1991) quoted from *In Re Ronald S.*, 9 Cal. App. 3D 866, 138 Cal. Rptr. 387 (1977) to comment on the use of secure confinement for status offenders.

Certainly not all [status offenders] need to be placed in secure facilities. However, some do and in these cases the **juvenile** court judge must have the authority to detain in a secure facility--if status offenders are to remain in the **juvenile** court. 69 Cal. App. 3d at 875, 138 Cal. Rptr. at 393.

Ohio Representative Ashbrook, who sponsored the valid court order amendment, stated that without the amendment courts would be limited in their ability to work with youths who continually flout the will of the court and that it would make "helping that young person much more difficult." (126 Cong. Rec. H. 10 10932). Ashbrook contemplated that the valid court order exception would primarily be used to provide treatment rather than punishment.

The Committee recommends that the Courts adopt this benevolent approach and use the valid court order exception to ensure that secure placements are used only for recalcitrant status offenders.

Runaways who are in violation of their probation do not fall under this **rule**.

Source: Entire **rule** and committee comment added and adopted June 12, 1997, effective January 1, 1998; committee comment corrected November 19, 1997; committee comment amended and adopted December 14, 2000, effective January 1, 2001. FORMS

Valid Court Order Written Report

Per the Office of Juvenile Justice and Delinquency Prevention Consolidated Federal Regulation (28CFR Part 31) and the Colorado Judicial Procedure Rule Change #1997 (17) CRJP 3.8 Status Offenders. Chapter 28 Colorado Rules of Juvenile Procedure. Part Three. Delinquency.

*The Judge should be able to review this report before the Violation Hearing.
Please be as complete and concise as possible for the Judge's benefit.*

Case Number _____
Date This Report Prepared _____

Juvenile Name _____

Report Prepared By _____

Title and Agency _____

In entering any order that directs or authorizes the placement of a status offender in a secure facility the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a Valid Court Order and applicable due process rights were afforded the juvenile and in the case of a violation hearing the judge must obtain and review a written report that:

III. Reviews the behavior of the juvenile and the circumstances under which the juvenile was brought before the court and made subject to such an order; (Describe the behavior(s) of the juvenile and why the case was referred to the court. Please be as specific as possible. Attach additional pages as needed).

IV. Determines the reasons for the juvenile's behavior; (Please be as specific as possible. Describe who you have interviewed to determine the reasons, what tests/assessments have been conducted, what the juvenile has said, what teachers/agencies have stated. Attach additional pages as needed).

V. Determines whether all dispositions, other than secure confinement, have been exhausted or are clearly inappropriate. (Please list ALL alternatives that have been tried and failed and list all alternatives that have not been tried but are clearly inappropriate).

It is my assessment that it is in the best interest of the minor child and the community that this child should serve a period of detention due to the child's actions in Contempt of this Court, and that are no less restrictive alternative placements appropriate to the needs of the minor child.

Recommended this _____ of _____, _____
Date Month Year

Signature

Printed Name

JAC Truancy Response and Intervention Program

Level 1- Truancy Intervention

1. Participation at Level 1 is voluntary on the part of the youth/parent and is intended to encourage/support a youth to improve their attendance in school and be successful in the education process.
2. Referrals for truant behavior will be received at the JAC from the School/District in which a student is enrolled. Each school district will determine at what point a referral is made to the JAC for truant behavior, i.e. number of unexcused absences.
3. The JAC staff will use current protocols, to include needs assessments, access to supportive services, intervention plan development, case management and reporting procedures to provide intervention services for each youth coming to the JAC.
4. Cases will remain open for a four (4) month period and monthly progress reports will be submitted to the student's school district.

Level 2- Truancy Compliance

1. Participation at Level 2 is compulsory on the part of the youth/parent under the authority of a court order from the Truancy Court. This level is intended to encourage/support youth to improve their school attendance and be successful in remaining engaged in the education process. This level may employ consequence based activities in addition to traditional intervention protocols.
2. Youth are court ordered by the Truancy Court to participate in the Truancy Compliance program and complete the requirements of their individual case plan as developed by the assigned case manager.
3. JAC protocols will include a needs assessment, access to supportive services and compliance plan development, which may include mandatory community service or required participation in other services/activities. Case management procedures will be used to ensure compliance with the plan provisions and progress reports submitted at 45 and 90 day intervals to the point of contact for the student's school district and the Truancy Court Magistrate. Students will be given 45 days to complete any community services hours assigned by the case manager.
4. Cases will remain open for a four (4) month period and a final report submitted to close the case.

Level 3- Contempt Status

1. Youth/parents failing to comply with the provisions of their plan may be held in contempt of a court order and each receives a sentence to jail. Youth held in contempt may also remain under the Truancy Court jurisdiction and compelled to attend school past their 17th birthday. Other sanctions may be imposed at the discretion of the Court to ensure school attendance.

