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CALIFORNIA DEPARTMENT OF EDUCATION  
**NEWS RELEASE**

**JACK O'CONNELL**  
State Superintendent  
of Public Instruction

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**Schools Chief Jack O'Connell Issues Statement on Court  
Ruling That Home Schooling is Allowed Under California Law**

SACRAMENTO — State Superintendent of Public Instruction Jack O'Connell made the following statement Friday after the 2nd District Court of Appeal issued a 44-page ruling that declared, "California statutes permit home schooling as a species of private school education."

"I am pleased that the courts have clarified the right of California parents to home school their children. I have respected the right of parents to make educational decisions they feel are in the best interest of their children.

"As head of California's public school system, it would be my wish that all children attend public school, but I understand that a traditional public school environment may not be the right setting for each and every child. I would point out that within California's education system there are many options available, from independent study to charter schools to non-classroom-based programs.

"I recognize and understand the consternation that the earlier court ruling caused for many parents and associations involved in home schooling. It is my hope that today's ruling will allay many of those fears and resolve much of the confusion.

"I also appreciate the caution and concern taken by the court to protect children when their safety becomes an issue."

To access the full ruling, please go to: [Opinion on Rehearing](#) (Outside Source; PDF; 108 KB; 44pp.)

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**Jack O'Connell** — State Superintendent of Public Instruction  
Communications Division, Room 5206, 916-319-0818, Fax 916-319-0100

## CALIFORNIA

<b>Compulsory Attendance Ages:</b>	“between the ages of 6” by Dec. 2 (§ 48200) and under 18 years of age.” California Education Code § 48200, 48400, 48410.
<b>Required Days of Instruction:</b>	175 days, only for public schools.
<b>Required Subjects:</b>	English and must “offer instruction in the several branches of study required to be taught in the public schools.” Grades 1-6: English, mathematics, social sciences, science, fine arts, health, physical education.

**Home School Statute:** None.

**Alternative Statutes Allowing for Home Schools:** Home Schools have 4 options:

**Option 1.** Under § 48222, the individual home school could qualify as a private school by filing an annual private school affidavit:

- a. the instructors must be capable of teaching;
- b. the instruction must be in English;
- c. the instruction must be in the several branches of study required in public schools;
- d. attendance must be kept in a register; and
- e. a private school affidavit must be filed with the Superintendent of Public Instruction between Oct. 1 and Oct. 15 of each school year. Cal. Educ. Code §§ 33190, 48222.

**Option 2.** Homeschoolers could enroll in a private school satellite program and “homeschool” through that private school. The private school “satellite school program” (PSP) must comply with Cal. Educ. Code § 48222 (see #1 above). Many homeschool families have organized these private PSPs which enroll anywhere from two to several hundred families.

On August 8, 2008, the California Court of Appeals for the Second Appellate District ruled that “California statutes permit homeschooling as a species of private school education.” The California Appellate Court defined homeschooling as full-time education in the home by a parent or guardian who does not necessarily possess a teaching credential. The Court concluded that the legislative history in California, although somewhat complicated, confirms the Legislature’s intent that homeschools operate as private schools in California. The Court found it significant that education enforcement officials (the Governor of the State of California and the Superintendent of Public Instruction) at both the state and local levels agree that homeschooling may constitute private schools. The Court concluded that the cases

of *Turner* and *Shinn*, that had been used against homeschoolers, were no longer good precedent and would undermine a practice that has been, if not actively encouraged, at least acknowledged and accepted by the officials and the public for many years in California. (*Jonathan L. v. Superior Court*, 81 Cal.Rptr.3d 571, Cal.App. 2 Dist., 2008)

**Option 3.** The home school could have instruction provided by a certified private tutor (Cal. Educ. Code § 48224).

**Option 4.** The child could be enrolled in an independent study program at home, using the public school curriculum. Cal. Educ. Code § 51745. Under this option, the child is considered a public school student and has to abide by the rules and policy of the public school.

