

Home Schooling In California LEGAL FACT SHEET

Important Note: Before transferring your child out of their current school, please read *Withdrawing Your Child From School* at www.pheofca.org.

LEGAL REQUIREMENTS

- A. There are no statutes in California at this time dealing specifically and exclusively with private home education.
- B. Compulsory attendance at public schools is required for all pupils from the age of 6 years until the age of 18 years [E.C. §§48200, 48400, et al.], with special provisions for 16 to 18 yr. olds [E.C. §48410], and with the legal alternatives provided by the following four options.

FOUR LEGAL ALTERNATIVES FOR HOME EDUCATORS

(1) Home educators may establish a private school, based in their home, and must file a private school affidavit with the Superintendent of Public Instruction of California, normally between October 1st and 15th every school year (see *Filing A Private School Affidavit* at www.pheofca.org). Children enrolled in a private school are exempt from attendance in a public school. Under this provision [E.C. §§48222 and 33190], the following requirements apply to all private schools:

- a. The instructors must be capable of teaching.
- b. The instruction must be in English (see the reverse side of this paper for non-English speaking families).
- c. The instruction must be in the several branches of study required in public schools.
- d. Certain pupil and school records must be on file.
- e. Health Department forms (PM 171A and PM 286B) must be on file. [H.S.C. §§124085 and 120375]

(2) Home schooling parents may enroll their children in a private school PSP (private school satellite program) that has filed a private school affidavit with the Superintendent of Public Instruction of California [same legal exemption and requirements as #1 above]. A private school satellite program (PSP) may be composed entirely of home educators or be an extension program of a campus-based private school.

There is technically no more or no less legal protection or covering in our current Education Codes [E.C. §§33190 & 48222] for either options (1) or (2) above. Based upon past experience, every homeschooling family would be very wise to join and secure the protection of the Home School Legal Defense Association (HSLDA). For both options (1) and (2), parents should properly state that their children are enrolled in a *private school* when communicating with school and other officials.

Families enrolled in **Out-of-State** schools/programs are still required by state law to be enrolled in a California private school (single home-based or PSP) with a California address for its location. It is unnecessary and unwise to voluntarily mention enrollment in out-of-state schools/programs. It is not illegal in California to be enrolled in an out-of-state program, as long as it is represented as a source of curriculum and/or services and not as a means of legal compliance. Public school pupil records (called cum files) should be sent for but not by an out-of-state program. (See *Withdrawing Your Child From School* at www.pheofca.org.)

(3) A child being taught by a home-schooling parent, who has a valid California teacher's credential for the grades and subjects taught, is exempted from attendance in a public school under the tutorial exemption. [E.C. §48224]

(4) The home-schooled pupil may enroll in a public school independent study program (ISP) [E.C. §§51745-51747] or a charter school offering home study [E.C. §47600 et al.] if available in your school district or county. In these two programs, the home-schooling family is totally under the authority of the public schools. We do not recommend these two public school options. For more details on the problems with these options, send a suggested donation of \$10.00 to Family Protection Ministries (address below) and request the *Charter School Packet*.

REQUIREMENTS FOR NON-ENGLISH SPEAKING FAMILIES

Non-English speaking families may be concerned that they can't comply with the requirement that the instruction be in the English Language. However, E.C. §30 provides an exception: "...*any private school may determine when and under what circumstances instruction may be given bilingually. It is the policy of the state to insure the mastery of English by all pupils in the schools; provided that bilingual instruction may be offered in those situations when such instruction is educationally advantageous to the pupils. Bilingual instruction is authorized to the extent that it does not interfere with the systematic, sequential, and regular instruction of all pupils in the English language.*"

The general rule for non-English-speaking families is this: If the parents or child do not speak English, the private school instruction may be in the family's native language. However, there must also be instruction in English, with a goal of bringing the student to proficiency in English. Based on this requirement, families who don't speak English can learn together as part of the regular instruction. In other words, it may be appropriate for the family to use materials for most subjects in the language they speak, and then to use a program for learning English as a separate class until the English language is mastered.

LEGAL PROBLEMS

According to both the U.S. Constitution and California statutes, home-based private education is legal. However, there continue to be challenges that are a potential direct threat to any home educator in California. Most of these challenges are based on **erroneous** charges of either truancy or child abuse/neglect:

1. Charge of *Habitual Truancy* – an infraction. [E.C. §§48260, 48293, et al.]

This charge is used more than 90% of the time in legal challenges to home education in California.

2. Charge of *Child Abuse/Neglect* – rare, but could involve temporary or permanent loss of custody of children.

RESOURCES

(a.) For detailed information on the two legal private alternatives and how to fulfill their requirements, order CHEA's manual, ***An Introduction To Home Education***, and, for older students, CHEA's ***High School Handbook***. For ordering these and other resources, and for other homeschool information, as well as referrals to support groups, contact CHEA at (562) 864-2432; P.O. Box 2009, Norwalk, CA 90651-2009; www.cheaofca.org.

(b.) Join the **Home School Legal Defense Association (HSLDA)** for only \$115/12 months. Discount memberships are available. Contact HSLDA at (540) 338-5600; P.O. Box 3000, Purcellville, VA 20134; www.hslda.org. Join before beginning your home education and before withdrawing your child from another school. It is best to withdraw during summer. You must join before receiving a legal challenge to your homeschooling, so join now.

HSLDA is the **only full-time attorney-staffed** organization that **assures you** of **immediate** and **thorough** representation by an attorney with expertise in this area of law from the very **beginning** of any legal challenges to your home education. There is **no** in-state or out-of-state *school* or *educational program* available to private California homeschoolers that offers **absolute** legal protection. Other than HSLDA, there are no legal protection programs or plans which guarantee expert attorney consultation and representation to families for all legal contacts related to their home education. HSLDA has been at the center of defending our freedom to home school in California. It is the individual family that will be challenged by school and other authorities and not the private school PSP administrator. Each family must take the responsibility to secure the best legal protection available.

(c.) The Private and Home Educators of California **LEGAL-LEGISLATIVE UPDATE** newsletter provides firsthand reports of any changes in the law and legal threats to home education in California. This is published by Family Protection Ministries, the only full-time organization based in the Sacramento area, monitoring and advocating in regard to all legislative and administrative actions that directly affect California private home educators. This Christian ministry is 100% funded by donations from supporters of private/home education and parental rights. This newsletter is available on a complimentary basis by contributing at least **\$40 each calendar year** to:

Family Protection Ministries (Roy Hanson & Jim Davis)
PO Box 730; Lincoln, CA 95648-0730

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