

West Virginia Home Schooling Law

CHAPTER 18. EDUCATION.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1. Commencement and termination of compulsory school attendance; exemptions.

(a) Compulsory school attendance shall begin with the school year in which the sixth birthday is reached prior to the first day of September or upon enrolling in a publicly supported kindergarten program and continue to the sixteenth birthday. Exemption from the foregoing requirements of compulsory public school attendance shall be made on behalf of any child for the causes or conditions set forth in this section. Each cause or condition set forth in this section shall be subject to confirmation by the attendance authority of the county.

(b) A child shall be exempt from the compulsory school attendance requirement set forth in subsection (a) of this section if the requirements of this subsection, relating to instruction in a private, parochial or other approved school, are met. The instruction shall be in a school approved by the county board and for a time equal to the instructional term set forth in section forty-five, article five of this chapter. In all private, parochial or other schools approved pursuant to this subsection it shall be the duty of the principal or other person in control, upon the request of the county superintendent, to furnish to the county board such information and records as may be required with respect to attendance, instruction and progress of pupils enrolled between the entrance age and sixteen years.

(c) A child shall be exempt from the compulsory school attendance requirement set forth in subsection (a) of this section if the requirements of either subdivision (1) of this subsection or subdivision (2) of this subsection, both relating to home instruction, are met.

(1) The instruction shall be in the home of the child or children or at some other place approved by the county board and for a time equal to the instructional term set forth in section forty-five, article five of this chapter. If the request for home instruction is denied by the county board, good and reasonable justification for the denial shall be furnished in writing to the applicant by the county board. The instruction shall be conducted by a person or persons who, in the judgment of the county superintendent and county board, are qualified to give instruction in subjects required to be taught in public elementary schools in the state. The person or persons providing the instruction, upon request of the county superintendent, shall furnish to the county board information and records as may be required, from time to time, with respect to attendance, instruction and progress of pupils enrolled between the entrance age and sixteen years receiving the

instruction. The state board shall develop guidelines for the home schooling of special education students including alternative assessment measures to assure that satisfactory academic progress is achieved.

(2) The child meets the requirements set forth in this subdivision: Provided, That the county superintendent may seek from the circuit court of the county an order denying home instruction of the child. The order may be granted upon a showing of clear and convincing evidence that the child will suffer neglect in the child's education or that there are other compelling reasons to deny home instruction.

(A) Annually, the person or persons providing home instruction shall present to the county superintendent or county board a notice of intent to provide home instruction and the name, address, age and grade level of any child of compulsory school age to be instructed: Provided, That if a child is enrolled in a public school, notice of intent to provide home instruction shall be given at least two weeks prior to withdrawing such child from public school;

(B) The person or persons providing home instruction shall submit satisfactory evidence of a high school diploma or equivalent;

(C) The person or persons providing home instruction shall outline a plan of instruction for the ensuing school year; and

(D) On or before the thirtieth day of June of each year the person or persons providing home instruction shall obtain an academic assessment of the child for the previous school year and submit the results to the county superintendent. When the academic assessment takes place outside of a public school, the parent or legal guardian shall pay the cost. The requirement of an academic assessment shall be satisfied in one of the following ways:

(i) The child receiving home instruction takes a nationally normed standardized achievement test to be administered under standardized conditions as set forth by the published instructions of the selected test in the subjects of reading, language, mathematics, science and social studies: Provided, That in no event may the child's parent or legal guardian administer the test. The publication date of the chosen test shall not be more than ten years from the date of the administration of the test. The child shall be considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year meets or exceeds the fiftieth percentile or, if below the fiftieth percentile, shows improvement from the previous year's results;

(ii) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress will be based on current guidelines of the state testing program;

(iii) The county superintendent is provided with a written narrative indicating that a portfolio of samples of the child's work has been reviewed and that the child's academic progress for the year is in accordance with the child's abilities. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child shall be considered to have made acceptable progress. This narrative shall be prepared by a certified teacher whose certification number shall be provided. The narrative shall include a statement about the child's progress in the areas of reading, language, mathematics, science and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation; or

