

PENNSYLVANIA

- Compulsory Attendance Ages:** from the time the child enters school, “which shall not be later than the age of eight (8) years, until the age of seventeen (17) years.” Purdon’s Pennsylvania Statutes Annotated, title 24, § 13-1326. School districts of the first class (only Philadelphia) may establish the compulsory school age at no earlier than six. Philadelphia lowered the age to six beginning with the 2008-2009 school year. This change does not apply to children whose parents plan to conduct a home education program for them and file a notice of same with the superintendent of the school district. § 21-2103(8).
- Required Days of Instruction:** 180 days or 900 hours at the elementary level; 180 days or 990 hours at the secondary level. Pa. Stat. Ann. tit. 24, § 13-1327.1(c).
- Required Subjects:**
1. Elementary level: English, to include spelling, reading, and writing; arithmetic; history of Pennsylvania and United States; civics; health and physiology; physical education; music; art; geography; science; and safety education, including regular and continuous instruction in the danger and prevention of fires.
 2. Secondary level: English, to include language, literature, speech and composition; science, geography; social studies, to include civics, world history, history of the United States and Pennsylvania; mathematics, to include general mathematics, algebra and geometry; art; music; physical education; health; and safety education, including regular and continuous instruction in the dangers and prevention of fires. High school credit requirements: 4 credits of English, 3 credits of math, 3 credits of science, 3 credits of social studies, and 2 credits of arts and humanities. § 13-1327.1(c-d)

Parents have four options to teach their children at home:

Option I: Home School Statute. Pa. Stat. Ann. tit. 24, § 13-1327.1 (SB 154; passed December 1988).

1. Parent/supervisor must file a notarized affidavit with the local superintendent prior to the commencement of the home education program and annually by August 1 thereafter. The affidavit must include:
 - a. the name of the parent/supervisor, name and age of children, address, and telephone number;
 - b. assurance that subjects are taught in English;
 - c. “outline of proposed education objectives by subject area”;

- d. evidence of immunization;
- e. receipt of health and medical services required by law;
- f. that the home education program will comply with § 13-1327.1; and
- g. a certification that the supervisor, all adults living within the home, and persons having legal custody of the children have not been convicted of certain criminal offenses within the past five years.

The affidavit “shall be satisfactory evidence” of compliance with the law. § 13-1327.1(b)(1). “The required outline of proposed education objectives shall not be utilized by the superintendent in determining if the home education program is out of compliance.” § 13-1327.1(b)(1).

2. Any student who has been identified under the federal Individuals with Disabilities Education Act (IDEA) as needing special education services (excluding those identified as gifted and/or talented) must have his home education program approved by a state-certified special education teacher or a licensed clinical or school psychologist. The written approval must be submitted with the notarized affidavit. § 13-1327(2)(d)
3. Parent/supervisor must annually maintain and provide the superintendent with “certain documentation. This is due by June 30th:”
 - a. a portfolio of records and materials. This includes a “log ... which designates by title the reading materials used, samples of any writings, worksheets, workbooks or creative materials used or developed by the student.” § 13-1327.1(e)(1);
 - b. “An annual written evaluation of the student’s educational progress” by (1) a licensed psychologist (2) or, a teacher certified by the state, (3) or a non/public school teacher or administrator (who must have at least two years teaching experience in the last ten years in public or nonpublic schools). At the request of the supervisor, persons with other qualifications may conduct the evaluation with the prior consent of the local superintendent. The evaluation shall be based on an interview and review of the portfolio and it “shall certify whether or not an appropriate education is occurring.” § 13-1327.1(e)(2);

According to *Stobaugh v. Wallace*, 757 F.Supp. 653 at 656 (W.D. Pa. 1990), the Federal District Court ruled in favor of HSLDA and held that a superintendent cannot “arbitrarily choose to flout state law” by requesting to see the portfolio mid-year when he has no evidence of non-compliance.

4. If the superintendent determines an appropriate education is not taking place, the parent/supervisor has 20 days to submit additional documentation. If there is still a problem, the family has a right of appeal to an impartial hearing examiner and then to the Secretary of Education or the court. § 13-1327.1(4)(j-k)
5. “A home education program shall not be considered a nonpublic school under the provisions of this Act.” § 13-1327.1(b).

Note: The previous statute to the one above which required the parent to be “properly qualified” and the curriculum “satisfactory” was ruled unconstitutionally vague in a civil rights case brought by HSLDA, *Jeffery v. O’Donnell*, 702 F.Supp. 516 (M.D. PA 1988). The Federal District Court stated: “...the threat to sensitive First Amendment freedoms mandates judicial intrusion in the form of declaring the particular provision of the law [as applied to home schools] unconstitutional for vagueness.” 702 F.Supp. 521. The Court further commented: “...when First Amendment rights are affected by the enforcement of a statute, the state law will be held to a higher standard of specificity than might be the case if purely economic regulation was at issue.” 702 F.Supp. 519. The Court also placed an injunction on defendant-school districts from prosecuting homeschoolers.

