MEMORANDUM

TO: City and County Superintendents of Education

FROM: Thomas R. Bice, State Superintendent of Education


Local superintendents of education are responsible for implementing the Code of Alabama, 1975, §16-28-5, Private Tutor, Alabama’s law for home study programs; therefore, it is important that the local education agency (LEA) office and school staff address the topic of home studies. The following recommendations are provided to include the current codes and policies:

- Identify an individual who will be responsible for providing information regarding private tutors/home studies. Attendance officers may be the logical choice.
- Prepare a packet of information for parents who request private tutor or church school information. See all enclosed documents to assist you in preparing such a packet.
- Determine how you will respond to the definition of a private school and a church school as stated in the Code of Alabama 1975, §16-28-1. A private school must register with and make a report annually to the Alabama State Department of Education (ALSDE) (see Code of Alabama 1975, §§16-1-11 and §16-46-5).
- Provide parents with a copy of the transfer of credit rules, Alabama Administrative Code, Chapter 290-3-1-02(7)(k), and a copy of the requirements for graduation from high school, Alabama Administrative Code, Chapter 290-3-1-02(7)(8.1)(h-l), if they decide to enroll or re-enroll their child in a public school at a later date. We receive the most questions from LEAs and parents concerning these two subjects.
- Determine how you will respond to requests to attend a church school or a private school that offers a home study curriculum as required in the Code of Alabama 1975, §16-28-7. If enrolled in church school, students are considered to be attending the specific church school, not “homeschooled.” The enrollment and attendance of a child in a church school shall be filed with the local public school superintendent by the parent, guardian, or other person in charge or control of the child on a form provided by the superintendent or his/her agent, which shall be countersigned by the administrator of the church school and returned to the public school superintendent by the parent (see Code of Alabama 1975, §16-28-7). When other groups or agencies are approved with a home study curriculum they should be registered with the ALSDE as private schools, and then students are considered private school students, not “homeschooled.” You may check such registration by contacting Dr. Eddie Johnson, Deputy State Superintendent of Education, at 334-242-9960.
- Inform parents that you will have all cases of nonenrollment and nonattendance investigated (see Code of Alabama 1975, §16-28-16).
• Provide parents with the graduating senior rules (Alabama Administrative Code, Chapter 290-3-1-.02(8.0)(h-l), to establish proper expectations for those student returning to a public school for their senior year from a non-accredited school setting (sample copy enclosed).

For additional information and sample forms, please refer to the School Attendance Manual 2011. A copy of the manual can be downloaded from the ALSDE Web site at www.alsde.edu. First, click on Offices; second click on Offices of Learning Support; third click on Prevention and Support Services Section; and then choose Attendance. If you have additional questions or need clarification or on-site technical assistance, please contact Mr. Jim Toney at 334-242-8165.

TRB:JT:VC

Enclosures

FY12-2114
Section 16-28-1

Definitions.

For purposes of this article, the following words, terms and phrases shall have the following respective meanings, unless clearly indicated otherwise:

(1) PRIVATE SCHOOL. Includes only such schools as hold a certificate issued by the State Superintendent of Education, showing that such school conforms to the following requirements:

a. The instruction in such schools shall be by persons holding certificates issued by the State Superintendent of Education;

b. Instruction shall be offered in the several branches of study required to be taught in the public schools of this state;

c. The English language shall be used in giving instruction;

d. A register of attendance shall be kept which clearly indicates every absence of each child from such school for a half day or more during each school day of the school year.

(2) CHURCH SCHOOL. Includes only such schools as offer instruction in grades K-12, or any combination thereof including the kindergarten, elementary, or secondary level and are operated as a ministry of a local church, group of churches, denomination, and/or association of churches on a nonprofit basis which do not receive any state or federal funding.

(School Code 1927, §302; Code 1940, T. 52, §299; Acts 1982, No. 82-218, p. 260, §1.)

Section 16-1-11

Private schools to register and report; section not applicable to church schools.

All private schools or institutions of any kind having a school in connection therewith, except church schools as defined in Section 16-28-1, shall register annually on or before October 10 with the Department of Education and shall report on uniform blanks furnished by the State Superintendent of Education, giving such statistics as relate to the number of pupils, the number of instructors, enrollment, attendance, course of study, length of term, cost of tuition, funds, value of property and the general condition of the school.

(School Code 1927, §599; Code 1940, T. 52, §547; Acts 1982, No. 82-218, p. 260, §2.)
Section 16-28-3

Ages of children required to attend school; exemption for church school students.

