

## NORTH DAKOTA

- Compulsory Attendance Ages:** “A child between the ages of seven and sixteen years.” N. D. Cent. Code § 15.1-20-01. A child is exempt from compulsory attendance if a multidisciplinary team determines that the child has a disability that renders attendance or participation in a regular or special education program inexpedient or impracticable. N.D. Cent. Code § 15.1-20-02.
- Required Days of Instruction:** Instruction must be provided for at least four hours per day for a minimum of 175 days per year. N.D. Cent. Code § 15.1-23-04.
- Required Subjects:** “A parent supervising home education shall include instruction in those subjects required by law to be taught to public school students.” N.D. Cent. Code § 15.1-23-04. **Elementary and middle school:** English language arts, including reading, composition, creative writing, English grammar, and spelling; mathematics; social studies, including the United States Constitution, United States history, geography, government, and North Dakota studies, with an emphasis on the geography, history, and agriculture of North Dakota, in the fourth and eighth grades; science, including agriculture; physical education; and health, including physiology, hygiene, disease control, and the nature and effects of alcohol, tobacco, and narcotics. N.D. Cent. Code § 15.1-21-01. **High school:** English language arts (includes literature, composition, and speech), mathematics, science (includes biology and chemistry or physical science), social studies (includes U.S. history, civics, economics, and concepts of personal finance), physical education, foreign languages or fine arts or career and technical education. N.D. Cent. Code §§ 15.1-21-02.2, 15.1-21-21. Homeschooled students who wish to receive a high school diploma from a school district, nonpublic school, or the center for distance education must meet the issuing entity’s graduation requirements. N.D. Cent Code § 15.1-23-17.

**Homeschool Statute:** North Dakota Century Code section 15.1-20-04.

“Home education’ means a program of education supervised by a child’s parent [or legal guardian] in accordance with chapter 15.1-23.” N.D. Cent. Code § 15.1-20-04; *see also* § 30.1-27-09 (powers and duties of guardian of minor). Compulsory attendance requirements do not apply to a child receiving home education. N.D. Cent. Code § 15.1-20-02. Each homeschool must meet the following conditions:

1. The parent must file an annual statement of intent to homeschool with the local or county superintendent of schools. The statement must be filed at least 14 days prior to the beginning of home education or within 14 days of the establishment of residency within the district. The statement must include: the names and addresses of both the child and the parent who will supervise the home education, the date of birth and grade level of the child, and the qualifications of the parents who will supervise the

instruction. The statement must include any public school courses in which the child intends to participate and the school district offering the courses and any extracurricular activities in which the child intends to participate and the school district or approved nonpublic school offering the activities. It must include a copy of the child's birth certificate, a certified transcript, or similar student records from the previous school, or any other documentary evidence the school, licensed day care facility, or school superintendent considers appropriate proof of identity (§ 12-60-26) and proof of an immunization record (§ 23-07-17.1(1)). N.D. Cent. Code § 15.1-23-02.

2. Every parent shall maintain an annual record of courses and the child's academic progress assessments, including any standardized achievement test results. N.D. Cent. Code § 15.1-23-05.
3. The parent must meet the qualification requirements below.

**Teacher Qualifications:** A parent is qualified to supervise a program of home education if the parent meets one of the following requirements: (1) has a high school diploma or general educational development diploma (GED) or (2) has no diploma and is monitored by a certified teacher during the first two years of home education.

Monitoring by a certified teacher:

During the monitoring period, the certified teacher shall spend an "average of one hour per week in contact with the child and the child's parent. If two or more children receive home education, the individual shall spend one-half hour per month for each additional child receiving home education." The time may be reduced proportionately if the child is in attendance in a public school or an approved nonpublic school on a part-time basis. The teacher shall evaluate and report on the student's progress at least twice annually to the district or county superintendent. N.D. Cent. Code § 15.1-23-07.

