



# Start a School

AN EDUCATION FREEDOM FOUNDATION INITIATIVE

## Massachusetts

### Private Schools

A private school located in a town is required to seek approval from the school committee of that town, whether or not children from the town attend the school. A school committee's approval under [G.L. c. 76, § 1](#), means that Massachusetts children attending the private school may do so without violation of the compulsory attendance law. School committee approval is neither an evaluation of program quality nor an endorsement of any particular school. The decision to enroll a child in, or to withdraw a child from, a particular private school is one that parents must make.

### Steps to Start a Private School

1. If you know the location of your planned school, you must review and comply with any local building zoning, public safety, and inspection regulations. Contact your local Department of Health to find out more about specific building codes, fire inspection regulations, and food, water, and radon.
2. Select a name for your school. Retain this name throughout the duration of the school's operation.
3. Designate a Chief Administrative Officer. Select a title, such as Director, Principal, Superintendent, etc.
4. Register as a corporation. This is usually a for profit LLC. Register with your state's Division of Corporations.
5. A Federal Employer Identification Number (FEI/EIN) will be required after registering as a company. Apply with the IRS online at:  
<https://sa.www4.irs.gov/modiein/individual/index.jsp>
6. Things to consider
  - 6.1. Accreditation: is optional. OptimaEd has been accredited by Cognia.
  - 6.2. Teacher Certification: Not required.
  - 6.3. Registration: Is not required.
  - 6.4. Licensing: Business licensing may be required by local government.
  - 6.5. Approval: Is required. See information below.
  - 6.6. Length of School Year and Days: See advisory included below.
  - 6.7. Curriculum: is "equivalent" to that offered in the local school system.

- 6.8. State Testing: The Department suggests that the “thoroughness and efficiency” criteria can be interpreted to include approval based on the private school’s student performance assessment procedures
- 6.9. Health and Safety Requirements: Minimal requirements. See statutes below.
- 6.10. Nursing and Health: Schools may request health screening tests.

### **Sample Criteria for Approval of a Private School by a School Committee**

1. Population to be Served  
Admissions criteria; documentation of school's enrollment
2. Physical Plant/Safety
  - A. The school shows evidence of current:
    - i. Certificate of Occupancy
    - ii. Fire inspection
    - iii. Safety inspection
    - iv. Elevator inspection, if applicable
    - v. Compliance with lead paint poisoning prevention (for children under 6 years old)
    - vi. Compliance with other applicable federal and state health and safety standards (e.g., PCB, asbestos inspections, handicap accessibility)
    - vii. Copies of valid safety and health inspection certificates
  - B. The site, plant, and equipment adequately support the program and are operated to ensure the safety and health of the students.
3. Curriculum  
The curriculum offered is "equivalent" to that offered in the local school system generally and, specifically, in terms of the following instructional areas:
  - i. Mathematics
  - ii. Science and Technology
  - iii. History and Social Science
  - iv. English
  - v. Foreign Languages
  - vi. The Arts
  - vii. Physical Education
4. Educational Materials  
Textbooks and individual instructional materials, including computers and other technology, are adequate.
5. School Staff  
The instruction provided is "thorough and efficient" based on:
  - i. Teacher Qualifications
  - ii. Adequate Student/Teacher Ratio
  - iii. Regular Evaluation of Staff
  - iv. The school principal reviews criminal offender record information (CORI) of current and prospective employees and volunteers, as required by law.
6. Administration  
The school has a clearly defined organization that facilitates its objectives.
7. Records

- A. The school maintains an adequate system of student records (e.g., attendance, health, discipline, progress reports).
  - B. The student records are kept in a secure and organized manner that is consistent with federal and state student record laws to the extent applicable.
  - C. The school maintains and timely provides transcripts in response to requests of students and former students in accordance with G.L. c. 71, § 34A.
  - D. The school is prepared efficiently to transfer transcripts of all students and former students to the Massachusetts Department of Elementary and Secondary Education and/or other schools should it cease operation, in accordance with G.L. c. 71, § 34G.
8. Student Services  
The school provides adequate pupil personnel services for all students (e.g., health care procedures, guidance and counseling programs, discipline policy).
  9. Financial Support
    - A. The school provides evidence of financial solvency and resources to sustain the educational program.
    - B. The school presents documentation of its legal status. These may include copies of the articles of incorporation and the certification of tax-exempt status.
  10. Student Learning Time  
The school provides adequate student learning time (length of school year and school day) and hours of instruction in each subject.
  11. Student Performance Assessment

## Private School Statutes & Rules

*The Education Freedom Foundation has relied on the [U.S. Department of Education's State Regulation of Private and Home Schools Map](#) for relevant statutes. Over time, the state pages on this map have been updated since their initial creation. In some cases, states have changed their laws without these updates being reflected on the map. Given the various methods each state uses to publicize changes to its laws, the most recent information for the Start-A-School project was often obtained directly from the U.S. Department of Education website. Users are encouraged to verify any information before making decisions based on it.*

