

NEW JERSEY

- Compulsory Attendance Ages:** “between the ages of six and 16 years.” New Jersey Statutes Annotated § 18A:38-25.
- Required Days of Instruction:** None required. Public schools must remain open for instruction for at least 180 days each school year. (Atty. Gen. F.O. 1975, No. 19)
- Required Subjects:** NJ statutes do not speak in terms of required subjects, but required instruction. Children must receive instruction “academically equivalent” to public school. For comparison purposes, see “Public School and GED Subjects” below.

Home School Statute: None.

Alternative Statute Allowing for Home Schools: N.J. Stat. Ann. § 18A:38-25.

To home school, parents must meet the following requirements:

1. The child must attend a public school “or a day school in which there is given instruction equivalent to that provided in the public schools for children of similar grades ... or receive equivalent instruction elsewhere than at school.” Home schooling is generally allowed under the “elsewhere than at school” portion of the statute.
2. Based on *State v. Massa*, 95 N.J. Super. 382, 231 A.2d 252 (Morris County Ct. Law Div. 1967):
 - a. If legal action is initiated, parents must carry the burden of providing the local superintendent with evidence that the child is in fact receiving equivalent instruction.
 - b. Then the burden shifts to the state to show that there is a lack of equivalency in the particular home school. The court in *Massa* stated that the state must prove “beyond a reasonable doubt” that the parents failed to provide their child with equivalent education. 231 A.2d at 257.
 - c. Note: The *Massa* case interpreted “equivalent” as requiring only a showing of academic equivalency, not equivalency of social development derived from group education. *Massa*, 231 A.2d at 257.
 - d. In *Massa*, the court held: “This court agrees with the above decisions that the number of students does not determine a school and further, that a certain number of students need not be present to attain an equivalent education.” *Massa* at 256. The court reiterated *Commonwealth v. Roberts*, 34 NE 402 (1893) by emphasizing that the object of the statute is that “all children shall be educated, not that they shall be educated in a particular way.” *Id.*
3. It is clear from the New Jersey courts that “parents have a constitutional right to choose the type and character of education they feel is best suited for their children, be it secular or sectarian.” *West Morris Board of Education v. Sills*, 110 N.J. Super. 234, 265 A.2d 162 (N.J. Super. Ct. Ch. Div. 1970).

4. Public School and GED Subjects. For comparison purposes, N.J. regulations generally require public school students to have the following subjects in grades 9-12 to obtain a public school-issued diploma: language arts (4 years); math (3 years); science (3 years); world history (1 year); civics, or U.S. and N.J. history (2 years); health-safety-physical education (2.5 hrs per week, all 4 years); financial-economic-business-entrepreneurial (1 semester); visual-performing arts (1 year); foreign language (1 year, or show proficiency); career-technical-vocational (1 year); and “technological literacy,” civics, economics, geography and “global content” (not as separate subjects, but “integrated” throughout). Also for comparison purposes, the GED tests reading, writing, social studies, science, and math, and a state-issued diploma can be obtained by a passing score.

Department of Education Policy: In September 2001, the New Jersey Department of Education published *Frequently Asked Questions about Home Schooling in New Jersey* containing 14 questions and answers as a guide for local school districts in enforcing New Jersey’s compulsory education law. They can be found at http://www.state.nj.us/njded/genfo/overview/faq_homeschool.htm. The highlights of the policy are as follows:

1. “Parents/Guardians are not required by law to notify their public school district of their intention to educate the child elsewhere than at school.” (Answer to question number 4).
2. “The law does not require or authorize the local board of education to review and approve the curriculum or program of a child educated elsewhere than at school.” (Answer to question number 5).
3. “If there is credible evidence that the parent ... is not causing the child either to attend school (public or nonpublic) or to receive equivalent instruction elsewhere than at school, the board may request documentation, such as a letter of intent from the parent/guardian showing that the child is either in nonpublic school or receiving equivalent instruction elsewhere than at school. The mere fact that a child has been withdrawn to be home schooled is not, in itself, credible evidence of a legal violation.” (Answer to question number 3).

Teacher Qualifications: None. The court in *Massa* stated that a parent does not have to be certified. The court reasoned; “perhaps the New Jersey Legislature intended the word ‘equivalent’ to mean taught by a certified teacher elsewhere than at school. However, I believe there are teachers today teaching in various schools in New Jersey who are not certified. . . . Had the legislature intended such a requirement, it would have said so.” *Massa*, 231 A.2d at 256.

Standardized Tests: None.

Access to Special Services: The New Jersey Superior Court, Appellate Division, ruled in HSLDA’s case of *Forstrom v. Byrne*, A-2886-99T2, that home school families have a right to access to special services through the public schools if: 1) the special services are provided on the premises of the public school; and 2) the public school is already making such services available to private school students.