**Teacher Qualifications:** None, if home school registers as a private school, or enrolls in a private school satellite program.

Certification is necessary only if the home school parent chooses to qualify as a private tutor.

**Standardized Tests:** Not required by statute.

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## Private Schools Frequently Asked Questions

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### 1. [How do I get an Affidavit?](#)

The [Private School Affidavit](#) is available online after October 1, 2008. Please check for updates.

Schools without access to the Internet may request a paper Affidavit in writing no earlier than August 25. Written requests may be e-mailed to the Elementary Education Office at [privateschools@cde.ca.gov](mailto:privateschools@cde.ca.gov), or faxed to 916-319-0129, or mailed to:

Elementary Education Office  
Attn: Private School Affidavit  
California Department of Education  
1430 N Street, Room 4401  
Sacramento, CA 95814

Paper affidavits will be mailed out beginning in late September.

**2. Who must file a Private School Affidavit?**

Every person, firm, association, partnership, or corporation offering or conducting a full-time day or boarding school at the elementary or high school level must file an Affidavit (*California Education Code Section 33190*).

**3. What information must be included in the Private School Affidavit or statement in-lieu of the Affidavit?**

*Education Code (EC) Section 33190* requires that the Private School Affidavit include all the information that is set forth in subdivisions (a) – (g) of *EC Section 33190* as follows:

- a. All names, whether real or fictitious, of the person, firm association, partnership, or corporation under which it had done and is doing business
- b. The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation within the State of California
- c. The address, including city and street, of the location of the records of the person, firm, association, partnership, or corporation, and the name and address, including city and street, of the custodian of such records
- d. The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation
- e. The school enrollment, by grades, numbers of teachers, coeducation, or enrollment limited to boys or girls and boarding facilities
- f. That the following records are maintained at the address stated, and are true and accurate: (1) the records required to be kept by *EC Section 48222* (2) the courses of study offered by the institution (3) the names and addresses, including city and street, of the faculty, together with a record of the educational qualifications of each.
- g. Criminal records summary information has been obtained pursuant to *EC Section 44237*

**4. Am I required to use the Private School Affidavit form prepared by the California Department of Education?**

No. However, you are strongly encouraged to use the Affidavit form prepared by the CDE to ensure that you provide all the required information. In lieu of using the CDE form, you may submit a statement that includes all the necessary information. In order to meet the requirements of *EC Section 33190*, subdivision (g), any in-lieu statement must contain the same type of certification that appears on the Private School Affidavit preprinted form, as follows: "To the best of my knowledge and belief, the information contained in this Private School Affidavit is true and accurate, and this school is in compliance with *EC Section 44237* to the extent it applies." In addition, the owner or other head of the private school must sign the statement under "penalty of perjury."

**5. When do I need to file the Affidavit?**

All private schools are required to file an Affidavit each year between October 1 and October 15 (*EC 33190*).

**6. What is the Affidavit used for?**

The Affidavit is a registration document. It is used to report annual information required by law from private, full-time day and boarding schools. For schools reporting six or more students, the information is then used to post the *California Private School Directory*.

**Filing the Private School Affidavit does not mean that the State of California or any accrediting agency has made any evaluation, recognition, approval, or endorsement of the school or course (*EC 33190*). The Affidavit is not a license or authorization to operate a private school.**

**7. Why is it important to file the Affidavit?**

See Question 2. Operators of private schools are required by law to file a Private School Affidavit. In addition, the law provides an exemption from compulsory public school attendance for children who are being instructed in a private, full-time day school (*EC 48200, 48220, 48222*), so long as certain conditions are met: instruction must be provided by persons capable of teaching; and instruction must be in English and offered in the several branches of study required to be taught in California's public schools. In addition, attendance must be kept in a register that indicates every

absence of the pupil from a half day or more of attendance. For the exemption from the compulsory attendance law to be valid, the attendance supervisor of the public school district must verify that the private school has filed the annual Private School Affidavit required by EC Section 33190. If the school has nonprofit tax status, the eligibility of that school's students, teachers and other educational personnel to participate in various federally funded programs is contingent upon the annual filing of the Affidavit.