## Accreditation, Registration, Licensing, and Approval

- Accreditation: Is optional
- Registration: requirements
- Licensing: no requirements
- Approval: mandatory
  - Attendance at a private school satisfies the compulsory attendance requirement if the school is approved by the school committee. [Massachusetts General Laws \(Mass. Gen. Laws\) chapter \(c.\) 76, §1](#). (The “school committee” in Massachusetts is the local educational agency.)
  - School committees will approve a private school when satisfied that its instruction equals the public schools in the same town in thoroughness and efficiency and that private students are making the same progress as public school students. A school committee may not withhold approval based on the school’s religious teaching. [Mass. Gen. Laws c. 76, §1](#).

## Curriculum

- There is no mandate regarding what courses private schools shall teach. The Department suggests that the “thoroughness and efficiency” criteria can be interpreted to include approval based on the private school’s program of studies and curriculum. [Advisory on Approval of Massachusetts Private Schools Pursuant to Mass. Gen. Laws c. 76, § 1.](#)
- Massachusetts Art Week is celebrated the last week of May and private schools are encouraged to observe the tradition by the display of works of art and appropriate exhibitions and ceremonies. [Mass. Gen. Laws c. 6, §15D.](#)

## Health and Safety Requirements

- The principal or chief administrator of a private school must obtain at least every three years all available criminal offender record information from the department of criminal justice information services for any current or prospective employee or volunteer at the school “who may have direct and unmonitored contact with children, including any individual who regularly provides school related transportation to children.” The principal or chief administrator of a private school must also obtain a state and national fingerprint-based check for all current and prospective school employees “who may have direct and unmonitored contract with children.” Whether to require fingerprint-based check for volunteers is left to the discretion of each school. [Mass. Gen. Laws c. 71, §38R.](#)
  - The fingerprint-based background check requirements for public and private schools are spelled out in the regulations of the Department at [603 Code of Massachusetts Regulations \(CMR\) 51.00.](#)
- Private school teachers who have reasonable cause to believe a child under 18 is suffering physical or emotional injury resulting from abuse or neglect are under an obligation to immediately report the condition either to the Massachusetts Department of Children and Families or to the school administrator, who is then responsible for notifying the Department of Children and Families. [Mass. Gen. Laws c. 119; §§21 and 51A.](#)
- Persons apprehended for manufacturing or distributing controlled substances within 300 feet of a private elementary, vocational, or secondary school will receive a mandatory sentence of not less than two years. [Mass. Gen. Laws c. 94C, §32J.](#)
- Each institution of secondary education must file at least annually a report with the board of education certifying that the school has informed its students of the hazing prohibition and adopted and disseminated a disciplinary policy on the organizers and participants of hazing. [Mass. Gen. Laws c. 269, §19.](#)
- Fires or explosions resulting in a loss of life must be reported in writing within 48 hours, excluding Sundays and holidays, to the fire marshal. Reports must be on forms furnished by the Massachusetts Department of Fire Services, and contain a statement of all known facts relating to the cause and origin of the fire or explosion, the extent of the damage, the insurance upon the damaged property, and other information as required. The fire marshal shall keep or cause to be kept a record of all fires or explosions occurring in the

state, and ensure that the results of such investigations and records are open to public inspection. [Mass. Gen. Laws c. 148, §2.](#)

- Private schools are subject to the [Massachusetts Pesticide Control Act. Mass. Gen. Laws c. 132B; §§1 and 2.](#)

### **Length of School Year and Days**

Massachusetts' law does not specify a required length of school year for private schools. However, a memorandum put out by the Massachusetts Department of Elementary and Secondary Education (Department) suggests a school committee include in the criteria for approval adequate student learning time. Student learning time includes the number of school days, and hours in a school day. [Advisory on Approval of Massachusetts Private Schools Pursuant to Mass. Gen. Laws c. 76, § 1](#)

### **Nursing and Health**

- Pupils attending private schools may receive screening for sight, hearing, and other physical defects through the local school committee or board of health at the request of a parent/guardian, providing the private school is approved and does not discriminate in its entrance requirements on the basis of race or color. [Mass. Gen. Laws c. 71, §57.](#)

### **Professional Development**

- By statute, one of the 14-member Massachusetts Educational Communications Commission must be a representative of private elementary and secondary education. [Mass. Gen. Laws c. 6, §158.](#)

### **Public Aid for Private Education**

- Constitutional Provisions: The Massachusetts Constitution provides that no appropriation of public money may be made to aid a primary or secondary school that is not publicly owned and under the exclusive control of public officers authorized by the Commonwealth. [Mass. Const. Ann. Amend. Art. 18 §2.](#)
- Programs for financial assistance for attendance at private schools: No such programs currently exist.

