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UNDERSTANDING THE REQUIREMENTS OF HOME-SCHOOLING EDUCATION PROGRAMS

Home schooling is allowed under the conditions set in the Pennsylvania School Code, Section 13-1327.1, 24 Pa. Stat. § 13-1327.1. Pennsylvania Department of Education guidance is available through the Basic Education Circular (“BEC”), *Home Education Program*¹. Here we address some, but not all, of the requirements for a home education program.

According to the School Code, a home education program must be conducted by a “supervisor,” who can only be the child’s parent, legal guardian, or legal custodian. The supervisor must have a high school diploma or GED certificate.

No later than August 1 of each school year, the supervisor must file a sworn statement/affidavit with the superintendent of the child’s school district of residence. The supervisor’s affidavit must contain, among other things, the name of the supervisor, the name and age of each participating child, and the address and telephone number for the home. The supervisor must swear that the required subjects will be taught and provide an outline of proposed educational objectives. The supervisor must also provide evidence that the children participating in the home education program have been immunized and received required health and medical services, that is, annual vision and hearing tests.

Nonetheless, Pennsylvania education regulations specify that “school district approval is not required to commence home education programs.” 22 Pa. Code § 11.31a.

A home education program must provide at least 180 days of instruction per year (900 hours for elementary level and 990 hours for secondary level). At the elementary level, instruction must include:

- English (including spelling, reading and writing)
- Arithmetic
- Science
- Geography
- History of the United States and Pennsylvania
- Civics
- Safety Education (including fire prevention)
- Health
- Physical Education
- Music
- Art

Secondary level instruction must include:

- English (including language, literature, speech and composition)
- Science
- Geography
- Social Studies (including Civics, World History, History of the U.S. and Pennsylvania)
- Mathematics (including Algebra and Geometry)
- Art
- Music
- Physical Education
- Health
- Safety Education

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The school district of residence is required, if the supervisor asks, to provide copies of the school district's textbooks and other curriculum materials appropriate for the student's age and grade level.

The supervisor must also maintain a portfolio of the child's education, including a log showing the reading materials used and samples of any writings, worksheets, and work. At grade levels 3, 5, and 8, the child must be assessed with standardized tests in Reading/Language Arts and Mathematics by someone other than the child's parent. The *Home Education Program* BEC identifies acceptable nationally-normed standardized tests. The results of these tests must be kept in the child's portfolio.

Each year, the supervisor must obtain a written evaluation of the child's progress. A licensed or school psychologist, a certified teacher, or a qualified private school teacher, who must meet certain additional experiential conditions, must interview the child and review the child's portfolio. This evaluation information must be provided to the superintendent by June 30th of each school year. The superintendent may, however, request the portfolio of records and materials, standardized test results, and evaluation at any time prior to June 30th, if the superintendent has a reasonable belief that appropriate education is not occurring.

After reviewing the materials the superintendent believes, based on substantive facts, that the child is not being properly educated, the superintendent may ask for additional documentation. If the supervisor does not submit additional documentation, the child may no longer be educated at home. If the supervisor submits additional documentation but the superintendent concludes that the program is not appropriate, the school board must provide a hearing before an impartial hearing examiner who will decide whether the home education program may continue. The hearing examiner's decision may be appealed either by the supervisor or the superintendent to the Pennsylvania Secretary of Education or to the Commonwealth Court.

Parents cannot claim that Section 13-1327.1 unconstitutionally infringes on their religious beliefs. With some statutorily allowed exceptions (e.g., Amish children), personal religious beliefs do not exempt children and their supervisors from the home-schooling requirements. Section 13-1327.1 was enacted to ensure that all home-schooled children across the state receive a proper education regardless of race, sex, religion, etc. The First and Fourteenth Amendments (and probably also Pennsylvania's Religious Freedom Protection Act) do not prohibit the state from setting such basic minimal requirements as found in Section 13-1327.1, which have a rational relationship to religion-neutral standards. *Combs v. Homer-Center Sch. Dist.*, 540 F.3d 231 (3rd Cir. 2008).

Home-schooled students may be dually enrolled with the school district. The Pennsylvania education regulations allow a school district to dually enroll home-schooled students and claim such students in its daily attendance. 22 Pa. Code § 11.33.

Information regarding home-school children's participatory rights in extra-curricular activity can be found in our article, *Home-Schooled Children Can Participate In District Extra-Curricular Activities*.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.

1. Available at http://www.portal.state.pa.us/portal/server.pt/community/purdon's_statutes/7503/home_education_program/507313 (last accessed Oct. 10, 2013). Additional resources can be found at the Department's Home Education and Private Tutoring Homepage, available at http://www.portal.state.pa.us/portal/server.pt/community/home_education_and_private_tutoring/20311 (last accessed Oct. 10, 2013).