8. **Is a private school the same as a nonpublic school?**

No. Some private schools are also nonpublic schools; most are not. See the definition that follows.

9. **What is a nonpublic school or certified nonpublic school?**

A nonpublic, nonsectarian school means a private school that is certified by the California Department of Education to provide special education and related services to individuals with exceptional needs pursuant to an individualized education program. The school may serve both public school students and/or private school students. The school may be nonprofit or proprietary.

10. **Does a nonpublic school have to file the Private School Affidavit?**

Yes.

11. **What is the compulsory education law?**

California's compulsory education law (EC 48200) requires each person between six and eighteen years of age to attend public, full-time day school, and requires their parents or guardians to send them, unless legally exempt. The two principal exemptions are (1) instruction in a private, full-time day school, or (2) instruction by a tutor or other person holding a valid California teaching credential for the grade level being taught (EC 48220, 48222, 48224).

12. **Other than traditional public school classrooms, what choices are available for my child's education?**

California law explicitly recognizes four choices available to parents who wish to seek an educational setting other than a traditional public school classroom for their child:

- A. A **tutor** who holds a current California teaching credential for the grade level being taught (EC 48224). The tutor must provide instruction:
  - o In the English language
  - o In all the branches of study required in the public schools
  - o For at least 175 days per calendar year
  - o For at least three hours a day between 8:00 a.m. and 4:00 p.m.

Because the tutor must provide instruction in all branches of study required in the public schools, the Multiple Subject Teaching Credential satisfies the credential requirement at all grade levels. The Single Subject Teaching Credential is not sufficient at any grade level. The Multiple Subject Teaching Credential is valid for kindergarten through grade twelve in self-contained classrooms, whereas the Single Subject Credential authorizes teaching a special subject only, such as math or English. Further credential information is available from the [California Commission for Teacher Credentialing](#) (Outside Source) Web site.

The credentialed tutor may be the parent or any person employed by the parent. A tutor is not required to file the Private School Affidavit.

- B. A **private full-time day school or boarding school** (EC 48222) where instruction is provided by "persons capable of teaching," that keeps an attendance register indicating clearly every absence of the pupil from school for a half day or more during each day the school is maintained during the year, and that provides instruction in the English language and all the branches of study required in California public schools. The Private School Affidavit must be filed annually by the private school.
- C. **Independent study** through a public school district or county office of education (EC 51745 and following), where the student is enrolled in a school of the district and enters into a written agreement, prior to beginning independent study, that specifies the curriculum and methods of study, the arrangements for meeting with the teacher and submitting assignments, and other information.

Independent study is an alternative to classroom instruction that is offered by many public school districts pursuant to EC sections 51745 and following. **Independent study is not an exemption from public school attendance.** Rather, it is an instructional strategy that allows students to carry on their public school education outside the classroom based on a written agreement. The agreement includes requirements consistent with the local school district's course of study. A certificated employee of the district is designated as the "supervising teacher," and this person makes the assignments, evaluates the student's work, and assigns grades.

A child with exceptional needs may participate in independent study only if his or her individualized education program, developed pursuant to EC sections 56340 and following, provides for that participation (EC 51745(c)).

If a student's school district does not offer independent study, parents are encouraged to contact their county office of education regarding the availability of independent study through the county or through other districts in their area. Contact your local school district or county office of education for more information.

**D. Enrollment in a charter school organized in accordance with EC sections 47600 and following.**

A charter school is a public school, and it may provide instruction in any of grades kindergarten through twelve. A charter school is usually created or organized by a group of teachers, parent and community leaders or a community-based organization, and it is usually sponsored by an existing local public school board or county board of education. Specific goals and operating procedures for the charter school are detailed in an agreement (or "charter") between the sponsoring board and charter organizers.

