

Selected excerpts of the Tennessee Constitution

[Since the Tennessee Constitution is foundational in establishing limits to the authority of state government, knowledge of it is essential for comprehending the Tennessee Code Annotated. Get a copy of the entire Constitution (about 20 pages) and highlight the portions relevant to your freedoms to educate your children. Without knowledge it is difficult to defend the rights of the oppressed. In the words of Thomas Jefferson, "Eternal vigilance is the price of liberty."]

ARTICLE I (Declaration of Rights)

Sect. 1. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of those ends they have at all times, an unalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.

Sect. 2. That government being instituted for the common benefit, the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

Sect. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any minister against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishment or mode of worship.

Sect. 6. That the right of trial by jury shall remain inviolate

Sect. 7. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offenses are not particularly described and supported by evidence, are dangerous to liberty and ought not be granted.

Sect. 8. That no man shall be taken or imprisoned, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers, or the law of the land.

Sect. 9. That in all criminal prosecutions, the accused hath the right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and in prosecutions by indictment or presentment, a speedy trial, by an impartial jury of the county in which the crime shall have been committed, and shall not be compelled to give evidence against himself.

Sect. 14. That no person shall be put to answer any criminal charge but by presentment, indictment or impeachment.

Sect. 17. That all courts shall be open; and that every man, for injury done him in his lands, goods, person, or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the state in such manner and in such courts as the legislature may by law direct.

Sect. 19. . . . The free communication of thoughts and opinions, is one of the invaluable rights of man and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

Sect. 20. That no retrospective law, or law impairing the obligations of contracts, shall be made.

Sect. 23. That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address of remonstrance.

Sect. 25. . . . That martial law, in the sense of the unrestricted power of military officers, or others, to dispose of the persons, liberties or property of the citizen, is inconsistent with the principles of free government, and is not confided to any department of the government of this state.

ARTICLE IX (Disqualifications)

Sect. 1. Whereas Ministers of the Gospel are by their profession, dedicated to God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore, no Minister of the Gospel, or priest of any denomination whatever, shall be eligible to a seat in either House of the Legislature.

Sect. 2. No person who denies the being of God, or a future state of rewards and punishments, shall hold any office in the civil department of this state.

ARTICLE XI (Miscellaneous Provisions)

Sect. 12. *The State of Tennessee recognizes the inherent value of education and encourages its support. The General assembly shall provide for the maintenance, support, and eligibility standards of a system of free public schools.* The General Assembly may establish and support such post-secondary educational institutions, including public institutions of higher learning, as it determines. [Emphasis added]

Sect. 16. The declaration of rights hereto prefixed is declared to be a part of this Constitution of this State, and shall never be violated on any pretense whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the bill of rights contained is excepted out of the General powers of the government, and shall forever remain inviolate.

Selected Tennessee Statutes Concerning Education

(see www.Lexisnexis.com/hottopics/tncode)

Section § 49-6-3001. School age—Entrance—Attendance—Withdrawal.

(a) The public schools shall be free to all persons residing within the state who are above FIVE (5) years of age or who will become FIVE (5) years of age [. . .] on or before August 15 [. . .].

(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 August 15 [. . .] may enter at the beginning of the term the public school designated by the local board of education having appropriate jurisdiction; provided, that the child enters within thirty (30) days after the opening day of the term.

(2)(A) 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.

(B) Notwithstanding subdivision (b)(2)(A), if the director of schools finds through evaluation and testing, at the request of the parent or legal guardian, that a child who is five (5) years of age on or before September 30 is sufficiently mature emotionally and academically, then the child may be permitted to enter kindergarten.

(3) Where a pupil meets the requirements of the state board of education for transfer or admission purposes, as determined by the commissioner of education, the 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 the child or children to attend public or non-public school, and in event of failure to do so, shall be subject to the penalties provided in this part. [. . .]

(2) Subdivision (c)(1) does 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 a (GED®). Any institution or organization that 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 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) As used in 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 that 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 the parent or other person having legal custody of a child, and agreed to by the respective local board of education, may withdraw the 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 the local board of education, or in a non-public school.