Every child between the ages of six and 17 years shall be required to attend a public school, private school, church school, or be instructed by a competent private tutor for the entire length of the school term in every scholastic year except that, prior to attaining his or her 16th birthday every child attending a church school as defined in Section 16-28-1 is exempt from the requirements of this section, provided such child complies with enrollment and reporting procedure specified in Section 16-28-7. Admission to public school shall be on an individual basis on the application of the parents, legal custodian, or guardian of the child to the local board of education at the beginning of each school year, under such rules and regulations as the board may prescribe. The parent, legal custodian, or guardian of a child who is six years of age, may opt out of enrolling their child in school at the age of six years by notifying the local school board of education, in writing that the child will not be enrolled in school until he or she is seven years of age.


Section 16-28-5

Private tutor.

Instruction by a private tutor means and includes only instruction by a person who holds a certificate issued by the State Superintendent of Education and who offers instruction in the several branches of study required to be taught in the public schools of this state, for at least three hours a day for 140 days each calendar year, between the hours of 8:00 A.M. and 4:00 P.M., and who uses the English language in giving instruction. Such private tutor shall, prior to beginning the instruction of any child, file with the county superintendent of education, where his place of instruction is in territory under the control and supervision of the county board of education, or the city superintendent of schools, where his place of instruction is in territory under the control and supervision of a city board of education, a statement showing the child or children to be instructed, the subjects to be taught and the period of time such instruction is proposed to be given. Such tutor shall keep a register of work, showing daily the hours used for instruction and the presence or absence of any child being instructed and shall make such reports as the State Board of Education may require.

(School Code 1927, §303; Code 1940, T. 52, §300.)
Section 16-28-7

Report of enrollment.

At the end of the fifth day from the opening of the public school, the principal teacher of each public school, private school, and each private tutor, but not church school, shall report on forms prescribed by the State Superintendent of Education to the county superintendent of education, in the event the school is operated in territory under the control and supervision of the county board of education, or to the city superintendent of schools, in the event the school is operated in territory under the control and supervision of a city board of education, the names and addresses of all children of mandatory school attendance age who have enrolled in such schools; and thereafter, throughout the compulsory attendance period, the principal teacher of each school and private tutor shall report at least weekly the names and addresses of all children of mandatory school attendance age who enroll in the school or who, having enrolled, were absent without being excused, or whose absence was not satisfactorily explained by the parent, guardian, or other person having control of the child. The enrollment and attendance of a child in a church school shall be filed with the local public school superintendent by the parent, guardian, or other person in charge or control of the child on a form provided by the superintendent or his agent which shall be countersigned by the administrator of the church school and returned to the public school superintendent by the parent. Should the child cease attendance at a church school, the parent, guardian, or other person in charge or control of the child shall by prior consent at the time of enrollment direct the church school to notify the local public school superintendent or his agent that the child no longer is in attendance at a church school.

(School Code 1927, §309; Code 1940, T. 52, §306; Acts 1982, No. 82-218, p. 260, §5; Act 2009-564, p. 1648, §1.)

Section 16-28-8

Reports required must be furnished.

All school officers, including those in private schools, or private tutors, but not those in church schools, in this state offering instruction to pupils within the compulsory attendance ages, shall make and furnish all reports that may be required by the State Superintendent of Education and by the county superintendent of education or by the board of education of any city with reference to the workings of this article. The principal teacher of each public school, private school, church school and each private tutor shall keep an attendance register showing the enrollment of the school and every absence of each enrolled child from school for a half day or more during each school day of the year.

(School Code 1927, §310; Code 1940, T. 52, §307; Acts 1982, No. 82-218, p. 260, §6.)
Section 16-28-12

Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual distribution, receipt to be documented; school officials required to report noncompliance; failure to report suspected violation; district attorneys vigorously to enforce provisions.

(a) Each parent, guardian, or other person having control or custody of any child required to attend school or receive regular instruction by a private tutor who fails to have the child enrolled in school or who fails to send the child to school, or have him or her instructed by a private tutor during the time the child is required to attend a public school, private school, church school, denominational school, or parochial school, or be instructed by a private tutor, or fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in any public school in accordance with the written policy on school behavior adopted by the local board of education pursuant to this section and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars ($100) and may also be sentenced to hard labor for the county for not more than 90 days. The absence of a child without the consent of the principal teacher of the public school he or she attends or should attend, or of the tutor who instructs or should instruct the child, shall be prima facie evidence of the violation of this section.