The [Charter Schools](#) Web page is available with more information.

**13. Is home schooling recognized in California as exempting a student from public school attendance?**

California statutes do not explicitly authorize home schooling. Whether a home schooled child is attending a private school, and therefore is exempt from public school attendance, is a decision made by local school districts and law enforcement authorities.

**14. May a parent who is home schooling his or her own child file a Private School Affidavit?**

Yes. A parent offering or providing private school instruction and who meets the requirements of EC Section 33190 may file an Affidavit in the manner described. However, filing such an Affidavit with the CDE does not constitute any opinion by the CDE as to whether a student enrolled in that school is exempt from public school attendance.

**15. I have filed the Private School Affidavit certifying that I maintain all of the required private school records. If the attendance supervisor from the public school district verifies the filing of the Affidavit, am I also required to show the records to the attendance supervisor?**

Yes. EC Section 48222 requires that private schools maintain attendance records in a register that records the absence of a pupil for the school for a half day or more during any day that school is maintained. In addition, EC Section 33190 requires the annual filing of the Affidavit, and EC Section 48222 provides that a child's exemption from public school is not valid until the district's attendance supervisor has verified the filing of the Affidavit. The certification on the Affidavit is not a substitute for showing the attendance records to the attendance supervisor. By reviewing these records, the attendance supervisor can confirm a student's attendance at the private school.

**16. I am planning to use a correspondence course to teach my child at home. The umbrella organization that provides the course also provides testing, assigns the grades, and provides the diploma. Is this an exemption from the compulsory attendance law?**

California law does not recognize correspondence courses as exempting a child from public school attendance. Whether this situation could qualify as private school instruction would depend on whether the requirements specified in EC Section 33190 were met. In addition, the question of whether a home schooled child is attending private school, and therefore is exempt from public school attendance, is a decision made by local school districts and law enforcement authorities.

**17. I filed a Private School Affidavit. How do I get a copy of the form I filed with your department?**

Please make a copy of your Private School Affidavit (certification pages) before you mail them to the CDE. If you have misplaced your copy, please send an e-mail to the Elementary Education Office at [privateschools@cde.ca.gov](mailto:privateschools@cde.ca.gov), or fax to 916-319-0129, or mail to:

Elementary Education Office  
California Department of Education  
1430 N Street, Room 4401  
Sacramento, CA 95814

**18. Could you send me verification that you received my school's Affidavit?**

No verification is routinely provided. Upon written request, a copy of your school's Affidavit will be mailed to you. Please submit an e-mail request to the Elementary Education Office at [privateschools@cde.ca.gov](mailto:privateschools@cde.ca.gov), or fax to 916-319-0129, or mail to:

Elementary Education Office

California Department of Education  
1430 N Street, Room 4401  
Sacramento, CA 95814

However, the fact that a Private School Affidavit has been filed with the CDE is not evidence that the entity actually is a private school, or that the entity has been evaluated or approved by the state or any governmental agency.

19. **I filed an Affidavit listing three students. Why don't I have a CDS code? Why am I not listed in the California Private School Directory?**

The County-District-School (CDS) Code system is an administrative system for tracking schools. Private schools with five or fewer students are not listed in the California Private School Directory.

The filing of the Affidavit is not evidence that the entity is a private school or that the entity has been evaluated or approved by the state or any governmental agency.

The CDE is prohibited by the Budget Act from using funds to compile information on private schools with five or fewer students.

20. **Who can have access to the Private School Affidavits?**

All affidavits are public records and may be requested by anyone.

21. **I have been home schooling and would like to enroll my child in a private or public school. The schools in my area refuse to place my child in what I believe is the appropriate grade level and are not accepting the credits my child has earned through home schooling. May the schools refuse to accept credits earned through home schooling?**

There is no law requiring that "credits" granted by a parent who has been teaching his or her own child be accepted by public or private schools. Both private schools and public schools establish their own policies regarding the evaluation and placement of new enrollees. Both have discretion to make this determination on the basis of assessments such as "end-of-course" tests or other methods they deem suitable.