DISTRICT COURT, WELD COUNTY, COLORADO Court Address: 901 9 th Avenue, Greeley, CO 80631 Mailing Address: P.O. Box 2038, Greeley, CO 80632	<p style="text-align: center;">▲ FOR COURT USE ▲</p> <hr/> Case Number: Division:2
School District _____ In the Interest of Respondent student and Concerning Respondents	
VERIFIED MOTION FOR CONTEMPT CITATION (TRUANCY)	

I, _____ on behalf of School District _____, inform the Court that the Order Compelling Attendance previously issued by the Court on _____ in this case has been violated. This is a request for the Court to issue a contempt citation against the Respondent _____ (names of all parties) and set the matter for hearing. The following are grounds for this request:

1. This Court issued an Order Compelling Attendance on _____ as shown in the Court file.
2. The subject Order was served on the Respondents on _____ (date) by personal service/pursuant to C.R.C.P. 5.
3. The Order was violated by the Respondent based on the failure of the Respondent student to attend school as ordered and/or the Respondent parent/guardian _____ to fail to ensure that the Respondent student attended school as ordered. The Respondent student has been absent for _____ days and _____ class periods without excuse as required by Court. Further the Respondent student has failed to comply with the Court order by _____

Therefore, this is a request for a contempt citation to be issued and a hearing held, and that the Respondents be held in contempt of court for violating this Court's Order and punished for this violation by fines, placement of the student outside the home, detention or jail or any other necessary actions to insure compliance with the court's orders.

 Signature of Petitioner or Attorney/Agent for Petitioner

Subscribed and affirmed, or sworn to before me in the County of _____, State of _____, this _____ day of _____, 20 _____.

My Commission Expires: _____

 Notary Public/Deputy Judicial assistant

DISTRICT COURT, WELD COUNTY, COLORADO
Court Address: 901 9th Avenue, Greeley, CO 80631
Mailing Address: P.O. Box 2038, Greeley, CO 80632

School District _____

In the Interest of

Respondent student and Concerning

Respondents

▲ FOR COURT USE ▲

Case Number:

Division:2

ORDER WITH RESPECT TO CONTEMPT CITATION (TRUANCY)

THIS MATTER came before the court on _____ (date). Present were Petitioner by _____ Respondent Child mother father guardian _____ Attorney for Child _____ Guardian ad litem appeared.

Respondents were advised of their rights. Respondent Child pleads Guilty Not Guilty.

Respondent mother father guardian pleads Guilty Not Guilty.

Based upon all of the evidence, the Court finds Respondent Student Mother Father Guardian conduct offensive to the authority and dignity of the Court and finds him/her/them in contempt of court. Further, contemnors are subject to an order, had the ability to obey the order, willfully failed or refused to obey the order and the conduct was offensive to the authority and dignity of the court.

Respondent Student is sentenced to _____ days in juvenile detention. Sentence is stayed until the next court hearing upon the condition that Respondent Student comply with all court orders compelling attendance and _____.

Respondent Mother Father Guardian is sentenced to _____ days in the Weld County Jail with work release without work release. Sentence is stayed until the next court hearing on the condition that Respondent Student comply with all court orders compelling attendance and, further, _____;

Bench warrant is issued for Respondent child Respondent mother Respondent father on receipt of identifying information. Bond is set at _____ PR Cash/Surety/Property Cash only Cosigned by parent or guardian. Colorado extradition, expiration one year from this date.

Bench warrant is issued for Respondent child Respondent mother Respondent father on receipt of identifying information. Bond is set at _____ PR Cash/Surety/Property Cash only Cosigned by parent or guardian. Colorado extradition, expiration one year from this date.

The Court further orders:

This matter is reset for a Contempt hearing Contempt sentencing Review of sentence on _____ at _____ m in Division 2 of the Weld County District Court at which time you must be present or a BENCH WARRANT MAY BE ISSUED FOR YOUR ARREST.

Contempt is dismissed against Respondent student mother father with respect to the present citation on the Motion of the Petitioner.

Copies served on all parties present. Copies to be served pursuant to C.R.C.P. 5 on all parties not present.

Dated:

BY THE COURT

Rebecca A. Koppes Conway
District Court Magistrate

DISTRICT COURT, WELD COUNTY, COLORADO Court Address: 901 9 th Avenue, Greeley, CO 80631 Mailing Address: P.O. Box 2038, Greeley, CO 80632 <hr/> School District _____ In the Interest of: Child(ren) and concerning Parents(s)/Guardians(s)	<hr/> ▲ <i>COURT USE ONLY</i> ▲ <hr/> Case Number: Division Courtroom
<i>SECURE PLACEMENT AS DISPOSITION FOR VIOLATION OF VALID COURT ORDER</i>	

This matter comes before the Court in the exercise of its jurisdiction provided by §19-1-104, C.R.S. upon petition _____ concerning the above-named child. This matter was heard before the Honorable _____, Judge of the Juvenile Court of _____ County, Colorado on the petition which alleges that said child is in violation of a valid court order issued by this court on the day of _____ 20 _____. Said child was previously adjudicated guilty on petition _____ and is a status offender as that term is defined in In the Interest of J.E.S., 817 P.2d 508 (Colo. 1991) and 28 CFR Sec. 31.304(h).

