

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 that specifically and exclusively deal with private "home education" as distinct from private schools.

B. Compulsory attendance at public schools is required for all pupils who are age 6 by Sept. 1st (of the new current school year) until they reach the age of 18 years [E.C. §§48200, 48400, et al.], with special provisions and exemptions for 16 and 17 year olds [E.C. §48410]. Exemption from attendance in a public school is provided by the first three of the following four legal alternatives.

FOUR LEGAL ALTERNATIVES FOR HOME EDUCATORS

(1) California is one of twelve states in which "home schooling" is accomplished under a private school exemption. 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). On August 8, 2008, the California Court of Appeals for the Second Appellate District confirmed in their *In re Jonathan L.* ruling (formerly *In re Rachel L.*) that "California statutes permit homeschooling as a species of private school education." 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 (determined by the private school administrator).
- b. The instruction must be in English.
- 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. Certain Health Department forms must be on file.

(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 may 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 required by state law to be enrolled in a California private school (single home-based or PSP) with a California physical 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, visit our website at www.pheofca.org/CharterSchools.html.

LEGAL PROBLEMS

Under 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 (1&2 on p.1) 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 \$120/12 months. Discount memberships are available. Contact HSLDA at (540) 338-5600; P.O. Box 3000, Purcellville, VA 20134; www.hsllda.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. There are no other legal protection programs or plans which guarantee expert attorney consultation and representation to families for all legal contacts related to their home education like HSLDA does. HSLDA can answer legal compliance questions for their members. 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 and emails provide firsthand reports of any changes in the law and legal threats to home education in California. This is published by Family Protection Ministries (FPM), 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. FPM 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 & Nathan Pierce)
PO Box 730; Lincoln, CA 95648-0730

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