



Home School Legal Defense Association

PRESIDENT	James R. Mason III, Esq. DC, OR
LEGAL DIRECTOR	Scott A. Woodruff, Esq. MO, VA
LITIGATION COUNSEL	Peter K. Kamakawiwoole, Esq. MO, VA
SENIOR COUNSEL	Darren A. Jones, Esq. CA, DC
	Thomas J. Schmidt, Esq. CA
	William A. Estrada, Esq. CA, DC
ATTORNEY	Amy R. Buchmeyer, Esq. WI
	Kevin M. Boden, Esq. WA
ASSOCIATE ATTORNEY	Samuel S. Johnson, Esq. AL
PRESIDENT EMERITUS	J. Michael Smith, Esq. VA
OF COUNSEL	Tom Sanders, Esq. TX

February 12, 2025

SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL

Superintendent
Supervisor of Pupil Personnel Services
Bensalem Township School District
3000 Donallen Drive
Bensalem, PA 19020

Re: Home education families and registration with the District

Dear Superintendent:

By way of introduction, the Home School Legal Defense Association (“HSLDA”) was founded in 1983 to defend, advance, and promote homeschooling. As a public interest advocacy organization, HSLDA works to encourage local agencies and school districts to align their activities with the requirements of state homeschool laws, as well as federal anti-discrimination statutes, for the general benefit of homeschool families nationwide. We currently have almost 100,000 families who are members of our association across the nation. These families have chosen to stand with us in this work as we seek to advocate for homeschool freedom and related Constitutional rights. When necessary, we engage local counsel to provide legal representation for individual member families and homeschool graduates. Our associated local counsel in Pennsylvania is Mr. James N. Clymer of Lancaster. This letter does not constitute legal advice to you, your agency, or any person. We encourage you to direct any questions you may have to an attorney who represents you or your school district.

Last year, we wrote to one of your staff, regarding a letter that he wrote to home education families in the district acknowledging that the district had received their notarized affidavits or unsworn declarations, but then notifying them in the letter that home education families are required to “register” their children with the district. For your convenience, the letter we sent your staff member last year is enclosed. Neither he nor anyone in your district ever responded to our letter from last year.

We were disappointed to hear that recently, home education families in your district once again received a letter containing this “registration” language from your staff member.



As we wrote last year, and again reiterate to you, Pennsylvania law does not require that families “register” their children with the district in order to educate their children at home, for the following reasons.

First, Pennsylvania’s law governing home education programs, 24 P.S. § 13-1327.1, is the sum total of requirements that home education families must follow. School districts may not request information of home education families beyond what is specified in 24 P.S. § 13-1327.1. This would include requesting that families “register” their children with the district.

Second, 24 P.S. § 13-1327.1(b)(1) sets forth what information home education families must provide to the school district in their notarized affidavit or unsworn declaration.¹ Nowhere in this exhaustive list is anything related to having to “register” their children with the district.

The Pennsylvania General Assembly *could* have required that a home education family “register” their children with the district in order to educate their children at home. But the Pennsylvania General Assembly did not.

Instead, the General Assembly declared that the notarized affidavit or unsworn declaration “must set forth” a litany of items. And then the General Assembly declared, in this *very paragraph*, “that the home education program shall comply with the provisions of this section and that ***the notarized affidavit shall be satisfactory evidence thereof.***” 24. P.S. § 13-1327.1(b)(1) (emphasis added).

Even more to the point, 24. P.S. § 13-1327.1 has numerous references to a home education student being “enrolled in a home education program.” This underscores the point that the Pennsylvania General Assembly had no intention of requiring home education families to “register” their children with the district. The filing of the notarized affidavit or unsworn declaration, along with the objectives, is what is required. The home education student is “enrolled in a home education program,” not in the local school district.

“The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly.” *MERSCORP, Inc. v. Delaware County*, 652 Pa. 173, 189 (Pa. 2019). Here, the General Assembly has declared—in the homeschool statute itself—that the notarized affidavit is intended to constitute “satisfactory evidence” of the family’s intent to home educate their children (with the clear implication being that it should be *accepted* by school districts *as* satisfactory evidence, unless the district has other, credible evidence that the evidence offered in the notarized affidavit or unsworn declaration is untrue).