### **Recordkeeping and Reports**

- The supervisory officers of all private schools must report the name, age and residence of any child enrolled in the school to the superintendent of schools in the town where the children reside within 30 days of enrollment. If a child withdraws from the school, the officers must notify the superintendent within 10 days. [Mass. Gen. Laws c. 72, §2.](#)
- The local superintendent of schools files an annual report with the commissioner of education on or before May 1<sup>st</sup> on the number of pupils enrolled in nonpublic schools within the district. The information is collected during the months of January and February. [Mass. Gen. Laws c. 72, §2A.](#)

- Private school administrators and teachers are required to provide information or reports requested by any justice relating to the attendance, conduct, and standing of any pupil enrolled, if the pupil is awaiting court examination or trial or is at that time under the supervision of the court. [Mass. Gen. Laws c. 119, §69.](#)
- Persons operating an education institution have an obligation to provide a student with his or her written transcript upon the student’s request. The first copy must be provided free. Schools may charge a fee for duplicates not exceeding \$1 for each page, but not exceeding \$5 for an entire transcript. Anyone denied a transcript may petition the courts for relief. [Mass. Gen. Laws c. 71, §§34A](#) and [34B.](#)
- If a private school closes, the owner must transfer all current and former students’ transcripts to the Department or to the school to which a current student has transferred. [Mass. Gen. Laws c. 71, §34G.](#)

### **Reimbursement for Performing State and Local Functions**

- No state policy currently exists.

### **Special Education**

- If appropriate, publicly funded eligible students with disabilities requiring special education may be placed in a public or approved private special education program in accordance with [603 CMR 28.09 \(1\).](#) [Mass. Gen. Laws c. 71B, §10.](#)
- School committees may authorize the prepayment of tuition of a publicly place student with disabilities, for a period not exceeding three months, to any approved private school. [Mass. Gen. Laws c. 71, §71D.](#)
- Eligible students with disabilities who attend private school at private expense are entitled to special education designed to meet their needs. The school district where the student with disabilities is a resident must provide genuine opportunities to participate in the public school special education program consistent with the state constitutional limitations. Eligible students are entitled to an individualized education program (IEP). Services provided or arranged for by the district pursuant to an IEP, if paid for with state or local funds, must be provided in a public facility or other public or neutral site. If services are funded only with federal monies, they may be provided on private school grounds. [Administrative Advisory SPED 2007-2: IDEA-2004 and Private School Students \(Updated July 2008\).](#)

### **Tax Exemption**

- Private school property is exempt from property taxation as a “literary, benevolent, charitable and scientific institution.” [Mass. Gen. Laws c. 59, §5.](#) [Board of Assessors v. Garland School of Home Making, 6 N.E.2d 374 \(1937\).](#)

### **Teacher Certification**

- No state policy currently exists.

## Technology

- Private schools are eligible to receive grants from the Massachusetts Science, Technology Engineering, and Mathematics Grant Fund with the purpose of increasing the number of qualified science, technology, engineering and mathematics teachers and improving the course offerings in the areas of science, technology, engineering and mathematics. [Mass. Gen. Laws c. 29, §2MMM](#).

## Testing

- The Department suggests that the “thoroughness and efficiency” criteria can be interpreted to include approval based on the private school’s student performance assessment procedures. [Advisory on Approval of Massachusetts Private Schools Pursuant to Mass. Gen. Laws c. 76, § 1](#).

## Textbooks

- The use of state or local funds to pay for textbook loans to pupils of private schools violates the state constitution. [Bloom v. School Committee of Springfield, 379 N.E.2d 578 \(1978\)](#).
- The Department suggests that the “thoroughness and efficiency” criteria can be interpreted to include approval based on the private school’s textbooks and materials. [Advisory on Approval of Massachusetts Private Schools Pursuant to Mass. Gen. Laws c. 76, § 1](#)

## Transportation

- Students who attend approved private schools are entitled to the same rights and privileges to transportation to and from school as are provided by law for public school students, within specified limits. [Mass. Gen. Laws c. 76, §1](#).
- Street or elevated railway companies must provide special rates for public and private school students during the days or evenings when school is in session not to exceed one-half of the regular fare. [Mass. Gen. Laws c. 161, §108](#).

## Resources

### Contact Information – State and Federal Departments of Education

- Massachusetts Department of Elementary and Secondary Education  
75 Pleasant St.  
Malden, MA 02148-4906  
Phone: (781) 338-3111  
Fax: (781) 338-3770  
Email: [PrivateSchools@doe.mass.edu](mailto:PrivateSchools@doe.mass.edu) or [www@doe.mass.edu](http://www@doe.mass.edu)  
Website: <http://www.doe.mass.edu/PrivateSchools@doe.mass.edu>

- U.S. Department of Education, [Massachusetts](#)

### **Information and Legislative**

- [Advisory Opinion on Approval of Massachusetts Private Schools](#)
- [General Laws of Massachusetts](#)

### **School Choice Programs**

Massachusetts currently does not have an Education Savings Account (ESA) program.