- I. **A.** Personally before the Court were:

- B.** Before the Court on service of process were:

- C.** Counsel present for the child was:

- D.** Upon testimony of the witnesses, the evidence received, reports received, statements and arguments of counsel, and the entire record, the Court finds:
 - that the child has within a reasonable time been served with a written copy of the charges;
 - that the child has been informed he/she has the right to a hearing on the matter before the court;
 - that the child has been informed of the nature of this proceeding and the possible consequences associated with it;
 - that the child has been informed that he/she has a right to legal counsel and that counsel can be appointed at no charge to the child if the child is indigent and can not afford counsel;
 - that the child has been informed that he/she has the right to call witnesses in his/her own behalf and to confront and cross-examine witnesses against him/her;
 - that the child has been informed that he/she has a right to have a transcript or record of this proceeding;

that a probable cause hearing or adjudicatory hearing was held on the _____ day of _____ 20____ at _____ a.m./p.m. which is within 24 hours, excluding weekends and holidays, of the juvenile's placement in secure detention which occurred at _____ a.m./p.m. on the _____ day of _____ 20____ ;

that this violation hearing is within 72 hours, excluding weekends and holidays, of the juvenile's placement in secure detention which occurred on the _____ day of _____ 20____ ;

that proof beyond a reasonable doubt exists that said child has violated the valid court order issued by the court on the _____ day of _____ 20____ , in the following respects:

that the court has reviewed the written report prepared by _____ , a public agency independent of the court and law enforcement, has reviewed the account provided therein of the juvenile's behavior and the circumstances which brought the juvenile before the court, and has reviewed the assessment of whether all dispositions other than secure confinement have been exhausted or are clearly inappropriate;

that there is no less restrictive alternative appropriate to the needs of the juvenile and the community;

that the juvenile should be placed _____ to best serve the interests of the juvenile and the community;

that the child was informed he/she has a right to appeal this order; within the meaning of the Colorado Children's Code.

II. IT IS, THEREFORE ORDERED:

1. That _____ , who violated a valid court order, is placed _____ as the disposition of this court.
2. It is further ordered:

Date: _____

 Judge Magistrate

DISTRICT COURT, WELD COUNTY, COLORADO
Court Address: 901 9th Avenue, Greeley, CO 80631
Mailing Address: P.O. Box 2038, Greeley, CO 80632

**Petitioner: SCHOOL DISTRICT NO.
COUNTY OF WELD, STATE OF COLORADO
In the Interest of**

a juvenile and Concerning

NOW AN ADULT

Respondents Parents/Guardian

▲ FOR COURT USE ▲

Case Number:

Division:2

MOTION TO DISMISS

THE PETITIONER moves this Court to dismiss this case. As grounds, the Petitioner states as follows:

1. On or about _____, a Motion to Compel Attendance/Motion for Citation for Contempt of Court and Order to Show Cause was filed and an appearance date of _____ was set.
2. Since that date, Petitioner has been advised:
 - a. Child no longer is enrolled in Petitioner's district and has provided documentation of enrollment in School District _____ where attendance is satisfactory; or,
 - b. Child has obtained a general equivalency degree/high school diploma or
 - c. Child has provided proof of compliance and no petition should have been filed, or
 - d. _____

WHEREFORE, Petitioner moves this court to dismiss this case, without prejudice, and vacate the hearing currently scheduled.

Dated this _____ day of _____, 20__

(Name)

CERTIFICATE OF MAILING

I hereby certify that on _____, 20 __, I placed a true and correct copy of the foregoing in the United States mail, postage prepaid to:

(student name)
(address)

(Respondents name)
(address)

(signature of person sending out copies)

DISTRICT COURT, WELD COUNTY, COLORADO
Court Address: 901 9th Avenue, Greeley, CO 80631
Mailing Address: P.O. Box 2038, Greeley, CO 80632

Petitioner: SCHOOL DISTRICT NO. _____
COUNTY OF WELD, STATE OF COLORADO
In the Interest of

a juvenile and Concerning

NOW AN ADULT

Respondents Parents/Guardian

▲ FOR COURT USE ▲

Case Number:

Division:2

ORDER TO DISMISS

THE COURT, being duly advised in the premises, orders this case dismissed, without prejudice, and vacates the hearing currently scheduled.

DATED: _____

BY THE COURT

District Court Judge/Magistrate