Third, nothing in 24 P.S. § 13-1327.1 suggests that the General Assembly ever intended to grant local school districts the power to ask for information beyond what is included in the statute. On the contrary, local superintendents have only a handful of powers under the statute, all of which are narrow and carefully defined. The superintendent’s powers are carefully described and limited. The Superintendent receives the family’s notarized affidavit (subsection (b)(1)). He or she may issue letters of transfer (subsection (b)(2)). He or she may consent to evaluations conducted by qualified persons at the request of the supervisor (subsection (e)(2)). He or she may review the evaluator’s certification by June 30th each year (subsection (h.1)). He or she may

¹ The Uniform Unsworn Declarations Act, codified at 42 Pa. C.S. § 6201, et seq., “explicitly states that “if a law of this Commonwealth requires or permits use of a sworn declaration, an unsworn declaration meeting the requirements of this chapter has the same effect as a sworn declaration.” In *Re: Nomination Petition of Caroline Turner*, 291 A.3d 519, 523 (Pa. Comm. Ct. 2023), quoting 42 Pa. C.S. § 6204(a).

call administrative hearings in certain circumstances (subsections (i.1) and (j.1)). And he or she may appeal an adverse hearing decision, or participate in the creation of a remedial plan after a hearing (subsection (k)). But that is all.

In setting out this detailed statutory scheme, the General Assembly could have granted superintendents a general power to ask for follow-up information, or decide for themselves what additional information they could request of home education families, or require families to “register” with the district. Instead, the General Assembly eschewed such a grant of authority. That decision in itself is highly instructive. “[U]nder the doctrine of *expressio unius est exclusio alterius*, the inclusion of a specific matter in a statute implies the exclusion of other matters.” *Atcovitz v. Gulph Mills Tennis Club, Inc.*, 571 Pa. 580, 589 (Pa. 2002), citing *Cali v. City of Philadelphia*, 406 Pa. 290 (Pa. 1962) and *Pane v. Com., Dep’t of Highways*, 422 Pa. 489 (Pa. 1966). As the Supreme Court of Pennsylvania explained in *Thompson v. Thompson*, 656 Pa. 732, 742 (Pa. 2020), “although one is admonished to listen attentively to what a statute says; one must also listen attentively to what it does not say.”² Nothing in the statute supports your request that home education families “register” with the district.

Fourth and finally, your own district’s policy regarding home education students, Code 137, adopted on September 22, 2004, and last revised April 25, 2023,³ does not have any requirement that home education families “register” with the district.

Please confirm that you will withdraw any requests of home education families in your district that they “register” or “enroll” their children with the district.⁴ Please confirm that your district and your staff will cease making these requests of home education families.

If you wish to discuss anything in this letter, I would be happy to talk with you. I can be reached via phone at (540) 338-5600, or via email at will.estrada@hslida.org.

² In *Thompson*, the Clarion County Domestic Relations Section (“DRS”) brought a petition against Thompson for failing to pay child support. On appeal, Thompson argued that the court had imposed a suspended sentence, instead of one of the sentences permitted by the governing statute, 23 Pa. C.S. § 4345(a). The Pennsylvania Supreme Court overturned the judge’s decision, holding that “if the General Assembly intended to permit trial courts to impose suspended sentences for civil contempt of a child support order, it would have expressly provided for this alternative. *It did not*. We cannot ignore this exclusion.” *Thompson*, 656 Pa. at 742. (emphasis in original). As a result, the punishment invented by the trial court was “*illegal* and may not be imposed.” *Id.* (emphasis added). See also *Sosebee v. Franklin Co. Sch. Bd.*, 843 S.E.2d 367 (Va. 2020) (holding, unanimously, that Virginia’s homeschool statute neither required parents to submit a birth certificate or proof of residency, nor authorized local school boards to adopt policies to that effect, and that any such policies were therefore *ultra vires*).

³ Bensalem Township School District Policy Manuel, Section 100, Code 137, Home Education Programs, available online at <https://go.boarddocs.com/pa/bens/Board.nsf/Public/#>.

⁴ We note that some limited registration with the district may be necessary if a home education family is seeking to access public school activities, such as sports, co-curriculars, career and technical education, or other activities pursuant to 24 P.S. § 13-1327.1(f.1) – (f.3).

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'Wid', with a stylized, cursive script.

William A. Estrada
Senior Counsel

cc: James N. Clymer, Esq., HSLDA Associated Local Counsel for Pennsylvania
Christian Homeschool Association of Pennsylvania (CHAP)
HSLDA Member Families in Bensalem Township School District
Supervisor of Pupil Personnel Services

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