



NATIONAL CENTER FOR LIFE AND LIBERTY

HOMESCHOOL CENTER

Virginia

**1** ..... INTRODUCTION

**2** ..... LETTER FROM DAVID GIBBS III

**3** ..... VIRGINIA HOMESCHOOL LEGAL REQUIREMENTS

**9** ..... LEGAL CHALLENGES

**12** ..... BENEFITS OF MEMBERSHIP

The National Center for Life and Liberty is a nonprofit legal ministry dedicated to protecting and defending the Bible-based values upon which our nation was founded. Homeschool Center—an outreach of the NCLL—was created to be a legal help and resource to homeschool families. Protecting. Equipping. Serving. HC is a fresh approach to homeschooling legal help. For more information and to join, visit <http://homeschool.ncll.org/>. Legal challenges and questions will come—let the NCLL be there to help you when they do.

The following is an explanation of homeschool law for Virginia along with references to additional and more exhaustive resources.



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Dear Homeschool Family,

More and more parents across the country and around the world are exercising the choice to educate their children at home. At the National Center for Life and Liberty, we are committed to defending the fundamental rights of parents to direct and control the upbringing of their children, which includes protecting and defending their right to homeschool. We are also committed to providing our members with help and encouragement so they can homeschool legally and with excellence. When families join the Homeschool Center at the National Center for Life and Liberty, they can rest assured that we will be there if and when they have legal questions about their homeschooling. Our members have access to summaries of homeschool state laws as well as an attorney to assist them with all legal compliance questions. We also provide the following services:

- Guidance on pursuing sports or extracurricular activities with the public school
- Guidance on seeking special needs services from the public school
- Pro bono legal representation in litigation if we determine the issue will advance homeschool liberty
- Assistance in college, trade school, and financial application eligibility questions
- Assistance with social security benefit eligibility for homeschoolers
- Advising in social service issues that are related to homeschool issues

The ministry of the NCLL's Homeschool Center is exactly that—a ministry. We are here to serve you and defend your right to raise and educate your children. In keeping with this mission, the NCLL does everything possible to keep costs low so that we can serve homeschoolers all across the country. Also, while other organizations require an “application” process and require you to follow narrowly defined rules, the NCLL Homeschool Center invites you only to complete a simple “registration” process in order to join. We do not want to control your homeschooling efforts; we are here to provide you with information, encouragement, and support as you diligently homeschool your children.

We are called of God and committed to serving you and your family! Please let us know how we can be of assistance to you.

Thank you for the privilege,

**Attorney David C. Gibbs III**  
***President and General Counsel***  
National Center for Life and Liberty

# VIRGINIA HOMESCHOOL LEGAL REQUIREMENTS

Virginians have the right to homeschool their children. The state, however, does place certain requirements that you, as a parent or guardian, need to follow. Three different options are available.

## THE THREE OPTIONS ARE:

- **Option 1:** Establishing a homeschool
- **Option 2:** Homeschooling under the religious exemption statute
- **Option 3:** Hiring a private tutor

# OPTION 1

## Establishing a homeschool

*Homeschooling is defined as “parental instruction of children.”*

### **COMPULSORY ATTENDANCE**

Compulsory attendance applies to children five years of age on or before September 30 but who have not passed their eighteenth birthday or attained a high school diploma or GED. Any child who will not have reached his sixth birthday on or before September 30 may be exempt until the following year upon notification to the school board, provided the parents decide the child is not emotionally, physically, or mentally prepared to begin school.

### **SOURCES OF LAW**

Virginia Code Annotated 22.1-254.1 (homeschool)  
VCA 22.1-254 (A) et. seq. (attendance); 22.1-271.4 (immunization)

### **TEACHER QUALIFICATIONS**

Teacher qualification options include: 1) the teaching parent holds a high school diploma; 2) the teaching parent meets the qualifications for a teacher prescribed by the Board of Education; 3) the teaching parent provides a curriculum or program of study; 4) the teaching parent provides evidence that the parent is able to provide an adequate education for the child.

### **REPORTING/REGISTRATION**

If the child is in public or private school, NCLL recommends sending a letter of withdrawal to avoid possible truancy issues.

File an annual notice of intent with the local superintendent no later than August 15 for the coming school year or as soon as practicable upon moving into the school district and comply with other requirements within thirty days of notice.

With the notice of intent, provide to the superintendent proof of teacher qualifications and a description of the intended curriculum (limited to just a list of subjects parents intend to teach).

Virginia Department of Education: [http://www.doe.virginia.gov/students\\_parents/private\\_home/home\\_instruction/home\\_instruction\\_handbook.pdf](http://www.doe.virginia.gov/students_parents/private_home/home_instruction/home_instruction_handbook.pdf)

By August 1 following each school year, provide to the superintendent evidence of required assessments (see testing/assessment section below).

Submit proof of immunization upon request by the district superintendent.

## **RECORD KEEPING**

No specific record keeping is required by law; however, parents should maintain records necessary to satisfy assessment requirements.

## **REQUIRED SUBJECTS, DAYS OF ATTENDANCE AND OTHER REQUIREMENTS**

No particular subjects are specified. Generally, attend the same number of days as a public school or 180 days.

Comply with statutory immunization requirements (Code of VA 32.1-46) in the same manner and to the same extent as if the child has been enrolled in and is attending school, or submit an exemption on religious or medical grounds.

