

PENNSYLVANIA

- Compulsory Attendance Ages:** From the time the child enters school, “which shall not be later than at the age of eight (8) years, until the age of seventeen (17) years.” 24 P.S. § 13-1326. At the beginning of the 2020-2021 school year, the lower and upper ages will change to 6 and 18 respectively. Act 16 of 2019.
School districts in Philadelphia may establish the compulsory school age at six-years-old and have done so since 2008–2009. This does not apply to children whose parents plan to conduct a home education program for them and who file a notice of same with the school district superintendent. 24 P.S. § 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. 24 P.S. § 13-1327.1(c).
- Required Subjects:**
1. Elementary level (grades K–6): 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 (grades 7–12): 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. 24 P.S. § 13-1327.1(c)–(d).

Parents have four options to teach their children at home:

Option 1: Homeschool Statute. 24 P.S. § 13-1327.1.

1. The parent/guardian (supervisor) must file a notarized affidavit with the local superintendent prior to starting the home education program and annually by August 1 thereafter. The affidavit must include:
 - a. The name of the supervisor, name and age of child, 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. Evidence 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 in 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” that the home education program is in compliance with the law. *See* 24 P.S. § 13-1327.1(b)(1). “The ... education objectives shall not be utilized by the superintendent in determining if the ... program is out of compliance.” 24 P.S. § 13-1327.1(b)(1).

Historical Context: Previous law said a parent had to be “properly qualified” and the curriculum “satisfactory,” but this was ruled unconstitutionally vague when HSLDA filed a civil rights case in *Jeffery v. O’Donnell*, 702 F. Supp. 516 (M.D. Pa. 1988). The Court stated: “The threat to sensitive First Amendment freedoms mandates ... declaring the particular provision of the law [as applied to homeschools] unconstitutional for vagueness.” *Id.* at 521. “When First Amendment rights are affected by the enforcement of a statute, the state law will be held to a higher standard of specificity....” *Id.* at 519. The Court also placed an injunction on defendant-school districts from prosecuting homeschoolers.

In an earlier decision in this case, the Court said “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 (M.D. Pa. 1987).

2. Any student who has been identified under the federal Individuals with Disabilities Education Act (IDEA) as needing special education services (except those identified as gifted and/or talented) must have his or her specific needs addressed by the home education program, and the program must be approved by a state-certified special education teacher or a licensed clinical or certified school psychologist. The written approval must be submitted with the notarized affidavit. 24 P.S. § 13-1327(d).
3. The supervisor must annually compile and maintain certain documentation:
 - a. A portfolio of records and materials: i.e., a “log, made contemporaneously with the instruction, which designates by title the reading materials used, samples of any writings, worksheets, workbooks or creative materials used or developed by the student.” 24 § 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 (with two years of teaching experience), (3) or a nonpublic 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.” 24 P.S. § 13-1327.1(e)(2).
4. By June 30 each year, the supervisor must submit to the local superintendent a qualified evaluator’s certification that the student is receiving an appropriate education. However, based on a reasonable belief that an appropriate education may not be occurring, the superintendent may send a letter to the parent/supervisor, at any time during the school year, requiring that an evaluation be conducted and the evaluator’s certification be submitted within 30 days. 24 P.S. § 13-1327.1(h.1), (i.1).

5. “A home education program shall not be considered a nonpublic school....” 24 P.S. § 13-1327.1(b).
6. If the home education program is relocating from one Pennsylvania school district to another, the supervisor must contact the superintendent of the current district of residence by registered mail (30 days prior to relocation) and request a letter of transfer. The current superintendent must issue the letter of transfer within thirty days after receipt of the request. The supervisor must then file the letter of transfer with the superintendent of the new district of residence, in addition to, or in lieu of the affidavit, depending on whether the move happened before August 1 or after. 24 P.S. 13-1327.1(b).

Alternative Statutes Allowing Home Instruction:

Option 2: Private Tutor. A child who is provided with “[r]egular daily instruction in the English language, for [the days or hours required at the elementary or secondary level], by a properly qualified private tutor, shall be considered as complying with” the compulsory attendance law. A “properly qualified private tutor” 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 his Pennsylvania certification and the required criminal history record with the student’s district of residence superintendent.” 24 P.S. § 13-1327(a). The private tutor may be any qualified person, including a parent.

Option 3: 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 that a child must be “enrolled,” parents may “enroll” their child in a religious day school, but teach them at home. According to 24 P.S. § 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* [emphasis added].”

3. “It is the policy of the Commonwealth to preserve the primary right and the obligation of the parent[s]..., or person[s]... 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.

Option 4: Accredited Day School/Boarding School. Parents may teach their children at home if their child is enrolled in an extension or satellite of a day or boarding school accredited by an accrediting association which is approved by the State Board of Education. 24 P.S. § 13-1327(c).

Teacher Qualifications.

Option 1: The supervisor must have a high school diploma or its equivalent if students are not enrolled in a day school. 24 P.S. § 13-1327.1(a).

Options 2–4: None.

Standardized Tests.

Option 1: Students enrolled in a home education program (Option I) must be tested with a nationally-normed standardized test approved by the PA Department of Education (PDE) or the Statewide tests administered to public school students in grades 3, 5, and 8. The results in mathematics and reading/language arts or the results of the Statewide tests must be included in the annual portfolio. Tests shall not be administered by the child’s parent or guardian. 24 P.S. § 13-1327.1(e)(1). MAP testing is not required. *Stobaugh v. Wallace*, 757 F. Supp. 653, 656 (W.D. Pa. 1990).

Approved tests are:

1. California Achievement Test
2. Comprehensive Testing Program (CTPIV)
3. Iowa Test of Basic Skills
4. Measure of Academic Progress (MAP)
5. Metropolitan Achievement Test
6. Peabody Achievement Individual Test – Revised Version
7. Stanford Achievement Test
8. Terra Nova
9. Woodcock Johnson Revised Tests of Achievement III
10. Woodcock-Johnson IV
11. Wechsler Individual Achievement Test III (WIAT-III)

Options 2–4: No testing required by statute.

Religious Freedom Protection Act: 71 P.S. §§ 2401–2407.