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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable James E. Hedgpeth, Jr.  
District Attorney  
Etowah County District Attorney's Office  
800 Forest Avenue Suite 43  
Gadsden, Alabama 35901-3641

Community Notification Act – Residence  
Requirements – Schools - Property

A convicted sex offender may not establish  
a residence within 2000 feet of the ARC-  
Etowah.

Dear Mr. Hedgpeth:

This opinion of the Attorney General is issued in response to your request.

QUESTION

May a convicted sex offender, as defined by the  
Community Notification Act, establish a residence  
within one thousand feet of the ARC-Etowah? Spe-  
cifically, does the ARC-Etowah qualify as a "school"  
under section 15-20-21 of the Code of Alabama?

FACTS AND ANALYSIS

Section 15-20-26(a) of the Code of Alabama provides that "no adult  
criminal sex offender shall be allowed to establish a residence or accept  
employment within 2000 feet of the property on which any school or child care  
facility is located." ALA. CODE § 15-20-26(a) (Supp. 2000). Section 15-20-  
21(2) of the Code defines "child care facility" as "[a] licensed daycare center, a  
licensed child care facility, or any other child care service that is exempt from  
licensing pursuant to Section 38-7-3." ALA. CODE § 15-20-21(2) (Supp. 2000).

The ARC-Etowah, located at 435 East Chestnut Street, Gadsden, Alabama,  
is an after school learning center for children with mental disabilities. It is

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certified by the State Department of Mental Health and Mental Retardation under the title "After School Enrichment Program/Temporary care services, Fifty (50) persons." The ARC-Etowah operates as a daycare and holds a six-month daycare permit issued by the State Department of Human Resources.

Although the ARC-Etowah has not yet obtained a permanent license to operate as a daycare, the six-month permit held by the ARC-Etowah and issued by the State Department of Human Resources operates as a temporary license. Therefore, the ARC-Etowah falls within the statutory definition of a "child care facility." Accordingly, under section 15-20-26(a) of the Code of Alabama, an adult criminal sex offender may not establish a residence within 2000 feet of the ARC-Etowah.

Because the ARC-Etowah qualifies as a "child care facility" under section 15-20-21(2) of the Code of Alabama, which prevents a convicted sex offender from establishing a residence within 2000 feet, the question of whether the ARC-Etowah qualifies as a "school" under section 15-20-21(9) need not be addressed.

### CONCLUSION

The ARC-Etowah is a "child care facility" as defined by section 15-20-21(2) of the Code of Alabama. Section 15-20-26(a) prohibits a convicted sex offender from establishing a residence within 2000 feet of a "child care facility." Therefore, a convicted sex offender may not establish a residence within 2000 feet of the ARC-Etowah.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Andrew W. Christman of my staff.

Sincerely,

BILL PRYOR  
Attorney General  
By:



CAROL JEAN SMITH  
Chief, Opinions Division

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