

WISCONSIN

- Compulsory Attendance Ages:** “between the ages of 6 and 18 years.” (6 by September 1, § 118.14) West’s Wisconsin Statutes Annotated § 118.15.
- Required Days of Instruction:** “at least 875 hours of instruction each school year.” Wis. Stat. Ann. § 118.15(4), § 118.165(c).
- Required Subjects:** Reading, language arts, math, social studies, science and health. Wis. Stat. Ann. § 118.165(d).
- Home School Statute:** Wis. Stat. Ann. § 118.15(4), § 118.165(1).

1. Definition: A “home-based private educational program” is a program of educational instruction provided to a child by the child’s parent or guardian or by a person designated by the parent or guardian. An instructional program provided to more than one family is not a home-based private educational program. Wis. Stat. Ann. § 115.001(3g). However, a home schooling parent can be “a person designated” by another parent to do the teaching for their student. In this case, however, the parents should still file a statement of enrollment (see #2 below) for their own children.
2. By October 15 each year, the administrator of each public, private, or homeschool program is required to report to the Department of Public Instruction (DPI) the number of students enrolled in elementary grades and in high school grades as of the third Friday in September. 115.30(3). This statute does not require the administrator to report a student’s name, age, gender, school district of residence, physical address, or specific grade level. While the statute requires an administrator to use the DPI’s form, the DPI habitually asks for information on the form (PI-1206) which it is not authorized to demand, forcing parents to choose between complying with the unauthorized demand or protecting their rights.

The statute requires each homeschool and private school administrator to report on the form whether his program meets criteria (a) through (e) in 118.165(1) (see next numbered paragraph).

The filing of the report is mandatory, and may provide incidental benefits to homeschool families, but failure to file the form does not cause the students of the public, private, or home instruction program to be out of compliance with the compulsory attendance law.

3. “Instruction in a home-based private educational program that meets all of the criteria under § 118.165(1) may be substituted for attendance at public or private school.” § 118.15(4). The § 118.165(1) criteria are:
 - a. “Primary purpose of the program is to provide private or religious-based education;”
 - b. “The program is privately controlled;”

- c. The program provides at least 875 hours of instruction;
 - d. The program “provides a sequentially progressive curriculum of fundamental instruction” in the Required Subjects: (which “does not require the program to include in its curriculum any concept, topic or practice in conflict with the program’s religious doctrines,” or exclude any such topic); and
 - e. The program is not operated to circumvent the compulsory attendance law.
4. This statute was the result of the Supreme Court of Wisconsin’s decision in *Wisconsin v. Popanz*, 112 Wis. 2d 166, 332 N.W.2d 750 (Wis. 1983) which held that the former law was “void for vagueness insofar as it fails to define private school.” *Popanz*, 332 N.W. 2d at 756.

The Court explained its reasoning: “The persons who must obey the law should not have to guess at what the phrase ‘private school’ means. They should have some objective standards to guide them in their attempts to ‘steer between lawful and unlawful conduct.’ *Grayned v. City of Rockford*, 408 U.S. 104 (1972). Furthermore, standards cannot lie only in the minds of persons whose duty it is to enforce the laws. We must conclude that statute fails to provide fair notice to those who would seek to obey it and also lacks sufficient standards for proper enforcement.” *Popanz*, at 756.

5. In *Wisconsin v. Yoder*, 406 U.S. 205 (1972), the U.S. Supreme Court stated “...this case involves the fundamental interest of parents, as contrasted with that of the State, to guide the religious future and education of their children.... This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.” *Yoder*, at 232.

The Court further emphasized “and when the interests of parenthood are combined with a free exercise claim ... more than merely a reasonable relation to some purpose within the competency of the State is required to sustain the validity of the State’s requirement under the 1st Amendment.” *Id.* at 233.

The Court concluded “...the First and Fourteenth Amendments prevent the State from compelling respondents [Amish] to cause their children to attend formal high school....” *Id.* at 234.

Teacher Qualifications: None.

Standardized Tests: None.

PLEASE NOTE: Children enrolled in a virtual charter school, public on-line school, or public school independent study program are not eligible for HSLDA membership. Enrollment in these secular programs is enrollment in public school, which gives the public school authority over the student to impose state assessment, approval of curriculum, and supervision by a certified teacher. HSLDA membership extends only to students whose education is primarily administered and controlled by parents privately. If you have any questions please call our office.