(b) Each local public board of education shall adopt a written policy for its standards on school behavior. Each local public school superintendent shall provide at the commencement of each academic year a copy of the written policy on school behavior to each parent, guardian, or other person having care or control of a child who is enrolled. Included in the written policy shall be a copy of this section. The signature of the student and the parent, guardian, or other person having control or custody of the child shall document receipt of the policy.

(c) Any parent, guardian, or other person having control or custody of any child enrolled in public school who fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in accordance with the written policy on school behavior adopted by the local board of education and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be reported by the principal to the superintendent of education of the school system in which the suspected violation occurred. The superintendent of education or his or her designee shall report suspected violations to the district attorney within 10 days. Any principal or superintendent of education or his or her designee intentionally failing to report a suspected violation shall be guilty of a Class C misdemeanor. The district attorney shall vigorously enforce this section to ensure proper conduct and required attendance by any child enrolled in public school.

(School Code 1927, §305; Code 1940, T. 52, §302; Acts 1993, No. 93-672, p. 1213, §1; Acts 1994, 1st Ex. Sess., No. 94-782, p. 70, §1.)
Section 16-28-13

Burden of proof on person in loco parentis.

No parent, guardian or other person having control or charge of any child shall be convicted for failure to have said child enrolled in school or for failure to send a child to school or for failure to require such child to regularly attend such school or tutor, or for failure to compel such child to properly conduct himself as a pupil, if such parent, guardian or other person having control or charge of such child can establish to the reasonable satisfaction of the court the following:

(1) That the principal teacher in charge of said school which he attends or should attend or the tutor who instructs or should instruct said child gave permission for the child to be absent; or

(2) That such parent, guardian or other person is unable to provide necessary books and clothes in order that the child may attend school in compliance with law, and that such parent, guardian or other person had prior to the opening of the school, or immediately after the beginning of such dependency, reported such dependent condition to the juvenile court of the county and offered to turn the child over to the State Department of Human Resources as a dependent child; or

(3) That such parent, guardian or other person has made a bona fide effort to control such child and is unable to do so, and files in court a written statement that he is unable to control such child; or

(4) That there exists a good cause or valid excuse for such absence; or

(5) That such parent, guardian or other person has made a bona fide, diligent effort to secure the regular attendance of such child and that the absence was without his knowledge, connivance or consent.

A good cause or valid excuse, as used in this section, exists when on account of sickness or other condition attendance was impossible or entirely inadvisable or impracticable or when, by virtue of the extraordinary circumstances, the absence is generally recognized as excusable.

(School Code 1927, §306; Code 1940, T. 52, §303.)

Section 16-28-15

Absence must be explained.

Every parent, guardian, or other person having control or charge of any child required to attend public school, private school, or church school, shall as soon as practical explain the cause of any absence of the child under his control or charge which was without permission of the teacher, and a failure to furnish such explanation shall be admissible as evidence of such child being a truant with the consent and connivance of the person in control or charge of said child, unless such person can show to the reasonable satisfaction of the court that he had no knowledge of such absence and that he has been diligent in his efforts to secure the attendance of such child.

(School Code 1927, §308; Code 1940, T. 52, §305; Acts 1982, No. 82-218, p. 260, §7.)
Section 16-28-16

Cases of nonenrollment and nonattendance; withdrawal of enrollment.

(a) It shall be the duty of the county superintendent of education or the city superintendent of education, as the case may be, to require the attendance officer to investigate all cases of nonenrollment and of nonattendance. In all cases investigated where no valid reason for nonenrollment or nonattendance is found, the attendance officer shall give written notice to the parent, guardian, or other person having control of the child. In the event of the absence of the parent, guardian, or other person having control of the child from his or her usual place of residence, the attendance officer shall leave a copy of the notice with some person over 12 years of age residing at the usual place of residence, with instructions to hand the notice to the parent, guardian, or other person having control of the child, which notice shall require the attendance of the child at the school within three days from the date of the notice. In the event the investigation discloses that the nonenrollment or nonattendance was without valid excuse or good reason and intentional, the attendance officer shall be required to bring criminal prosecution against the parent, guardian, or other person having control of the child.

(b) Each child who is enrolled in a public school shall be subject to the attendance and truancy provisions of this article except that any parent or parents, guardian or guardians who voluntarily enrolls their child in public school, who feel that it is in the best interest of that child shall have the right to withdraw the child at any time prior to the current minimum compulsory attendance age.