In an earlier decision in the same case on September 29, 1988, the Court stated that “parents have a substantial constitutional right to direct and control the upbringing and development of their minor children.” *Jeffery v. O’Donnell*, 702 F.Supp. 513, 515 (1988).

Alternative Statutes Allowing Home Instruction:

Option II: Private Tutor. Parents may teach their children at home if they qualify as a “properly qualified private tutor.” This is defined as “a person who is certified by the Commonwealth of Pennsylvania to teach in the public schools of Pennsylvania; who is teaching one or more children who are members of a single family; who provides the majority of the instruction to such child or children; and who is receiving a fee or other consideration for such instructional services.” The private tutor must file a copy of their Pennsylvania certification and the required criminal history record with the student’s district of residence superintendent. 24 P.S. § 13-1327(a).

Option III: Day School/Church School. Parents may teach their children at home if the home is an extension or satellite of a religious day school. Since the law simply states a child must be “enrolled,” parents may “enroll” their child in a religious day school, but teach them at home. According to § 13-1327(b), such a day school must do the following:

1. “A child enrolled in a day school which is operated by a bona fide church or other religious body, and the parent, guardian or other person having control or charge of any such child or children of compulsory school age shall be deemed to have met the requirements of this section if that school provides a minimum of one hundred eighty (180) days of instruction or nine hundred (900) hours of instruction per year at the elementary level or nine hundred ninety (990) hours per year of instruction at the secondary level and:
 - a. At the elementary school level, the following courses are taught: English, to include spelling, reading and writing; arithmetic; science; geography; history of the United States and Pennsylvania; civics; safety education, including regular and continuous instruction in the dangers and prevention of fires; health and physiology; physical education; music; and art.
 - b. At the secondary school level, the following courses are offered: English, to include language, literature, speech and composition; science, to include biology and chemistry; geography; social studies, to include civics, economics, world history, history of the United States and Pennsylvania; a foreign language; mathematics to include general mathematics and statistics, algebra and geometry; art; music; physical education; health and physiology; and safety education, including regular and continuous instruction in the dangers and preventions of fires.”

2. “The notarized affidavit of the principal of any such school, filed with the Department of Education and setting forth that such subjects are offered in the English language in such school, whether it is a nonprofit organization, and that such school is otherwise in compliance with the provisions of this act, *shall be satisfactory and sufficient evidence thereof.*”
3. “It is the policy of the Commonwealth to preserve the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the education and training for such child. Nothing contained in this act shall empower the Commonwealth, any of its officers, agencies or subdivisions to approve the course content, faculty, staff or disciplinary requirements of any religious school referred to in this section without the consent of said school.” 24 P.S. § 13-1327(b)(2).
4. Day schools are required to furnish to the local school districts a list of the names and residence of all children between six and 18 years of age enrolled in the school. This information must be provided at the time of admission of the children to the school. Day schools are also required to report the name and date of withdrawal of any student who is still of compulsory attendance age. Additionally, day schools are supposed to report any child who has been absent from school for three days without lawful excuse. 24 P.S. § 13-1332.

Groups of homeschoolers could organize a school under the auspices of their church. An administrator could be chosen to keep records, the teachers would be the parents, and the school campus would be divided up into each home.

Option IV: Pennsylvania Religious Freedom Protection Act (RFPA), 71 P.S. 2401, *et. seq.* As a result of the restrictive home education statute, some homeschoolers have successfully invoked the RFPA, demonstrating a substantial burden on the free exercise of their religious beliefs.

Teacher Qualifications: Parent/supervisor must have a high school diploma or its equivalent if students are not enrolled in a day school. § 13-1327.1(a).

Standardized Tests: Students not enrolled in a day school must be tested with a nationally normed standardized test or the Statewide PSSA test for grades 3, 5, 8 and the results submitted with an annual portfolio. Tests shall not be administered by the child’s parent or guardian. § 13-1327.1(e)(1). MAP testing is not required (see *Stobaugh*, p. 656).

Religious Freedom Protection Act: 71 P.S. 2401, *et. seq.*

The Religious Freedom Protection Act (RFPA), passed with the help of HSLDA members, gives religious homeschoolers another legal means to protect their right to home school. If the parents’ free exercise of religion is substantially burdened by having to comply with the homeschool law, the parents may use the RFPA as a defense or file suit against the state. Under this statute, the burden is on the state to prove that its requirement “furthers a compelling state interest” and is the “least restrictive means” of fulfilling its interest that children be educated. This Act restores the highest protection of the individual’s right to freely exercise his religious beliefs taken away by the U.S. Supreme Court in its 1997 *City of Boerne* decision. 521 U.S. 507.

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