

Legal Alternatives to the Comprehensive Public School Classroom

This memo explains alternatives to the comprehensive public school classroom. The California compulsory education law requires all children between the ages of 6 and 18 to attend school, except 16-and 17-year-olds who have graduated from high school or have passed the California High School Proficiency Examination (CHSPE). Local school districts are responsible for ensuring that all children of compulsory school age in the district are either: (1) in attendance at a public school or (2) legally exempt from public school attendance requirements. There are three legal alternatives available in California to parents who wish to place their school-age children in a setting other than a public school classroom:

- 1. Independent study through the local public school system or charter school:** (Education Code section 51745 and following). Independent study, sometimes referred to as home study, is an alternative to classroom instruction conducted under the administration of a local public school district or a charter school. Independent study allows students to carry on their education outside the classroom based on written agreements with the school district or charter school. The agreements include requirements consistent with the school district's or charter school's course of study, and provide for general supervision of each student's independent study by a credentialed employee of the school district or charter school in which the child is enrolled. A child with exceptional needs may participate in independent study only if his or her individualized education program (IEP) provides for that participation (Education Code section 51745(c).)
- 2. Private full-time day school:** (Education Code sections 48220, 48222). Enrolling students in a private full-time day school is a legal exemption from compulsory attendance in the public school system. Private schools must instruct students in all the branches of study required in the public schools. The law does not require that private school instructors hold a teaching credential, but they must be "capable of teaching," meaning that teachers in private schools should meet standards like those required for public school teachers in similar positions, except for the credential requirement. The law requires private schools to file an annual Private School Affidavit disclosing certain information to the State Superintendent of Public Instruction (Education Code section 33190). That information is used for statistical purposes and for publishing a directory of private K-12 schools in the state. The affidavit is not a license to operate, nor is it considered an approval of the "school" or its courses (Education Code sections 33190, 48222).
- 3. Private Tutoring:** (Education Code sections 48200, 48220, 48224). Private tutoring is also a legal exemption from the compulsory school attendance law. The tutor (who may be any person including a parent) must have a valid California teaching credential for the grade level(s) being taught and must also provide instruction in all the branches of study

required in the public school. The tutor must provide instruction at least three hours per day, between the hours of 8:00 a.m. and 4:00 p.m., at least 175 days per calendar year, in the English language. No Private School Affidavit is required of a tutor. Unless a parent holds a teaching credential for the grade level(s) taught, his or her instruction does not qualify under the legal exemption for private tutors. Additional information may be obtained at <http://www.cde.ca.gov/sp/ps> (the California Department of Education Private Schools website) or by calling the Elementary Education Office at the California Department of Education at (916) 319-0878.

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