Section 16-28-23

Attendance register and rules and regulations as evidence.

The registry of attendance of pupils kept by any public school, private school, church school or private tutor in compliance with the provisions of law or any rule and regulation promulgated by the State Board of Education shall be admissible as evidence of the existence or nonexistence of the facts it is required to show. A copy of any rule and regulation of the State Board of Education duly certified as true and correct by the State Superintendent of Education shall be admissible as evidence of the provisions of such rule and regulation, and the statement in the certificate of the State Superintendent of Education of the date of the promulgation shall be admissible as evidence that such rule or regulation was duly promulgated on the day and date named.

(School Code 1927, §325; Code 1940, T. 52, §321; Acts 1982, No. 82-218, p. 260, §8.)
Section 16-46-1

Definitions.

For the purposes of this chapter, the following words shall have the meanings respectively ascribed to them by this section:

(1) COURSE. Any course, or portion of a plan or program of instruction, whether conducted in person, by mail, or by any other method.

(2) SCHOOL. Any person, group of people, institution, establishment, agency, or organization offering or administering a plan, course, or program of instruction whether conducted in person, by mail, or by any other method.

(3) PRIVATE SCHOOL. Operation of either profit or nonprofit entity as opposed to publicly owned or operated schools.

(4) AGENT or REPRESENTATIVE. Salesperson who presents materials, sells courses, or solicits students for enrollment therefor in this state outside the boundaries of the school facilities.

(5) LICENSE. A private school license identifying the name and location of the school and establishing the courses which may be offered thereunder.

(6) PERMIT. A pocket card issued to a representative providing identification as an authorized agent of a school.

(7) ECONOMIC FRAUD. The sale of courses or programs of study which an institution is unable or unwilling to provide as advertised or described because of inadequate financial stability, facilities, instructional staff, or commitment to honor written or verbal contracts made with students. Included is the solicitation of students for enrollment through intentional deception or misrepresentation of fact and the use of advertising which is known to be false, inaccurate, or misleading. Failure to properly administer student cancellation and refund policies according to appropriate regulations or agreements made with students shall also constitute economic fraud.

(8) ACADEMIC FRAUD. Courses offered are insufficient in quality, content, or administration to achieve the stated or implied educational objective. Persons offering such courses who know or reasonably should know that said courses cannot achieve the stated or implied educational objective shall be considered to be involved in academic fraud.

(9) RESIDENT PRIVATE SCHOOL. A school which is domiciled within Alabama and has established for a period of three years permanent administrative and management facilities in this state.

(10) PRINCIPAL BASE OF OPERATIONS. A school which has established a main campus in Alabama. Administrative and managerial support and physical plant facilities are maintained
continuously in this location. Franchises chartered independently of parent corporations may be accorded this status provided they comply with the residency requirements.

(11) CHURCH SCHOOL. A school operated by a local church, group of churches, denomination, and/or association of churches on a nonprofit basis.


Section 16-46-5

License for operation of schools; fees; financial stability.

(a) No proprietary postsecondary school, except those enumerated in Section 16-46-3, shall operate within this state unless the school first secures a license from the Alabama Department of Postsecondary Education, regardless of whether the school enrolls Alabama students or has a physical presence within the State of Alabama. Procedures for licensing and bonding of schools operating courses in separate locations shall be established in the rules and regulations pursuant to Section 16-46-7.

(b) No K-12 school, except those enumerated in Section 16-46-3, shall operate within this state unless the school first secures a license from the Alabama State Department of Education. Procedures for licensing and bonding of schools operating courses in separate locations shall be established in the rules and regulations pursuant to Section 16-46-7.

(c) Upon satisfactory review of a school, the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, shall issue a license to be publicly displayed on the premises where the school operates.

(d) The application for a license for a K-12 school shall be made on forms furnished by the Alabama State Department of Education. Application for a license for a proprietary postsecondary institution shall be made on forms furnished by the Alabama Department of Postsecondary Education.

(e) The State Board of Education shall promulgate a schedule of licensing fees, which may be revised from time to time upon reasonable notice at the discretion of the board. All licensing fees collected from postsecondary institutions shall be deposited in the State Treasury to the credit of the private school licensing section in the Alabama Department of Postsecondary Education. Licensing fees collected from K-12 schools shall be deposited in the State Treasury to the credit of the Alabama State Department of Education.