If the child scores below the 50th percentile on a required standardized achievement test during the time of monitoring, the monitoring must continue until the child achieves a score at or above the 50th percentile. If testing is not required in either of the first two years of monitoring, the monitoring may not be extended without the mutual consent of the parent and the monitor. N.D. Cent. Code §§ 15.1-23-03, 15.1-23-06.

**Standardized Tests:** A standardized achievement test used by the school district in which the child resides or a nationally normed standardized achievement test must be given to each child receiving home education while in grades 4, 6, 8, and 10. A certified teacher must administer the test, and it must be given in the child's learning environment or the public school at the option of the parent. N.D. Cent. Code § 15.1-23-09. The parent must provide the results to the local public school district superintendent or, if the district does not employ a superintendent, to the county superintendent of schools. N.D. Cent. Code § 15.1-23-11.

*Conklin v. Sanstead*, Civil No. 92-31, was filed by HSLDA in the Southeastern Judicial District Court of North Dakota challenging the Department of Education's regulations which mandated mental aptitude testing. Consequently, the Department of Education agreed to rescind their regulations and stated in the stipulated order of dismissal, "students involved in home based instruction do not have to take aptitude tests." The court signed the order in June 1993.

**Testing Exemptions:** Testing is not required if the parent notifies the school district at the time of filing the statement of intent (1) that the parent has a philosophical, moral, or religious objection to the use of standardized testing or (2) the parent is a licensed teacher, holds a bachelor's degree, or has met or exceeded the cutoff score of a national teacher exam given in North Dakota or in another state if North Dakota does not offer the exam. N.D. Cent. Code § 15.1-23-09.

**Remediation Plans:** If the child’s basic composite score on the required test falls below the 30th percentile, the child must be professionally evaluated for a potential learning problem by a multidisciplinary assessment team. If the multidisciplinary team determines that the child is not learning disabled and does not need special education services, the parent may continue to provide instruction if the parent files with the local superintendent or county superintendent (if there is no local superintendent) a plan of remediation to address the academic deficiencies of the child. This plan must be developed by the parent in consultation with and with the approval of a state-certified teacher. The plan of remediation must remain in effect until the child achieves a test score at or above the 30th percentile or a score indicating one year of academic progress. If a child has a disability which requires special education services, the parent must file an individualized education program with the superintendent of the school district. N.D. Cent. Code §§ 15.1-23-11, 15.1-23-12, and 15.1-23-13.

**Children with Developmental Disabilities—Services Plans:** A parent may supervise home education for a child with a developmental disability if: (1) the child has been determined to have a developmental disability by a licensed psychologist; (2) the child’s parent meets the “Teacher Qualifications” described above; and (3) the child’s parent files with the superintendent of the child’s school district of residence: (a) a notice that the child will receive home education, (b) a copy of the child’s diagnosis of a developmental disability prepared and attested to by a licensed psychologist, and (c) a services plan. The services plan must be developed and followed by the child’s school district of residence and the child’s parent, or, after providing written notice to the superintendent of the child’s school district of residence, a substitute services plan may be developed and followed by a services plan team selected by and compensated by the child’s parent. A parent providing home education to a child with a developmental disability must file with the local superintendent progress reports prepared by the services plan team on or before November 1, February 1, and May 1 of each school year. N.D. Cent. Code §§ 15.1-23-14, 15.1-23-15; *see also* § 25-01.2.01(3) (definition of “developmental disability”).

**Alternative Statute Allowing for Homeschools:** N.D. Cent. Code § 15.1-20-02.

Parents educating their children at home are free to elect between the private school exception and the home education exception to the compulsory attendance law. *Birst v. Sanstead*, 493 N.W.2d 690 (N.D. 1992).

The child must be in attendance for the same length of time as public schools are in session (180 days) at an approved nonpublic school. N.D. Cent. Code § 15.1-20-02. All teachers in the private school must be state-certified, must teach the subjects required of public schools, and must have undergone criminal history record checks. N.D. Cent. Code § 15.1-06-06. Private schools conducted in the home do not have to comply with municipal and state health, fire, and safety laws. *Birst v. Sanstead*.