(5) A parent or guardian who believes that the 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 that the child would attend for a one (1) semester or one (1) year deferral in required attendance. The 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 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.

(d) . . .

Subsection § 49-6-3005(c)*. Children excused from compulsory attendance. 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.

[*See also § 49-6-3005(a), (b), & (d).]

Section § 49-50-801. Church-related schools. (a) As used in this section,

unless the context otherwise requires, "church-related school" means a school operated by denominational, parochial or other bona fide church organizations, that are required to meet the standards of accreditation or membership of the Tennessee Assoc. of Christian Schools, the Assoc. of Christian Schools International, the Tennessee Assoc. of Independent Schools, the Southern Assoc. of Colleges and Schools, the Tennessee Assoc. of Non-Public Academic Schools, the Tennessee Assoc. of Church Related Schools, the Tennessee Alliance of Church Related Schools, or a school affiliated with Accelerated Christian Education, Inc.

(b) The state board of education and local boards of education are prohibited from regulating the selection of faculty or textbooks or the establishment of a curriculum in church-related schools.

(c) The state board of education and local boards of education shall not prohibit or impede the transfer of a student from a church-related school to a

public school of this state. Local boards may, however, place students transferring from a church-related school to a public school in a grade level based upon the student's performance on a test administered by the board for that purpose. In local school systems where the local board of education requires tests for students transferring to that system from another public school system, the same test shall be administered to students transferring to such system from church-related schools.

(d) Church-related schools shall be conducted for the same length of term as public schools.

(e) Nothing in this section shall be interpreted as prohibiting church-related schools from voluntarily seeking approval by the state board of education, nor prohibiting the state board of education from extending such approval when it is voluntarily sought.

FYI See also **Subsection § 49-6-3007(c). List of Students . . .**

Section § 49-6-3050. Home schools. (a) (1) A "home school" is a school conducted or directed by a parent or parents or a legal guardian or guardians for their own children. Public school facilities may be used by home school participants with the approval of the principal of the school, but this permissive authority shall not be construed to confer any right upon the participants to use public school facilities. If approved, use shall be in accordance with rules established by the local board of education.

(2)(A) Home schools that teach kindergarten through grade twelve (K-12), where the parents are associated with and where students are enrolled with a church-related school, as defined by § 49-50-801, that are supervised by the church-related school's director and that administer or offer standardized achievement tests, are exempt from this section.

(B) Parent-teachers who register with an organization, as defined by § 49-50-801, for conducting a home school for students in grades nine through twelve (9-12) shall possess at least a high school diploma or general education development certificate (GED®).

(3) A parent-teacher may enroll the parent's home school student or students in a church-related school, as defined in § 49-50-801, and participate as a teacher in that church-related school. Such parent-teacher shall be subject to the requirements established by the church-related school for home school teachers and exempt from the rest of this section.

(b) Except for home schools operated under subdivision (a)(2) or (a)(3), a parent-teacher conducting a home school shall comply with the following requirements:

(1) Provide annual notice to the local director of schools prior to each school year of the parent-teacher's intent to conduct a home school and, for purpose of reporting only, submission to the director of schools of the names, number, ages and grade levels of the children to be home schooled, the location of the school, the proposed curriculum to be offered, the proposed hours of instruction and the qualifications of the parent-teacher relative to subdivision (b)(4). Information contained in the reports may be used only for record keeping and other purposes for which similar information on public school students may be used in accordance with guidelines, rules and regulations of the state board of education. The director of schools or the director's designee shall ensure that attendance teachers are informed of parents' rights to conduct a home school pursuant to § 49-6-3001(c)(4), subsection (a) and § 49-50-801 upon employment of the attendance teachers and at the beginning of each school year;

(2) Maintenance of attendance records, subject to inspection by the local director of schools, and submission of these records to the director of schools at the end of each school year;

(3) Instruction for at least four (4) hours per day for the same number of instructional days as are required by state law for public schools;

(4) Possession of a high school diploma or GED® by the parent-teacher;

(5) (A) Administration by the commissioner of education, or the commissioner's designee, or by a professional testing service that is approved by the LEA, to home school students of the same state board approved secure standardized tests required of public school students in grades five (5), seven (7) and nine (9); however, the test for grade nine (9) shall not be the high school proficiency test required by § 49-6-6001;

