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# THE WV HOMESCHOOLING LAW

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## ARTICLE 8. COMPULSORY ATTENDANCE

### CHAPTER 18. EDUCATION

#### 18-8-1. Compulsory school attendance; exemptions.

Following is an annotated version of the most frequently used homeschool exemption.

For more information, visit [chewv.org](http://chewv.org) under "Homeschooling in WV."

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(2) The child meets the requirements set forth in this subdivision: Provided, That the county superintendent may, after a showing of probable cause, 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 his or her education or that there are other compelling reasons to deny home instruction.

#### First requirement

(A) **Upon commencing home instruction under this section the parent of a child receiving home instruction shall present to the county superintendent or county board a notice of intent** to provide home instruction that includes the name, address, and age of any child of compulsory school age to be instructed and assurance that the child shall receive instruction in reading, language, mathematics, science and social studies and that the child shall be assessed annually in accordance with this subdivision. The person providing home instruction shall notify the county superintendent upon termination of home instruction for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing home instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: Provided, That if a child is enrolled in a public school, notice of intent to provide home instruction shall be given on or before the date home instruction is to begin.

Submitted with the notice of intent (NOI):

(B) The person or persons providing home instruction **shall submit satisfactory evidence** of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

#### Second requirement

(C) **Annually, the person or persons providing home instruction shall obtain an academic assessment of the child for the previous school year** in one of the following ways:

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The four assessment options (choose one each year):

- (i) The child receiving home instruction takes **a nationally normed standardized achievement test** published or normed not more than ten years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, 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 shall be based on current guidelines of the state testing program;
- (iii) A **portfolio** of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. **The teacher shall provide a written narrative** 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. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; 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.

### Third requirement

- (D) **A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years.**

*What to do if acceptable progress is not made:*

When the annual assessment fails to show acceptable progress, the person or persons providing home instruction shall initiate a remedial program to foster acceptable progress. The county board upon request 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. Identification of a disability does not preclude the continuation of home schooling.

*What to do if acceptable progress is not made a second consecutive year:*

In the event that the child does not achieve acceptable progress 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.

### Fourth and last requirement

- (E) The parent or legal guardian shall **submit to the county superintendent** the results of the academic assessment of the child **at grade levels three, five, eight and eleven**, as applicable, **by June 30** of the year in which the assessment was administered.