22. **I am transferring my child from a private school to a public school. The public school will not give my child credit for all his or her courses. Is the public school permitted to refuse credits issued by the private schools?**

California law does not require public schools to accept credits from private schools. Public school districts have the responsibility to evaluate the appropriate placement for a student. The district may make this determination on the basis of assessments, such as "end-of-course" tests or other methods they deem suitable.

23. **I am transferring my child to a different private school, but the private school my child was attending will not release his or her records. What should I do?**

There is no state law governing the release of pupil records by one private school to another.

When a student moves from a private school to a public school, or from a public school to a private school, the law requires that the student's permanent record, or a copy, be transferred by the former school **when requested by the receiving school** (EC 49068).

A private school cannot refuse to transfer student records to a **requesting school** because of any charges, including tuition or fees, that are owed by the student or parent. (*California Code of Regulations*, Title 5, Section 438(c)). However, a private school may keep certain records from the **parents**, if monies are owed for property damage or a failure to return school property, provided that the governing body of the school has established rules governing procedures for withholding those records (EC 48904(b)).

24. **Does the CDE accredit private schools?**

No. California law does not require public or private schools to be accredited, and the State does not accredit schools. Most public high schools are accredited, and many private schools are accredited by a variety of accrediting organizations. For example, the Western Association of Schools and Colleges (WASC) accredits public and private schools. For more information, you may visit the [WASC](#) (Outside Source) Web site or call them at 650-696-1060.

25. **My child is attending a private school. I have a complaint against his or her school/teacher. With whom do I talk if I am unable to reach a resolution with the private school administration?**

Many nonprofit private schools are affiliated with administrative organizations or service agencies that may provide assistance in resolving a complaint. A number of such organizations are listed at [The California Association of Private School Organizations](#) (Outside Source) Web site.

The CDE has no authority over private schools and does not investigate complaints against them. If the complaint cannot be resolved at the school level or with the assistance of the private school organization, you may consider

contacting the following agencies, depending on the nature of the complaint:

- Criminal issues - county child protective services or local law enforcement authorities
- Health and safety issues - child protective services, local county health or fire departments
- Discrimination (based on sex, race, color, religion, ancestry, national origin, disability, or medical condition) - the Office of Civil Rights of the United States Department of Education
- Other complaints - local Better Business Bureau; the Department of Consumer Affairs

**26. Does the CDE have copies of my private school student records, transcripts, or diploma?**

No. CDE does not collect or store private school student records, transcripts, or diplomas.

The only information that the CDE can provide would be the name, address, and telephone number of the custodian of records **stated on the Affidavit last filed by the school**. If you would like to be provided the name, address, and telephone number of the custodian of records listed on the last Affidavit filed with the CDE, please send an e-mail request to the Elementary Education Office at [privateschools@cde.ca.gov](mailto:privateschools@cde.ca.gov), or fax to 916-319-0129, or mail to:

Elementary Education Office  
 California Department of Education  
 Attn: Private School Affidavit  
 1430 N Street, Room 4401  
 Sacramento, CA 95814

Please provide the following information:

- County in which the school was located
- The year the student graduated or was last enrolled
- The name of the school

Student records for private schools that are part of a religious school system, such as Catholic or Seventh-day Adventist schools, may be available through the church headquarters.

For student records for private college or vocational schools, please contact the California Department of Consumer Affairs, [Bureau for Private Postsecondary and Vocational Education \(Outside Source\) Web site](#).

Parents who are concerned about the maintenance of student records at a private school should make this inquiry before enrolling their child or ask the school their child attends what plan the school has for storing student records in the event the school should close.

**27. What do I do if the telephone number listed on the Affidavit is disconnected?**

The last Affidavit filed by a closed private school is the most complete and current information held by CDE.

