



Home School Legal Defense Association

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December 17, 2024

SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL [REDACTED]

[REDACTED]
Assistant Superintendent
Penns Valley Area School District
4528 Penns Valley Road
Spring Mills, PA 16875

Re: Home education families, high school diplomas, standardized testing, and procedures

Dear [REDACTED]

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.

I am in receipt of your letter dated December 12, 2024, titled “Final Notice,” which was sent to multiple home education families in your district. This letter asked for a copy of their high school diploma, stated that families are required to “turn in standardized testing results” for children in grades 3, 5, and 8 by June 30, 2025, and included this ominous warning: “Please submit the required homeschooling documentation, which was due in August, as per Pennsylvania state regulations. Failure to do so will result in your case being referred to the District Magistrate for further action.” (emphasis added)

The policy reflected in this letter is deeply concerning 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.



Specifically as to high school diplomas, 24. P.S. § 13-1327.1(a) states the following: “‘**Supervisor**’ shall mean the parent or guardian or such person having legal custody of the child or children who shall be responsible for the provision of instruction, provided that such person has a high school diploma or its equivalent.” (emphasis in original)

Quite simply, Pennsylvania law requires the home education supervisor to *possess* a high school diploma, but the law does not require the home education supervisor to *submit* a copy to school officials.

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. Nowhere in this exhaustive list is anything related to having to provide a school district with information regarding the supervisor of the home education program’s high school diploma.

The Pennsylvania General Assembly *could* have required that a family provide the school district with a copy of the supervisor’s high school diploma. But it didn’t.

Instead, the General Assembly declared that the notarized affidavit or unsworn declaration “must set forth” a litany of items. And then it declared, in this *very clause*, “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).

“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 or unsworn declaration is intended to constitute “satisfactory evidence” (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).

Second, specifically as to standardized testing, Pennsylvania law requires that the home education student’s portfolio include “in grades three, five and eight results of nationally normed standardized achievement tests in reading/language arts and mathematics[.]” 24. P.S. § 13-1327.1(e)(1). This portfolio (including the test results) is then *reviewed* by an evaluator, and the evaluator’s certification is then sent to the superintendent by June 30 of each year (24. P.S. § 13-1327.1(h.1)). Nowhere in the statute is there any requirement that the test results themselves be submitted to the superintendent. This was a feature in a previous version of Pennsylvania’s home education law, but that section was removed from the law by the Pennsylvania legislature years ago.

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 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. 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.”¹ Nothing in the statute supports your request that home education families provide you with copies of the high school diploma of the supervisor of the home education program, or information regarding the supervisor’s high school diploma.

Fourth, the letter dated December 12, 2024 only referenced a notarized affidavit, and did not reference an unsworn declaration. As you know, 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). This law is so clear that all 500 school districts in Pennsylvania routinely accept unsworn declarations, as well as notarized affidavits, from home education families. Indeed, the Pennsylvania Department of Education makes available on its website sample unsworn declarations for home education parents to use, along with sample notarized affidavits.² This reflects the legal reality that parents may use *either* an unsworn declaration or a notarized affidavit when notifying the school district of their intent to homeschool their children.

Fifth, the letter dated December 12, 2024 threatened incorrect procedure. Pennsylvania’s home education law spells out exactly what steps a district may take if it believes a home education family is out of compliance with any aspect of the law. This procedure is detailed in 24. P.S. § 13-1327.1(j.1). Nowhere does it allow an assistant superintendent to unilaterally refer a home education family to “the District Magistrate for further action[]” if the district believes that a home education family has not turned in some paperwork related to the home education program. Indeed, your threat in this letter, coming as it does with no

¹ 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*).

² <https://www.pa.gov/agencies/education/resources/policies-acts-and-laws/basic-education-circulars-becs/purdons-statutes/home-education-program.html>

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initial warnings (despite the letter's use of the "Final Notice" verbiage), and arriving in the mailboxes of families in your district days before the Christmas holiday, is highly offensive.

Sixth and finally, your policy finds no support in your district's written policies, which do not require that home education families provide your office with a copy of the home education supervisor's high school diploma, a home education student's standardized test results, or any of the information included in your letter dated December 12, 2024. Please see Section 137 of the School Board Policy, as adopted October 19, 2005, and last revised July 19, 2023.³

I ask that you acknowledge that your policy lines up with neither Pennsylvania law nor your district's written policy and take the following steps to mitigate the damage. I ask that you (1) notify home education families in your district that the letter dated December 12, 2024 was sent by mistake; (2) cease demanding copies of a home education supervisor's high school diploma and the test results of home education students in grades three, five, and eight; and (3) immediately retract and apologize for the threat included in the letter.

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@hsllda.org.

Sincerely Yours,



William A. Estrada
Senior Counsel

cc: James N. Clymer, Esq., HSLDA Associated Local Counsel for Pennsylvania
Bradley H. Bastedo, Esq., Christian Homeschool Association of Pennsylvania (CHAP)
Ginger Wayde, Christian Homeschool Association of Pennsylvania (CHAP)
HSLDA Member Families in Penns Valley Area School District

³ Penns Valley Area School District, Policy Manual, No. 137, "Home Education Programs," available online at <https://4.files.edl.io/6058/07/21/23/132132-75b23e6d-b282-4ea0-8123-027c59a739b8.pdf>