

Jeter Memo

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Memorandum
Office of Legal Counsel
26th Floor - Tennessee Tower
312 8th Ave North
Nashville, TN 37243

DATE: February 18, 1999

TO: Superintendents and Directors of Schools

FROM: Jane Walters

RE: Current Status of the Law on Church-Related Schools (Satellite) and Home Schools in Tennessee

Parents in Tennessee can provide instruction at home through a church-related school as defined by Section 49-50-801 in the Tennessee Code Annotated. There has been some confusion in this matter causing school districts to illegally declare children truant when their parents have chosen this option. Many of these schools are referred to as "Satellite Programs."

Enclosed is a document, which explains the current status of the law. If you have any questions, please contact the department legal counsel, Kaye Jeter at (615)741-2921.

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RE: Current Status of the Law on Church-Related Schools (Satellite) and Home Schools in Tennessee. After meeting, discussing and reviewing the issue of church-related schools and home schools with several home school attorneys, staff personnel, and attendance officers, the following is a summary of the current law: May parents comply with the Tennessee compulsory attendance law by having their children attend a church-related school as defined by Section 49-50-801 of the Tennessee Code Annotated while the instruction is being provided in the home with the parent as the primary teacher? This question has never been addressed by the Tennessee courts, but in our opinion the statutory language indicates a response in the affirmative.

Most parents who teach their children at home do so under the home school provisions of Section 49-6-3050. According to Section 49-6-3050, a home school is defined as a "school conducted by parent(s) or legal guardian(s) for their own children." Home schools are divided into two categories under the law: (1) those associated with a church-related school and (2) those that are not. A home school associated with a church-related school is exempt from the requirements imposed on other home schools. However, students in grades nine through 12 in home schools associated with a church-related school must register with the local education agency (LEA) and take standardized achievement test used by the local school district and approved by the State Board of Education.

Parents also have the option of having their children attend a church-related school. This is not home schooling, because the church-related school is not being conducted by parents or legal guardians for their own children. This school is being operated by a denominational, parochial, or other bona fide church organization as required by Section 49-50-801. Under this option there is no need to comply with any of the home school provisions of Section 49-6-3050.

In order to have children attend a church-related school while being taught at home by their parents, the home will have to be designated as a classroom or extension of the church-related school. The parent will have to be considered a faculty member of the church-related school under the direct supervision of its administration. Such an arrangement should have other characteristics which distinguish it from a home school associated with a church-related school, although there are no particular legal requirements as such. Following are examples of such characteristics which would likely be considered by the courts in scrutinizing this education option. The parents should have the same accountability to those in authority at the church-related school as any other teachers at the main campus or location of the school. The curriculum and schedule of instruction should be approved by the church-related school. There should be centralized record keeping, attendance reporting, and academic evaluation. Organized activities of the church-related school such as field trips, sports, and band, as well as group instruction in such subjects as music and art are all factors which further indicate that this is not just a home school program. Merely associating with a church-related school as described in Section 49-6-3050 as a home schooling option is insufficient. The relationship must be such that the school is being operated by denominational, parochial, or bona fide church organization described in Section 49-50-801, not being conducted by the parent as described in Section 49-6-3050. There is no requirement that the main campus of the church-related school be located in the same city as the home where the extension program is being conducted.

An important element of this approach is the fact that under Section 49-50-801, the church-related school must meet the standards of accreditation or membership of the Tennessee Association of Christian Schools, the Association of Christian Schools International, the Tennessee Association of Independent Schools, the Southern Association of Colleges and Schools, the Tennessee Association of Non-Public Academic Schools, the Tennessee Association of Church Related Schools, or a school affiliated with Accelerated Christian Education, Inc. If the church-related school is unable to meet these standards of accreditation or membership in the named associations, then the school is not a church-related school as defined in the statute. Accordingly, parents who are contemplating this approach should first insure that the school will meet the accreditation or membership requirements of Section 49-50-801 in order to be defined as a church-related school. Note that either being accredited by or being a member of one of these associations is sufficient according to the language of this statute. Some of these associations may not have memberships but may only accredit schools.

In summary, children attending a church-related school through its satellite or extension program in their home and being taught by a parent who is a faculty member of the school are in compliance with Tennessee's compulsory attendance law. In order for this to be recognized as a legitimate educational option, the characteristics of the relationship between the parents and the church related school should indicate that the school is being operated by the religious organization, not by the parent. This church-related school option does not change the home school law.

Parents electing to conduct a home school associated with a church-related school or to have their children attend a church-related school should follow normal withdrawal procedures during the school year if their children are enrolled in public school. For children enrolled in public school the previous year, the LEA may request information on their current placement. Parents whose children have not been enrolled in public school are not required by law to provide notice to the LEA of their decision to choose one of these options. Public school officials who have reason to believe that a child may not be in compliance with the compulsory attendance law should make inquiry of the parent or guardian to determine what educational option has been chosen. If advised by the parent either that a home school is being conducted in association with a church-related school or that the child is attending a church-related school through its extension program, this information may be verified by contacting the church-related school. In such an inquiry the church-related school may be asked to provide the name of the denominational, parochial, or other bona fide church organization operating the school, so that this may be verified as well. There should be no need for further inquiry.