(B) (i) Tests administered by the commissioner or the commissioner's designee shall be at the same time tests are administered to public school students, and shall be administered in the public school that the home school student would otherwise be attending, or at whatever location students at such school are tested. Tests administered by the commissioner, or the commissioner's designee, shall be administered without charge. The parent-teacher may be present when the home school student is tested in grade five (5). Both parent-teacher and home school student shall be under the supervision of the test administrator;

(ii) Tests administered by a professional testing service shall be administered within thirty (30) days of the date of the statewide test. Tests administered by a professional testing service shall be administered at the expense of the parent-teacher;

(iii) All test results from either administration by the commissioner or the commissioner's designee, or by a professional testing service, shall be provided to the parent-teacher, the director of schools and the state board of education;

(6) (A) Consultation between the director of schools and the parent-teacher if the home school student falls three (3) to six (6) months behind the home school student's appropriate grade level, based on the test required in subdivision (b)(5);

(B) If a home school student falls six (6) to nine (9) months behind the home school student's appropriate grade level in the home school student's reading, language arts, mathematics or science test scores or such of these areas, regardless of the term used on the test, as are actually tested for the student's grade level, based on the tests required in subdivision (b)(5), the parent shall consult with a teacher licensed by the state board of education and having a certificate or endorsement in the grade level or course or subject matter in which consultation is sought. The parent and teacher shall design a remedial course to help the child obtain the child's appropriate grade level. The parent shall report the remedial course for the child to the local director of schools;

(C) (i) If a home school student falls more than one (1) year behind the home school student's appropriate grade level in the home school student's comprehensive test score for two (2) consecutive tests based on the tests required in subdivision (b)(5) and if the child is not learning disabled in the opinion of a teacher licensed to teach at the child's grade level, the local director of schools may require the parents to enroll the child in a public, private or church-related school, in accordance with this part, and the parents shall have all rights provided by law to respond to this requirement;

(ii) If a test indicates that a home school student is one (1) year or more behind the home school student's appropriate grade level, the same test shall be administered to the child not more than one (1) year later, notwithstanding the required testing schedule in subdivision (b)(5)(A);

(7) Proof shall be submitted to the local director of schools that the home school student has been vaccinated as required by § 49-6-5001 and has received any other health services or examinations as may be required by law generally for children in this state; and

(8) Submission by the home school student entering public schools to the evaluation test provided for in § 49-50-801, if the local system requires the test, or the tests required by the state board of education for transfer students.

(c) In the event of the illness of a parent-teacher, or at the discretion of the parent-teacher, a tutor, having the same qualifications that would be required of a parent-teacher teaching the grade level or course, may be employed by the parent-teacher.

(d) The department of education shall provide annually to home schools with which they have contact information about meningococcal disease and the effectiveness of vaccination against meningococcal disease at the beginning of every school year. This information shall include the causes, symptoms and the means by which meningococcal disease is spread and the places where parents and guardians may obtain additional information and vaccinations for their children. This information may be provided electronically or on the department's web site. Nothing in this subsection (d) shall be construed to require the department of education to provide or purchase vaccine against meningococcal disease.

(e)(1) If any of the public schools established under the jurisdiction of an LEA are members of an organization or an association that regulates interscholastic athletic competition, and if such organization or association establishes or maintains eligibility requirements for home school students desiring to participate in interscholastic athletics at a member school, then the LEA shall permit participation in interscholastic athletics at those schools by home school students who satisfy the eligibility requirements established by the organization or association.

(2) This subsection (e) does not guarantee that a home school student trying out for an interscholastic athletics team will make the team or supplant the authority of coaches or other school officials in deciding who makes the team. This subsection (e) is intended to guarantee only that the home school student shall not be prohibited from trying out for an interscholastic athletics team, if the student is eligible under the rules of the organization or association, solely by reason of the student's status as a home school student.

(3) This subsection (e) shall not be construed to limit or supplant the authority of the organization or association to determine eligibility and to establish, modify and enforce its rules and eligibility requirements, including those applicable to home school students.

(f) . . .