

## **Tennessee Code/TITLE 49 EDUCATION /CHAPTER 6 ELEMENTARY AND SECONDARY EDUCATION /PART 30 ATTENDANCE**

### **49-6-3001. School age - Entrance - Attendance – Withdrawal**

(a) The public schools shall be free to all persons above the age of five (5) years, or who will become five (5) years of age on or before September 30, residing within the state.

(b) (1) Any child residing within the state who is five (5) years of age or who will become five (5) years of age on or before September 30 may enter at the beginning of the term the public school designated by the local board of education having appropriate jurisdiction; provided, that such child enters within thirty (30) days after the opening day of the term.

(2) Any child who will not become five (5) years of age until after December 31 shall not enter school during that school year; provided, that school systems having semiannual promotions may admit at the beginning of any semester children who will become five (5) years of age within sixty (60) days following the opening of the semester.

(3) Where a pupil meets the requirements of the state board of education for transfer and/or admission purposes, as determined by the commissioner of education, such pupil may be admitted by a local board of education, notwithstanding any other provision or act to the contrary.

(c) (1) Every parent, guardian or other legal custodian residing within this state having control or charge of any child or children between six (6) years of age and seventeen (17) years of age, both inclusive, shall cause such child or children to attend public or non-public school, and in event of failure to do so, shall be subject to the penalties hereinafter provided. The LEA in which a transfer student seeks to enroll may require disclosure and copies of the student's records in accordance with the Family Education Rights and Privacy Act (20 U.S.C. § 1232g et seq.), including, but not limited to, disciplinary records from educational agencies where the student was previously enrolled.

(2) The provisions of subdivision (c)(1) do not apply to any child who:

(A) Has received a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state;

(B) Is enrolled and making satisfactory progress in a course leading to a general educational development certificate (GED) from a state-approved institution or organization, or who has obtained such certificate. Any institution or organization which enrolls a child who is under eighteen (18) years of age shall provide a report to the local board of education at least three (3) times each year relative to the progress of all such persons under eighteen (18) years of age. If the local board of education determines any child under eighteen (18) years of age is not making satisfactory progress, then such child shall be subject to the provisions of subdivision (c)(1);

(C) Is six (6) years of age or younger and whose parent or guardian has filed a notice of intent to conduct a home school with the director of the LEA or with the director of a church-related school; or

(D) A student enrolled in a home school who has reached seventeen (17) years of age.

(3) For the purposes of this part, "public school" and "non-public school" are defined as follows:

(A) "Non-public school" means a church-related school, home school or private school;  
(i) "Church-related school" means a school as defined in § 49-50-801;  
(ii) "Home school" means a school as defined in § 49-6-3050; and  
(iii) "Private school" means a school accredited by, or a member of, an organization or association approved by the state board of education as an organization accrediting or setting academic requirements in schools, or which has been approved by the state, or is in the future approved by the commissioner in accordance with rules promulgated by the state board of education; and

(B) "Public school" means any school operated by an LEA or by the state with public funds.

(4) A parent or guardian with any good and substantial reason as determined by such parent or other person having legal custody of a child, and agreed to by the respective local board of education, may withdraw such parent or other person's child from a public school; provided, that within thirty (30) days the parent or person having legal custody of the child places the child in a public school designated by such local board of education, or in a non-public school, as herein defined.

(5) A parent or guardian who believes that such parent's or guardian's child is not ready to attend school at the designated age of mandatory attendance may make application to the principal of the public school which the child would attend for a one (1) semester or one (1) year deferral in required attendance. Any such deferral shall be reported to the director of the LEA by the principal.