**28. What if my private school did not file an Affidavit?**

If your school did not file an Affidavit, the CDE will have no record and cannot provide any information.

**29. I am planning to open a private school. What do I need to do?**

You can access the [California Law \(Outside Source\) Web site](#). The compulsory education law and the exemptions from public school attendance are in the *EC* sections 48200, 48220, 48222, and 48224. The requirement for private elementary and high schools to file an annual Affidavit is in *EC* Section 33190. The prohibition on hiring persons who have been convicted of certain crimes is in *EC* Section 44237.

**30. How can I get a list of private schools in my area? How can I get a list of private schools in California?**

You can view the [private schools](#) data of all private elementary and high schools that have filed an Affidavit with the CDE and have six or more students. The schools are listed alphabetically by name within each county. A listing is not evidence that the entity is actually a private school, nor that the entity has undergone any evaluation by the state or been approved in any way by any state or other government agency.

Each school listing includes the following information:

- Name of the school
- Contact information
- Enrollment
- Religious affiliation (if any)
- Gender restrictions (boys or girls)
- Boarding information
- Special education programs (if any)

**31. How do I locate a good private school in my area?**

The CDE has no authority over private schools and neither collects any information on student performance nor evaluates private school instructional programs. Because private schools reflect a diversity of philosophical orientations, curricular emphases, and instructional methods, no single test or evaluation instrument can provide a valid indicator of quality across schools. Given such diversity, most private schools employ evaluation procedures (which frequently include various tests) that are linked to their particular educational goals and programs of instruction. When visiting a private school, you should feel free to ask its administrators to explain how student growth and achievement are evaluated and how the school compares its overall achievement to that of other schools.

A number of private school organizations may be of assistance in locating a private school in your area. Reference to this organization ([The California Association of Private School Organizations](#) [Outside Source]) and the schools represented does not imply an endorsement on the part of the CDE.

**32. Does the CDE provide a rating or ranking of private schools? What information is available regarding private schools?**

The CDE neither collects nor has access to comparative data regarding private schools. The following guidance provided by the California Association of Private School Organizations (CAPSO) may be helpful to those interested in comparing and evaluating various private schools:

Private schools are committed to the principle of direct accountability to students and their parents. Accountability is facilitated when schools provide timely, credible and appropriate information about students' growth and achievement to all partners in the learning process – students, parents, teachers, and school leadership.

Private schools use a variety of evaluative measures and procedures to collect, organize, and report such information. These may include a variety of tests (teacher-created, diagnostic, standardized, norm and/or criterion-referenced), assessments of student work, both by teachers (in the form of detailed observations, reports and conferencing), students (through journals and self-assessments), or both (e.g., through portfolio assessment).

Parents who are interested in choosing a private school for their child(ren) should make a point of asking the principal, head of school, or other appropriate administrator, how the school assesses, interprets, and reports student growth and achievement. If a school administers a standardized test, ask for information regarding the school's performance in comparison to other schools.

Keep in mind that tests are not the only means of collecting information about student progress (and teacher effectiveness), and that many private schools pursue important goals (e.g. moral development, creativity, holistic thinking, etc.) that are not easily or meaningfully captured by a test score. If a school claims to pursue such goals, ask how student growth is evaluated.

Finally, parents should also ask what a school does with the evaluative information it collects. A useful evaluation system not only sheds light upon student progress, it also provides important feedback for teacher improvement and curriculum development. Good schools take pride in their approach to evaluation.

**33. I am a teacher and am looking for a position in a private school in California. Where do I start?**

Contact the private schools directly. You may access the private school directory/database at [The California Association of Private School Organizations](#) (Outside Source) Web site or the [California School Directory](#).

Questions: Elementary Education Office | [privateschools@cde.ca.gov](mailto:privateschools@cde.ca.gov) | 916-319-0839

Last Reviewed: Friday, January 30, 2009