

CLIENT NEWS BRIEF

California Supreme Court Weighs in on Juvenile Court's Jurisdiction Over Habitual Truant

On May 4, 2020, the California Supreme Court clarified a juvenile court's jurisdiction over a minor in a formal wardship proceeding to declare the minor a habitual truant. In *In re: A.N.* (May 4, 2020, S242494), the court determined that a juvenile court may exercise jurisdiction in a formal wardship proceeding on the basis of the minor having "four or more trancies within one school year" if a fourth truancy has been issued to the attendance supervisor or the superintendent of the school district, even if the minor has not been previously referred to a school attendance review board (SARB) or similar truancy mediation program.

Background

A SARB is a state or local mediation program, designed to help truant students and their parents address school attendance and behavior problems with a variety of approaches and resources. Once a student has been reported three or more times for truancy, the student is deemed a habitual truant and may be referred to a SARB or similar truancy mediation program. Though not a hard and fast rule, the referral of a truant student to juvenile court is generally viewed as the nuclear option – the escalation of the habitual truancy issue that persists even after other methods have been employed, including SARBs or other truancy mediation programs. A wardship proceeding in juvenile court is a serious matter, and may result in a minor being named a ward of the court, fines and penalties for the parents or guardians, and in extreme situations the court may even remove the child from the custody of the parents. One basis of juvenile court jurisdiction is four or more trancies within one school year.

In the fall of 2015, the principal of student A.N.'s school mailed three truancy notices to A.N.'s parents. In addition to the notices sent to A.N.'s parents, the school's computerized system automatically sent reports to the school district and to "attendance supervisors" whenever A.N. was absent or tardy to class. In December of 2015, the District Attorney filed a wardship petition in the juvenile court alleging A.N. was a habitual truant and that she was within the jurisdiction of the juvenile court under Welfare and Institutions Code section 601. In January of 2016, A.N. and her mother attended a SARB hearing. In spring 2016, the juvenile court held a trial on the wardship petition, which was ultimately sustained.

On appeal of the juvenile court's judgment, A.N. claimed that the juvenile court lacked jurisdiction because, at the time the wardship petition was filed, she had not yet appeared before a SARB, and a fourth truancy report had not been sent to her and her parents. The Court of Appeal affirmed the juvenile court's judgment, holding that neither of these steps were prerequisites to the juvenile

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court's jurisdiction over a minor on the basis of the minor having "four or more trancies within one school year" under Welfare and Institutions Code section 601, subdivision (b).

The Supreme Court's Opinion

The California Supreme Court considered whether the use of a SARB or a similar truancy mediation program, or the issuance of a fourth truancy report to the student and his or her parent or guardian, is a prerequisite to the juvenile court's jurisdiction in a formal wardship proceeding on the basis of a student having "four or more trancies within one school year" under Welfare and Institutions Code section 601, subdivision (b).

The court determined that the use of a SARB or similar truancy mediation program is not a prerequisite to the juvenile court's jurisdiction. Although the Education Code provides school officials the discretion to initially refer habitual truants to SARBs or similar truancy mediation programs, such referrals may be in lieu of or in addition to issuing of a notice to appear in juvenile court. The court acknowledged that referring truants directly to the juvenile court system prior to the conclusion of a truancy mediation program could undermine the purpose of SARBs. Nevertheless, the court concluded that current law does not require that truancy mediation precede juvenile court jurisdiction, and stated that any policy tension between the two attendance-improvement paths is matter for the Legislature to resolve.

The court also concluded the issuance of a fourth truancy report to the student and his or her parent or guardian is not a prerequisite to the juvenile court's jurisdiction. Rather, the fourth truancy "report" was more broadly interpreted, and is satisfied if a "report" is issued to the attendance supervisor or the superintendent of the school district, including by way of an automated report sent by a school's computerized attendance tracking system. In other words, the fourth truancy report, though required, does not need to be a parental notice.

Takeaways

The California Supreme Court's decision in *In re: A.N.* clarifies that school districts are not required to utilize SARB or similar truancy mediation program prior to a juvenile court exercising jurisdiction over a minor on the basis of truancy. However, the decision highlights the potential tension between this grant of juvenile court jurisdiction and the rehabilitative and diversionary purposes of SARBs or similar programs to address the underlying sources of attendance problems.

The court suggests that the Legislature may wish to revisit what services and interventions are required before a juvenile court can exercise jurisdiction over a minor. Lozano Smith is tracking pending legislation that may impact the juvenile court's jurisdiction over minors on the basis of truancy and will provide updates if any legislation is adopted and signed by the Governor that would impact this decision.

If you have any questions about this case or truancy matters in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).