(f) All K-12 schools except those enumerated in Section 16-46-3 shall be required to establish financial stability by a surety acceptable to the Alabama State Department of Education in the penal sum of not more than $10,000.00. The sum required to provide prepaid tuition liability shall be established by the Alabama State Department of Education by appropriate regulation pursuant to Section 16-46-7. All proprietary postsecondary institutions, except those enumerated in Section 16-46-3, shall be required to establish financial stability by surety acceptable to the
Alabama Department of Postsecondary Education in the penal sum of not more than twenty thousand dollars ($20,000). The sum required to provide prepaid tuition liability shall be established by the Alabama Department of Postsecondary Education by appropriate regulation pursuant to Section 16-46-7. Financial stability for separate locations shall be provided through the principal base of operations. Such surety shall be continuous and shall be conditioned to provide indemnification to any student suffering loss as a result of any fraud or misrepresentation used in procuring his or her enrollment in and/or administering a course covered by this chapter for the purpose of assuring due and faithful performance of agreements or contracts with students.

(g) A license shall be valid for two years from the date on which it was issued.

(h) Regardless of the number of years that a surety is in force, the aggregate liability thereon shall in no event exceed the penal sum of the surety accepted by either the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate. The surety may cancel the same upon giving 30 days' notice in writing to the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

(i) Application for a license shall also be accompanied by a financial statement acceptable to the State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, and a copy of the current catalog, brochure, or bulletin of the school, which shall include all of the following:

(1) Identifying data such as volume number, date, and publication.

(2) Name, address, and telephone of the school and its governing body, officials, and faculty.

(3) A clear and concise statement of the objectives of the training given by the school.

(4) The exact manner in which the stated objectives are to be attained.

(5) A tuition and refund policy which is in compliance with the appropriate regulation pursuant to Section 16-46-7.

(6) A grievance policy which directs aggrieved students to first attempt to resolve complaints through the appropriate school officials. Student grievances not resolved by the school shall be referred to the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate.

(7) Such other reasonable information as the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, may impose.

(j) Upon receipt of the required information, the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, may issue a license provided the institution is complying with all of the following standards:
(1) The courses, curriculum, and instructions of such school are consistent, in quality and content, with recognized educational standards as determined by the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate.

(2) There is available to the school adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Adequate records as determined by the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, are kept to show attendance and student progress. Records shall be available upon request of the student to be furnished prospective employers and other interested parties.

(4) The school is financially sound and capable of fulfilling its commitments for training.

(5) Schools or courses domiciled outside Alabama shall designate a state agent who is a resident of this state to service all complaints against the school.

(6) A student enrollment agreement or contract shall be utilized to set forth clearly all conditions for enrollment in and completion of courses of instruction, itemized course cost, terms of payment, and other conditions the school may desire to establish. Conditions for forced withdrawal for academic or disciplinary reasons shall be stated. Contracts establishing installment payments with interest charges shall be in compliance with Alabama statutes regarding lending and usury and shall be certified by the Alabama State Banking Department.

(7) The school shall comply with all local, state, and federal laws and regulations.

(k) Any license applied for pursuant to this section shall be granted, deferred, or denied within 30 days of the receipt of the application therefor by either the Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate.

(l) The Alabama State Department of Education or the Alabama Department of Postsecondary Education, as appropriate, may invoke negative actions against any license issued if the holder of the license solicits or enrolls students or administers instructions through fraud, deception, or misrepresentation. Negative actions shall include probation, suspension, and/or revocation.

(m) The fact that a surety is in force pursuant to this section shall not limit nor impair any right of recovery otherwise available under law, nor shall the amount of such surety be relevant in determining the amount of damages or other relief to which any plaintiff may be entitled.

(n) No recovery against any student shall be had on any contract if such school was not the holder of a license as required by this section at the time that such school or its representative negotiated the contract for or sold such course.

(o) Schools which undergo transfer of ownership shall be reviewed to determine that minimum standards remain in effect. The license may not be transferred to new ownership. Financial stability of the new ownership shall be established.
(p) The issuance of a license pursuant to this section shall represent authority to operate an educational institution in Alabama. Licensure may not be advertised as an endorsement or recommendation, but it implies compliance with the laws of Alabama. Advertising may indicate only that the school is licensed by the state.


ALABAMA STATE BOARD OF EDUCATION
STATE DEPARTMENT OF EDUCATION
ADMINISTRATIVE CODE
CHAPTER 290-3-1 PUBLIC SCHOOL GOVERNANCE

TABLE OF CONTENTS

290-3-1-.01 Short Title, Purpose, And Name Change

290-3-1-.02 Regulations Governing Public Schools

(k) Transfers from Non-Accredited Schools/School Setting(s). Any school/school setting not accredited by an accrediting agency recognized by the State Board of Education shall be considered a non-accredited school for the purpose of transfer of class/grade credit. Core courses shall be defined as English, mathematics, science, and social studies.