(6) Notwithstanding any other law to the contrary, a person designated as a caregiver with the power of attorney for care of a minor child pursuant to title 34, chapter 6, part 3, shall have the right to enroll the minor child in the LEA serving the area where the caregiver resides. The LEA shall allow a caregiver with a properly executed power of attorney for care of a minor child, pursuant to title 34, chapter 6, part 3, to enroll the minor child, but may require documentation of the minor child's residence with a caregiver and/or documentation or other verification of the validity of the stated hardship prior to enrollment. If the minor child ceases to reside with the caregiver, then the caregiver shall notify any person, school or health care provider that has been provided documentation of the power of attorney for care of a minor child. Except where limited by federal law, the caregiver shall be assigned the rights, duties and responsibilities that would otherwise be assigned to the parent, legal guardian or legal custodian pursuant to

this title. If at any time the parent or legal guardian disagrees with the decision of the caregiver or chooses to make any educational decisions for the minor child, then the parent must revoke the power of attorney and provide the LEA written documentation of the revocation.

[Acts 1925, ch. 115, § 19; Shan. Supp., § 1487a141; Code 1932, § 2472; Acts 1947, ch. 87, § 1; 1947, ch. 129, § 1; C. Supp. 1950, §§ 2383.1, 2442.1 (Williams, § 2472.1); Acts 1957, ch. 9, § 1; 1959, ch. 289, § 1; 1965, ch. 239, § 1; 1965, ch. 303, §§ 1, 2; 1968, ch. 417, §§ 1, 2; 1972, ch. 693, § 13; 1974, ch. 654, §§ 79-81; T.C.A. (orig. ed.), §§ 49-1701, 49-1702, 49-1708; Acts 1985, ch. 398, § 1; 1987, ch. 42, § 1; 1992, ch. 535, §§ 78, 81; 1997, ch. 329, § 1; 1997, ch. 392, §§ 1, 2, 5, 10; 1998, ch. 792, § 1; 2003, ch. 71, § 3.]

#### **49-6-3005. Children excused from compulsory attendance**

(a) The following classes of children between six (6) and seventeen (17) years of age, both inclusive, shall be temporarily excused from complying with the provisions of this part, the local board of education to be sole judge in all such cases involving children who are enrolled in a public school and, as to children enrolled in a non-public school, as defined by § 49-6-3001(c)(3)(A), the director of schools of the school to be the sole judge in all such cases:

- (1) Children mentally or physically incapacitated to perform school duties (such disability to be attested by a duly licensed physician in all cases);
- (2) Children who have completed high school and hold a high school diploma;
- (3) Children temporarily excused from attendance in school under rules and regulations promulgated by the state board of education, which rules and regulations shall not be in conflict with § 50-5-103, or any other law governing child labor in this state;
- (4) Children six (6) years of age or under whose parent or guardian have filed a notice of intent to conduct a home school as provided by § 49-6-3001 or who are conducting a home school as provided by § 49-6-3050; and
- (5) Children who have attained their seventeenth birthday and whose continued compulsory attendance, in the opinion of the board of education in charge of the school to which such children belong and are enrolled, results in detriment to good order and discipline and to the instruction of other students and is not of substantial benefit to such children.

(b) In all such cases, the board shall first obtain the recommendation in writing from the director of schools of the system and the principal of the school to which such child or children belong.

(c) No child who is refused attendance in a school nearer to such child's residence having equivalent grade levels and curriculum shall be required to attend public or non-public school as provided in § 49-6-3001.

(d) In addition to the categories of children specified in subsection (a), the local board of education may excuse children from attendance in accordance with guidelines developed by the state board of education for this purpose. The state board of education shall have the guidelines approved by the joint oversight committee on education before implementation.

[Acts 1947, ch. 87, § 3; C. Supp. 1950, § 2442.3; Acts 1955, ch. 97, § 1; 1959, ch. 105, § 1; 1971, ch. 207, § 1; 1972, ch. 842, § 1; 1974, ch. 654, §§ 89, 90; T.C.A. (orig. ed.), §§ 49-1710, 49-1772; Acts 1985, ch. 398, § 2; 1990, ch. 948, § 24; 1992, ch. 535, §§ 79, 80; 1996, ch. 863, § 1; 1997, ch. 392, §§ 3, 6, 7.]