

## Homeschooling in Virginia: Avenues for Legal Compliance

In Virginia, parents have three legal avenues for overseeing their children's educations, in lieu of sending them to public or private school. Each of these options requires parents to communicate with their local school division. VaHomeschoolers has created this publication to clarify the roles of homeschooling families and school divisions regarding each educational avenue.

Virginia allows families the following educational options, in addition to public and private school\*:

- 1. Home Instruction**
- 2. Education under an Approved Tutor**
- 3. Religious Exemption**

Home Instruction and use of an Approved Tutor are forms of *compliance* with the Compulsory Attendance Code, §22.1-254, while Religious Exemption is a legally granted *exemption* to Compulsory Attendance.

*\*There is an additional option available for parents of children who are 5 years old, but not yet 6, as of September 30 at the start of the school year. In this circumstance, children are exempted from Compulsory Attendance by parental notification to the school division that the child is not yet ready to attend school.*

### 1. Home Instruction

Most homeschooling families choose to educate their children under Virginia's Home Instruction statute (§22.1-254.1). To use this option, parents must meet one of the requirements for qualification and must submit annually a notice of intent to homeschool and a curriculum description (by August 15 at the beginning of the school year, or at the time that home instruction begins, if the decision to homeschool is made after the commencement of the academic year) as well as some form of evidence of academic progress (by August 1 at the end of the school year).

#### **Qualifications** (§22.1-254.1 A)

Parents or legal guardians may homeschool under the Home Instruction statute if they meet one of the four qualifying options:

**Option (i):** Holds a high school or higher level diploma

**Option (ii):** Is a teacher of qualifications prescribed by the Board of Education

**Option (iii):** Provides a program of study or curriculum

**Option (iv):** Provides evidence that parent is able to provide an adequate education for the child

To document qualification, parents must submit a diploma or transcript (option i); a copy of a valid teacher certification from any jurisdiction (option ii); a receipt, enrollment documentation or other evidence of providing a program of study (option iii); or evidence that the parent is able to provide an adequate education, such as a written submission that demonstrates a mastery of language and that indicates a reasonable and appropriate educational plan (option iv).

#### **Notice of Intent** (§22.1-254.1 B)

Under the Home Instruction statute, parents or legal guardians must submit a Notice of Intent (NOI) to homeschool on an annual basis, by **August 15**, to their local Division Superintendent. Parents may opt to begin homeschooling at any time during the school year, and homeschooling families that move into a school division after the school year has begun may continue homeschooling. In both cases, parents are required to submit a NOI "as soon as practicable" after moving or commencing home instruction, and must file supporting documentation within 30 days of filing their NOI. The Virginia Department of Education provides a model NOI form, and many school divisions have created their own forms. Some divisions are moving to online processes for submitting NOIs. Parents may choose to use a provided form or may opt to provide written notification in another format. The NOI should identify the homeschooling parent and the child receiving home instruction and should indicate which of the four options of the home instruction statute is being used.

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### **Curriculum Description** (§22.1-254.1 B)

Parents who choose to homeschool under the Home Instruction statute must file a Curriculum Description annually, no matter which of the four qualifying options they use. *As of July 1, 2012, the Home Instruction statute specifies that the curriculum description is to be "limited to a list of subjects to be studied during the coming year."* Scope and sequence, lesson plans, textbook tables of content and other detailed information are not required.

### **Evidence of Progress** (§22.1-254.1 C)

Parents who choose to homeschool under the Home Instruction statute must file evidence of their children's academic progress annually by **August 1** (*only for children 6 or older as of September 30*). This evidence may take the following forms:

- i. A composite score in or above the fourth stanine on any nationally-normed standardized test
- ii. An evaluation or other assessment which the superintendent determines to indicate that the child is achieving an adequate level of educational growth and progress.

The Home Instruction statute specifies that allowable documentation under option ii includes, but is not limited to:

- an evaluation letter from a person licensed to teach in any state;
- an evaluation letter from a person with a master's degree or higher in any academic discipline;
- a report card or transcript from a community college, college or university, distance learning program or home-education correspondence school.

In other words, the superintendent must consider all of these forms of documentation to determine if they indicate, in his or her judgment, evidence of adequate academic growth and progress. The superintendent may accept any other form of documentation, such as a portfolio of the student's work.

## **2. Approved Tutor Provision**

Parents who choose to use the Approved Tutor provision of the Compulsory Attendance statute may consider themselves to be "homeschooling," but the requirements for this option vary significantly from those of the Home Instruction statute. Under the Approved Tutor provision, parents must provide the division superintendent with documentation of the tutor's valid Virginia teaching license and must update that documentation when the teaching license expires. The tutor may be a parent or may be someone selected by the parent. Under this provision, there is no requirement to file an annual notice of intent, a curriculum description, or evidence of progress.

## **3. Religious Exemption**

Parents who have sincere religious convictions against sending their children to school may choose to file a claim of Religious Exemption (RE) to compulsory schooling under §22.1-254 B 1 of the Code of Virginia. Under this option, parents submit documentation of their religious objections to school attendance to their local school board. This is not a power granted in law to the school superintendent or central office administration, and school division administrators may not make this decision and may not prevent a school board from considering a religious exemption claim. Upon review of documentation, the local school board may recognize or decline to recognize a claim of religious exemption from the compulsory school attendance requirements. Once approved, RE families do not have to file an annual notice of intent, submit an annual description of their curriculum, or submit annual evidence of progress to their local school division when educating their children at home. However, the public school division may in subsequent years inquire if the religious exemption is still applicable, and parents should file with the school board a new RE claim for each child as he or she reaches the age to become subject to the compulsory attendance statute.

### **References**

Compulsory Attendance Code <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-254>

Home Instruction Statute <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-254.1>

"Home Instruction in Virginia," Virginia Department of Education

[http://www.doe.virginia.gov/students\\_parents/private\\_home/home\\_instruction/home\\_instruction\\_handbook.pdf](http://www.doe.virginia.gov/students_parents/private_home/home_instruction/home_instruction_handbook.pdf)