1. The transfer of credits and/or appropriate placement shall be as follows:

   (i) Credit for elective courses shall be transferred without validation.

   (ii) Non-contested credit for core courses shall be transferred as follows:

       (I) Using all official records and nationally standardized tests, the principal or his/her designee shall determine placement and notify the student and the parent(s)/guardian(s).

       (II) If the parent(s)/guardian(s) agrees with the placement decision, the student shall be placed.

       (III) Following placement, for any initial core course successfully completed, transfer of previous credit earned at a non-accredited school(s) in that subject area shall be accepted without further validation.

   (iii) Contested credit for core courses shall be transferred as follows:

1. If the parent(s)/guardian(s) disagree with the placement decision, the principal or his/her designee shall supervise the administration of the school's most recent semester test for each prerequisite core course in which the parent/guardian is requesting enrollment. For each test the student passes as determined by the school grading scale, the student shall be placed in the next level core course and credit shall be transferred for prerequisite courses.
II. For any test failed, placement shall be made as originally recommended by school officials and no credit shall be transferred for the prerequisite course(s) in that subject.

2. In the event of controversial records/transcripts or the absence of records, the student shall take placement tests consisting of the school's previous semester tests for core courses.

(l) Transfers from Accredited Schools: A student transferring to an Alabama public school from a public or nonpublic school accredited by an accrediting agency recognized by the State Board of Education will have all credits and current class/grade placement accepted without validation upon the receipt of an official transcript(s).

(m) High School Graduation Exam/Local Board of Education Requirements: All transfer students must pass the Alabama Basic Skills Exit Exam/Alabama High School Graduation Examination and meet local board of education graduation requirements.

(8.1) **Requirements for Graduation from High School.** Graduation from an Alabama high school denotes the completion of a school program which has been planned and administered to meet as nearly as possible the needs of the students. The Alabama state course of study shall be followed in meeting the program requirements:

(h-1) Except in case of bona fide change of residence or other circumstances equally valid for making an exception, a student is not to be graduated from high school unless he has been in continuous attendance therein during the entire high school year immediately preceding the date of graduation. If so desired, a local board of education may require students residing within its attendance zone and transferring from a non-accredited school/school setting to attend its school(s) for two (2) entire high school years immediately preceding the date of graduation. In the event of the transfer from one school to another of a twelfth grade student who wishes to become a candidate for graduation at the end of the year, the school receiving the student should require approval in writing of the transfer and the student's candidacy for graduation from the principal of the school from which the student has withdrawn. The letter of approval together with any necessary memoranda should be filed with the transcript of the student’s record from the discharging school. In case of doubt as to procedure or appropriate action in such case, either or both of the principals of the schools concerned should discuss the matter with the State Department of Education.
October 28, 2009

MEMORANDUM

TO: City and County Superintendents

FROM: Joseph B. Morton
        State Superintendent of Education

RE: Implementation of Attendance Rules for Students In Private School, Church School, or Private Tutor Programs

As a clarification to my September 24, 2009, memorandum addressing the Private Tutor provision of the Code of Alabama, Section 16-28-5, please note the following:

The Code of Alabama provides for the regulation and supervision by local education agencies (LEAs) of attendance for students ages 7 to 17 and students with disabilities ages 3 to 21 who attend public schools, private schools, and church schools, and those in private tutor programs. The Alabama Department of Education has no such statutory authority with regard to students participating in homeschooling programs other than the general directive that all children within the age categories listed above should be enrolled and attending school.

For students with disabilities, refer to the Analysis of Comments and Changes Section of 34 CFR 300.133 (71 Fed. Reg. 46594) that states that whether home-schooled students are considered parentally placed private school students is a matter of state law. In Alabama, students who are enrolled in a homeschooling program are not considered parentally placed private school students because home schools are not recognized as private elementary schools or secondary schools. However, the U. S. Department of Education, Office of Special Education Programs, has stated that home-schooled students with disabilities may be served through an LEA’s private school plan if the school system chooses to do so.

Should you have general questions, please contact Mr. Jim Toney at 334-242-8165, or if the questions pertain to special education, please contact Dr. Mabrey Whetstone at 334-242-8114.

JBM: TRB: LAK
FYIO-2025