(iv) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent. Criteria for acceptable progress shall be mutually agreed upon by the same parties; and

(E) When the annual assessment fails to show acceptable progress as defined under the appropriate assessment option set forth in paragraph (D) of this subdivision, the person or persons providing home instruction shall initiate a remedial program to foster acceptable progress and the county board shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services: Provided, That the identification of a disability shall not preclude the continuation of home schooling. In the event that the child does not achieve acceptable progress as defined under the appropriate assessment option set forth in paragraph (D) of this subdivision for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

(3) This subdivision applies to both home instruction exemptions set forth in subdivisions (1) and (2) of this subsection. The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, as may assist the person or persons providing home instruction subject to their availability. Any child receiving home instruction may upon approval of the county board exercise the option to attend any class offered by the county board as the person or persons providing home instruction may consider appropriate subject to normal registration and attendance requirements.

(d) A child shall be exempt from the compulsory school attendance requirement set forth in subsection (a) of this section if the requirements of this subsection, relating to physical or mental incapacity, are met. Physical or mental incapacity consists of incapacity for school attendance and the performance of school work. In all cases of prolonged absence from school due to incapacity of the child to attend, the written statement of a licensed physician or authorized school nurse shall be required under the provisions of this article:

Provided, That in all cases, incapacity shall be narrowly defined and in no case shall the provisions of this article allow for the exclusion of the mentally, physically, emotionally or behaviorally handicapped child otherwise entitled to a free appropriate education.

(e) A child shall be exempt from the compulsory school attendance requirement set forth in subsection (a) of this section if conditions rendering school attendance impossible or hazardous to the life, health or safety of the child exist.

(f) A child shall be exempt from the compulsory school attendance requirement set forth in subsection (a) of this section upon regular graduation from a standard senior high school.

(g) A child shall be exempt from the compulsory school attendance requirement set forth in subsection (a) of this section if the child is granted a work permit pursuant to this subsection. The county superintendent may, after due investigation, grant work permits to youths under sixteen years of age, subject to state and federal labor laws and regulations: Provided, That a work permit may not be granted on behalf of any youth who has not completed the eighth grade of school.

(h) A child shall be exempt from the compulsory school attendance requirement set forth in subsection (a) of this section if a serious illness or death in the immediate family of the pupil has occurred. It is expected that the county attendance director will ascertain the facts in all cases of such absences about which information is inadequate and report the facts to the county superintendent.

(i) A child shall be exempt from the compulsory school attendance requirement set forth in subsection (a) of this section if the requirements of this subsection, relating to destitution in the home, are met. Exemption based on a condition of extreme destitution in the home may be granted only upon the written recommendation of the county attendance director to the county superintendent following careful investigation of the case. A copy of the report confirming the condition and school exemption shall be placed with the county director of public assistance. This enactment contemplates every reasonable effort that may properly be taken on the part of both school and public assistance authorities for the relief of home conditions officially recognized as being so destitute as to deprive children of the privilege of school attendance. Exemption for this cause shall not be allowed when the destitution is relieved through public or private means.

(j) A child shall be exempt from the compulsory school attendance requirement set forth in subsection (a) of this section if the requirements of this subsection, relating to church ordinances and observances of regular church ordinances, are met. The county board may approve exemption for religious instruction upon written request of the person having legal or actual charge of a child or children: Provided, That the exemption shall be subject to the rules prescribed by the county superintendent and approved by the county board.

(k) A child shall be exempt from the compulsory school attendance requirement set forth in subsection (a) of this section if the requirements of this subsection, relating to alternative private, parochial, church or religious school instruction, are met. Exemption shall be made for any child attending any private school, parochial school, church school, school operated by a religious order or other nonpublic school which elects to comply with the provisions of article twenty eight of this chapter.

(l) The completion of the eighth grade shall not exempt any child under sixteen years of age from the compulsory attendance provision of this article.