

MICHIGAN

- Compulsory Attendance Ages:** For a child who turned 11 before December 1, 2009, or who entered sixth grade before 2009, from the “age of 6 to the child’s sixteenth birthday.” For a child who turns 11 on or after December 1, 2009, or a child who enters sixth grade in 2009 or later, from the “age of 6 to the child’s eighteenth birthday.” Michigan Compiled Laws Annotated (MCLA) § 380.1561(1). For a child who turns 11 on or after December 1, 2009, or who enters sixth grade in 2009 or later, a parent may exempt his/her child from compulsory school attendance if the child is at least 16 and the parent has notified the school district in writing that the child has permission to stop attending school. MCLA § 380.1561(5).
- Required Days of Instruction:** No specific number of days is mandated, see *Houghton Lake v. Board of Educ.* 425 N.W.2d 80 (1988).
- Required Subjects:** Reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar, if operating under the home school statute. For those operating a nonpublic school the subjects must be “comparable to those taught in the public schools.” These include mathematics, reading, English, science, and social studies in all grades, and the U.S. Constitution, Michigan Constitution, and the history and present form of civil government of the U.S., Michigan, and the political subdivisions and municipalities of Michigan in the high school grades.

Home schools have two options. They can either operate under the home school statute or qualify as a nonpublic school.

Option I: Home School Statute Option. MCLA § 380.1561(3)(f) (effective July 1, 1996).

1. A child is not required to attend a public school if:

“The child is being educated at the child’s home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar.”

2. There are no requirements to notify, seek approval, test, file forms, or have any certain teacher qualifications. The burden is on the state to prove that the parents are not teaching their children.

Option II: Nonpublic School Option. MCLA § 380.1561(3)(a). “A child who is attending regularly and is being taught in a state approved, nonpublic school, which teaches subjects comparable to those

taught in the public schools to children of corresponding age and grade, as determined by the course of study for the public schools within which the nonpublic school is located” is exempt from public school attendance. A home school is considered a nonpublic school (see *People v. Bennett*, 501 N.W.2d 106 (Mich. 1993)).

1. Home schools operating as nonpublic schools do not need to be approved according to HSLDA’s case *DeJonge v. Superintendent of Public Instruction*, No. 85-56712-AW, Ingham Circuit Court, July 22, 1986. “[T]here is no approval or licensing procedure pursuant to any state statute or administrative rule which requires a private home school, or a private, nonpublic school of any kind, to be approved or licensed by the Department of Education prior to that school’s opening for operation or during the school’s ongoing operation. The Michigan Department of Education’s authority is limited to disapproval of private, nonpublic schools, pursuant to the administrative procedures under MCLA § 388.554 based upon a finding of noncompliance with state law by that school.” (Affirmed by the Michigan Supreme Court in HSLDA’s case, *People v. Bennett*.)

In *Bennett*, the Michigan Supreme Court stated that a home school is a legitimate nonpublic school until an administrative hearing produces a determination to the contrary. The court emphasized that a school district could not initiate criminal proceedings against parents who are home schooling until an administrative hearing had been held by the State Superintendent of Instruction which determined that the school did not meet the requirements of the law.

Also, any “compliance procedures” created by the Department of Education are only interpretive rules which have no force of law. “The Department of Education is not authorized, explicitly or implicitly, to promulgate rules relating to the Nonpublic School Act” (see *Bennett* case).

2. Home schools operating as nonpublic schools must furnish the local public school superintendent or the intermediate superintendent with the following information at the beginning of each school year (MCLA § 380.1578):
 - (a) The name and age of each child enrolled at the school,
 - (b) The number or name of the school district and the city or township and county where the parent lives,
 - (c) The name and address of the parent, and
 - (d) The name and age of any child enrolled in the school who is not in regular attendance.
3. If requested by the Michigan Department of Education, home schools operating as nonpublic schools are required to submit records of enrollment of pupils, courses of study, and qualifications of teachers. MCLA § 388.555. The Form SM-4325 has been developed by the Department of Education for use in reporting this information.

Teacher Qualifications:

Option I: None.

Option II: MCLA § 388.553 requires that teachers in nonpublic schools be state-certified. However, in *People v. DeJonge*, 501 N.W.2d 127 (Mich. 1993), the Michigan Supreme Court overturned all lower cases and struck down teacher certification for private and home schools as unconstitutional. The Court held: “We hold that the teacher certification requirement is an unconstitutional violation of the free exercise clause of the First Amendment as applied to

families whose religious convictions prohibit the use of certified instructors. Such families, therefore, are exempt from the dictates of the teacher certification requirement.”

Home schools which do not have a religious objection to teacher certification are required to have all hours of instruction in the home school done by a certified teacher (see *Clonlara v. State Board of Education*, 501 N.W.2d 88 (Mich. 1993)). However, the Michigan Department of Education now considers persons with a teaching certificate, a teaching permit, or a bachelor’s degree as qualified to teach in a nonpublic school.

Standardized Tests: None

Parental Rights Act: Enacted in 1996, MCLA § 380.10 states, “It is the natural, fundamental right of parents and legal guardians to determine and direct the care, teaching, and education of their children.” This statute effectively reversed the Michigan Supreme Court’s decision in the case *People v. Bennett* which ruled that the parental right to direct the education of one’s home schooled child was not fundamental. This act further establishes the right of parents to choose to home school their children.