



STATE OF ALABAMA
DEPARTMENT OF EDUCATION



Joseph B. Morton
State Superintendent
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

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