

## OKLAHOMA

<b>Compulsory Attendance Ages:</b>	“over the age of five (5) years, and under the age of eighteen (18) years.” Oklahoma Statutes tit. 70, § 10-105(A)-(B).
<b>Required Days of Instruction:</b>	Generally 180 days. Okla. Stat. tit. 70, § 1-109 and § 10-105.
<b>Required Subjects:</b>	None, strictly speaking. However, some courts have suggested that home school education should be equivalent or comparable to public school education. Teaching the following subjects is therefore strongly recommended: math, language arts, science, and social studies. See Okla. Stat. tit. 70, § 11-103.6.

**Home School Statute:** None.

**Alternative Statutes Allowing for Home Schools:** Okla. Stat. tit. 70, § 10-105(A).

1. It is unlawful for a parent of a school aged child “to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education [e.g., home schooling] are provided for the full term the schools of the district are in session....”
2. Oklahoma is the only state with a constitutional provision guaranteeing the right to home school. The Oklahoma Constitution guarantees the home school exemption by stating that the “Legislature shall provide for the compulsory attendance at some public or other school, unless other means of education are provided, of all children in the State who are sound in mind and body, between the ages of eight and sixteen years, for at least three months in each year.” Okla. Const., art. XIII, § 4 (emphasis added).

It seems quite evident that the “other means of education” language is directly applicable to home schooling since it was added for the specific purpose of protecting the right of parents to choose home schooling. In 1907, during the Oklahoma Constitutional Convention, one of the delegates, Mr. Buchanan, proposed that the phrase “unless other means of education be provided” be added to Article 13, Section 4. Favorably responding to Mr. Buchanan’s proposal, another delegate, Mr. Baker stated,

“I think Mr. Buchanan has suggested a solution. A man’s own experience sometimes will teach him. I have two little fellows that are not attending a public school because it is too far for them to walk and their mother makes them study four hours a day.”

As a result of this discussion on home schooling, the “other means of education” language was added to Article 13, Section 4.

3. Oklahoma law does not require parents to use certified teachers or state-approved curricula, initiate contact with, register with or seek approval from state or local officials, test their students or permit public school officials to visit or inspect homes. If a parent is teaching his children the basic subjects for at least 180 days, the law requires nothing more.

4. Home schools are not regulated since the framers of the Oklahoma Constitution specifically intended “other means of education” to include home schooling and gave the state no authority to regulate that exemption from compulsory attendance. In *Snyder v. Asbery* (No. 78,045, Oklahoma Court of Appeals, Div. 2, May 18, 1993), the Oklahoma Court of Appeals returned two children to the custody of their home schooling father, reversing a lower court decision. On page 4 of the decision, the Court agreed with the home schooling father, stating “...the State Department of Education has no jurisdiction in home schooling. See 70 O.S.1991 § 3-104 ... Okla. Const. art. 13, § 5....”
5. In *Sheppard v. Oklahoma*, 306 P.2d 346 (Okla. Crim. App. 1957), the court held that school attendance requirements could be met even though the children were not attending a public or private school. Specifically, the court stated, “Education may be furnished without attendance at any school, public or private.” *Sheppard*, 306 P.2d at 353. The court also emphasized that “it was incumbent on the State to offer proof” that “no other means of education was provided.” *Sheppard*, 306 P.2d at 356.

In other words, the state failed to carry its burden of proof since it failed to prove that “other means of education” was not being provided. The court further indicated that if the state finds that another means of education is being provided, they must then prove that the means of education is not “adequate and comparable” to instruction in public schools. *Sheppard*, 306 P.2d at 356. The court also suggested that the state could inquire about the curriculum in two areas: period of instruction and subjects taught. *Sheppard*, 306 P.2d at 356.

6. In 1909, the Oklahoma Supreme Court upheld parental rights against the public school’s authority. “Under our form of government...the home is considered the keystone of the governmental structure. In this empire parents rule supreme during the minority of their children.” *School Bd. Dist. No. 18 v. Thompson*, 103 P. 578 (Okla. 1909) (emphasis added). “[T]hey may withdraw them entirely from the public schools and send them to private schools, or provide for them other means of education.” *School Bd. Dist. No. 18*, 103 P. at 579 (emphasis added).
7. According to Okla. Att’y Gen. Op. No. 73-129 (Feb. 13, 1973), Oklahoma law recognizes the right of parents to carry out this responsibility through home schooling “so long as the private instruction is supplied in good faith and is equivalent in fact to that afforded by the State.” “Equivalency” has never been defined by any court or Attorney General opinion, nor is “equivalency” mandated by law. However, it seems clear that the point of the Attorney General opinion is that home schooling must not be used as a subterfuge for truancy. See *Wright vs. State*, 209 P. 179 (Okla. Crim. App. 1922).
8. Under Okla. Stat. tit. 70, § 10-109(A), an attendance or police officer may detain and assume temporary custody of a child “except for children being home schooled pursuant to Section 10-105....”

**Teacher Qualifications:** None.

**Standardized Tests:** Not required by statute.

**Religious Freedom Act:** Okla. Stat. tit. 51, §§ 251–258.