

WEST VIRGINIA

- Compulsory Attendance Ages:** Begins with the school year in which the sixth birthday is reached before September 1, or upon enrolling in a publicly supported kindergarten program, and continues to the seventeenth birthday. W. Va. Code § 18-8-1(a). See note below for exception. (Younger and older students are subject to compulsory attendance while actually enrolled in a public school. W. Va. Code § 18-5-44(d)(1) and § 18-8-1a.)
NOTE: House Bill 4593, which passed March 26, 2010, increased the maximum age of compulsory school attendance from 16 to 17 beginning with the 2011-2012 “freshman cohort class of students.” (See memorandum in the member resources section of the WV State webpage for more for explanation).
- Required Days of Instruction:** Under “notice” option, none; under “approval” option, 180 days. W. Va. Code § 18-5-45.
- Required Subjects:** Under “notice” option, none (but students must be tested in certain subjects, see “Standardized Tests” below). Under “approval” option, school board has discretion concerning which subjects are required. W. Va. Code § 18-8-1(c).

Home School Statute: W. Va. Code § 18-8-1(c) creates two homeschool options, “approval” and “notice.”

Option 1. “Approval Option:” Subsection (c)(1) allows a school board to approve homeschooling.

- a. Instruction must be in a place approved by the board;
- b. Instruction must be for a time equal to the school term of the county;
- c. If requested, family must furnish attendance, instruction and progress information;
- d. School board may deny approval for “good and reasonable justification” (denial must be in writing).

Option 2. “Notice Option” – Under subsection (c)(2), a person or persons may homeschool after filing a notice (no particular form is required). If the child is enrolled in a public school, it must be filed two weeks before the start of the home school program.

The notice must state that the person(s) intend to provide home instruction. It must include the child’s name, address, age, and grade level, and evidence of the person(s) high school diploma or equivalent. The person(s) must also outline a plan of instruction for the year.

Alternative Statutes Allowing for Home Schools:

A group of parents may form a private, parochial, church, religious or “other nonpublic school” under W. Va. Code § 18-8-1(k). The school must comply with the requirements of W. Va. Code §§ 18-28-1–18-28-7

Teacher Qualifications:

Option 1: Instruction must be by a person who, in the judgment of the county superintendent and county board, is qualified to give instruction in subjects required to be taught in public elementary schools;

Option 2: Person(s) providing home instruction must have high school diploma or equivalent under “notice” option.

Standardized Tests: None for the “approval” option. For the “notice” option, submit an assessment to superintendent by June 30. Four alternatives are available under W. Va. Code § 18-8-1(c)(2)(D):

1. *Standardized test*

- a. Use any nationally-normed, standardized test published not more than 10 years previously;
- b. Must be administered according to instructions of test publisher;
- c. Must cover reading, language, mathematics, science and social studies;
- d. Public school must cover cost if child is tested as part of public school’s regular testing program; otherwise, parents pay;
- e. “Acceptable progress” is defined as when the mean of the test results in the required areas is at the 50th percentile or higher OR if there is improvement from the previous year’s results; and
- f. Parents are not allowed to administer the test.

2. *Portfolio*

- a. Certified teacher (must include certification number) must review samples of child’s work;
- b. Certified teacher must write a narrative;
- c. Narrative must indicate a portfolio of samples of child’s work has been reviewed;
- d. Narrative must include a statement about progress in the areas of reading, language, math, science, and social studies;
- e. Narrative must note if any of those areas show need for improvement or remediation; and
- f. Narrative must indicate that “the child’s academic progress for the year is in accordance with the child’s abilities” (this constitutes “acceptable progress”).

3. *State Testing Program*

- a. Child may participate in “the testing program currently in use in the state’s public schools;”
- b. Test must be administered at local public school; and
- c. “Acceptable progress” definition is based on “current guidelines of the state testing program.”

4. *Alternative Assessment*

- a. If superintendent agrees, child may complete any alternative academic assessment of proficiency; and
- b. “Acceptable progress” must be determined by agreement between superintendent and parents.

If assessment under one of the options above does not show acceptable progress, W. Va. Code § 18-8-1(c)(2)(D) states:

- a. County must notify parents in writing of services available to assess eligibility for special education services;
- b. Person(s) providing home instruction must initiate remedial program (it does not need to be submitted to or approved by the school system) to foster acceptable progress; and
- c. If acceptable progress is not shown for a second consecutive year, the person(s) providing home instruction must submit to superintendent “additional evidence” that appropriate instruction is being provided; the superintendent may seek an order from the circuit court denying home instruction which may be granted only if the superintendent shows there is “clear and convincing evidence that the child will suffer neglect in the child’s education or ... there are other compelling reasons.” W. Va. Code § 18-8-1(c)(2).