

FLORIDA

- Compulsory Attendance Ages:** “All children who have attained the age of 6 years or who will have attained the age of 6 years by February 1 of any school year or who are older than 6 years of age but who have not attained the age of 16 years...are required to attend school regularly during the entire school term.” Florida Statutes Annotated § 1003.21(1).
- Required Days of Instruction:** 180 days for public and private schools. Florida Statutes Annotated § 1003.02(1)(g) 1. However, homeschoolers operating under option 1 below are specifically excluded from this requirement.
- Required Subjects:** None.

Homeschools have three options:

Option 1: Homeschools can operate under the home education law. Fla. Stat. Ann. § 1002.41.

1. The definition of a “home education program” is “sequentially progressive instruction of a student directed by his parent or guardian....” Fla. Stat. Ann. § 1002.01(1).
2. The parent must meet the following requirements:
 - a. notify the county superintendent in writing within 30 days of establishing the home education program (not required to be filed annually);
 - b. give the names, addresses, and birth dates of the homeschool students; and
 - c. maintain a portfolio of records and materials consisting of a log of educational activities made contemporaneously with the instruction and designating by title any reading materials used and samples of any writings, worksheets, workbooks, or creative materials used or developed by the student. The portfolio must be preserved for two years and made available for inspection by the superintendent upon 15 days’ written notice, but the school district has no authority to enter the home. Nothing in this section shall require the superintendent to inspect the portfolio. (**Note:** The child abuse affidavit requirement was repealed in 1995 by Senate Bill 1536.)

Option 2: More than one homeschool can operate as a private school. A child who “attends” a private, parochial, religious, or denominational school is exempt from compulsory attendance. Fla. Stat. Ann. § 1002.01(2). Florida’s intermediate appellate court ruled in *State v. Buckner*, 472 So. 2d 1228 (Fla. Dist. Ct. App. 1985) that one homeschool does not qualify as a private school by itself. However, groups of homeschools can file as private schools under Fla. Stat. Ann. Ch. 623 (the Private School Corporation Law of 1959, Ch. 617 (the Nonprofit Corporation Law), or Ch. 607 (The Florida Business Corporation Act).

Ch. 623 schools must file a charter with their local circuit court and file an annual database form. In some localities, they may be required to obtain a business license. Although in practice these schools have operated for years, the Deputy General Counsel for the Board of Education has issued a non-binding memorandum dated November 2, 1988, stating that homeschools cannot satellite with Ch. 623 private schools because they must be in “attendance” at the school.

The memorandum, however, did not deal with Ch. 607 and 617 schools, which must merely incorporate and file an annual database form. The memorandum also ignored the fact that children enrolled in Ch. 623 schools are actually “in attendance” at various classroom sites located in each home and that the Ch. 623, Ch. 607, and Ch. 617 schools meet all the statutory requirements for private schools. Thousands of homeschool students are legally enrolled in these schools throughout the state.

Option 3: Homeschools can operate under the private tutor law. Fla Stat. Ann. § 1002.43. A person may teach a child if the person meets the following requirements:

- a. Holds a valid Florida certificate to teach the subjects or grades in which instruction is given;
- b. Keeps all records and makes all reports required by the state and district school board; and
- c. Requires students to be in actual attendance for 180 days or the equivalent on an hourly basis.

Teacher Qualifications: None for parents.

Standardized Tests: Only required for parents homeschooling under the homeschool law in Option 1 above. The parent must file a copy of the evaluation with the local school superintendent annually. There is no specific statutory deadline. Fla. Stat. Ann. § 1002.41(1)(c). Each student must do one of the following each year:

- 1) Have educational progress evaluated by a teacher holding a valid regular Florida teaching certificate and selected by the parent. The evaluation must include review of a portfolio and discussion with the student;
- 2) Take any nationally normed student achievement test administered by a certified teacher;
- 3) Take “a state student assessment test used by the school district and administered by a certified teacher, at a location and under testing condition approved by the school district”;
- 4) Be evaluated by a Florida licensed psychologist or school psychologist; or
- 5) Be “evaluated with any other valid measurement tool as mutually agreed upon.”

“The school superintendent shall review and accept the results of the annual evaluation.... If the pupil does not demonstrate educational progress at a level commensurate with his ability, the superintendent shall notify the parent in writing....” The parent shall have one year to provide “remedial instruction” to the pupil. At the end of the “one year probationary period” the student shall be reevaluated to determine if he has progressed “commensurate with his ability.” Fla. Stat. Ann. § 1002.41(2).

Religious Freedom Act: Fla. Stat. § 761.01 et seq.

The Religious Freedom Restoration Act (RFRA), passed with the help of HSLDA members, gives religious homeschoolers another legal means to protect their right to homeschool. If the parents’ free exercise of religion is substantially burdened by having to comply with the homeschool law, the parents may use the RFRA as a defense or file suit against the state. Under this statute, the burden is on the state to prove that its requirement “furthers a compelling state interest” and is the “least restrictive means” of fulfilling its interest that children be educated. This Act restores the highest protection of the individual’s right to freely exercise his religious beliefs taken away by the U.S. Supreme Court in its 1997 City of Boerne decision. 521 U.S. 507.