



Home School Legal Defense Association

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SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL (renzij@selsd.com)

Superintendent
Salisbury-Elk Lick School District
196 Smith Ave
Salisbury, PA 15558

Re: Home education families, high school diplomas, grade level, date of birth

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 over 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.

We understand that you recently contacted several homeschool families in your district, asking them for information related to their high school diplomas, dates of birth for their children, and grade levels for their children. Pennsylvania law does not require that families provide this information to you or to your school district.

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 § 13-1327.1.



Second, § 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 provide a school district with a copy of a home education supervisor's high school diploma, a child's date of birth, or a child's grade level.

Third, Pennsylvania law requires the home education supervisor to *possess* a high school diploma. But nowhere in the law does it require the home education supervisor to *submit* a copy of the high school diploma to school officials. § 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)

Fourth, The Pennsylvania General Assembly *could* have required that a home education family provide the school district with a copy of a home education supervisor's high school diploma, a child's date of birth, or a child's grade level. 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 it 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).

“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).

Nothing in § 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 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*

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).

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 provide you with a copy of a home education supervisor’s high school diploma, a child’s date of birth, or a child’s grade level.

We appreciate the cordial relationship that your school district has had with home education families, and we write to you in that same spirit. We trust that this information is helpful to your office, and that you will withdraw any requests of home education families in your district that they provide you with a copy of a home education supervisor’s high school diploma, a child’s date of birth, or a child’s grade level.

Please confirm that you 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@hsllda.org.

Sincerely Yours,



William A. Estrada
Senior Counsel

cc: James N. Clymer, Esq., HSLDA Associated Local Counsel for Pennsylvania
Christian Homeschool Association of Pennsylvania (CHAP) Ginger Wayde,
Christian Homeschool Association of Pennsylvania (CHAP)
HSLDA Member Families in Salisbury-Elk Lick School District

² In *Thompson*, the Clarion County Domestic Relations Section 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*).