## **REQUIRED TESTING/ASSESSMENTS**

By August 1 following the school year in which the child has received home instruction, provide the division superintendent with either:

- i) evidence that the child has attained a composite score in or above the fourth stanine on any nationally normed standardized achievement test; or
- ii) an evaluation or assessment that the division superintendent determines to indicate that the child is achieving an adequate level of educational growth and progress, including but not limited to: a) an evaluation letter from a person licensed to teach in any state or a person with a master's degree or higher in an academic discipline, having knowledge of the child's academic progress, stating that the child is achieving an adequate level of educational growth and progress; or b) a report card or transcript from a community college or university, college distance learning program, or home-education correspondence school.

See Code of Virginia section 22.1-254.1(C) for procedures that govern in the event that evidence of acceptable progress is not provided by the parent.

# OPTION 2

## Homeschooling under the religious exemption statute

*Homeschooling under this option excuses attendance at public school when parent, by virtue of a bona fide religious training or belief, is conscientiously opposed to attendance at school.*

### **COMPULSORY ATTENDANCE**

Compulsory attendance applies to children five years of age on or before September 30 but who have not passed their eighteenth birthday or attained a high school diploma or GED. Any child who will not have reached his sixth birthday on or before September 30 may be exempt until the following year upon notification to the school board, provided the parents decide the child is not emotionally, physically, or mentally prepared to begin school.

### **SOURCES OF LAW**

Virginia Code Annotated 22.1-254(B)(1).

### **TEACHER QUALIFICATIONS**

Teacher certification is not required.

### **REPORTING/REGISTRATION**

If the child is in public or private school, NCLL recommends sending a letter of withdrawal to avoid possible truancy issues.

File a letter of request for exemption with the school superintendent at the local level. The letter should explain the parents' religious beliefs opposing public school attendance.

Submit proof of immunization upon request by the district superintendent. Other than these two requirements, no others apply under this option. See Code of Virginia 22.1-254(I)(5).

### **RECORD KEEPING**

No specific record keeping is required.

Virginia Department of Education: [http://www.doe.virginia.gov/students\\_parents/private\\_home/home\\_instruction/home\\_instruction\\_handbook.pdf](http://www.doe.virginia.gov/students_parents/private_home/home_instruction/home_instruction_handbook.pdf)

## **REQUIRED SUBJECTS, DAYS OF ATTENDANCE, AND OTHER REQUIREMENTS**

No particular subjects are specified. Generally, attend the same number of days as a public school or 180 days.

Comply with statutory immunization requirements (Code of VA 32.1-46) in the same manner and to the same extent as if the child has been enrolled in and is attending school, or submit an exemption on religious or medical grounds.

## **REQUIRED TESTING/ASSESSMENTS**

No specific testing is required.

# OPTION 3

## Hiring a private tutor

*Parents may hire a tutor for their child or, if so certified, may qualify as a tutor themselves and thus be exempt from the requirements of the homeschool statute.*

### **COMPULSORY ATTENDANCE**

Compulsory attendance applies to children five years of age on or before September 30 but who have not passed their eighteenth birthday or attained a high school diploma or GED. Any child who will not have reached his sixth birthday on or before September 30 may be exempt until the following year upon notification to the school board, provided the parents decide the child is not emotionally, physically, or mentally prepared to begin school.

### **SOURCES OF LAW**

Virginia Code Annotated 22.1-254(A).

### **TEACHER QUALIFICATIONS**

The tutor must be certified to teach by the state of Virginia. Parents with teaching licenses may provide evidence of their license and be approved as a tutor for their children through the date their licenses will expire.

### **REPORTING/REGISTRATION**

If the child is in public or private school, NCLL recommends sending a letter of withdrawal to avoid possible truancy issues.

Provide a one-time notice to the superintendent that a tutor will be utilized.

### **RECORD KEEPING**

No specific record keeping is required.

### **REQUIRED SUBJECTS, DAYS OF ATTENDANCE AND OTHER REQUIREMENTS**

No particular subjects are specified. Generally, attend the same number of days as a public school or 180 days.

Comply with statutory immunization requirements (Code of VA 32.1-46) in the same manner and to the same extent as if the child has been enrolled in and is attending school, or submit an exemption on religious or medical grounds.

Virginia Department of Education: [http://www.doe.virginia.gov/students\\_parents/private\\_home/home\\_instruction/home\\_instruction\\_handbook.pdf](http://www.doe.virginia.gov/students_parents/private_home/home_instruction/home_instruction_handbook.pdf)

## **REQUIRED TESTING/ASSESSMENTS**

No specific testing is required.

Virginia Department of Education: [http://www.doe.virginia.gov/students\\_parents/private\\_home/home\\_instruction/home\\_instruction\\_handbook.pdf](http://www.doe.virginia.gov/students_parents/private_home/home_instruction/home_instruction_handbook.pdf)

# WHEN LEGAL CHALLENGES PRESENT THEMSELVES:

- 1** Calmly learn and follow your state’s laws. State summaries are available at our website, and we are always available to answer your questions.
- 2** As you teach your children at home, know that you’re a “walking advertisement” for homeschooling. Our relatives, neighbors, and others we encounter are watching. It’s a good idea to watch your outside activities during school hours. Try to share some homeschool highlights with your relatives so they might be won over. Also, avoid disciplining your child in public, because understanding of what is appropriate varies.
- 3** Leaving children at home alone is always risky—especially if you frequently leave older children home alone with younger children. Is there an appropriate age when it is fine to leave them alone? Consider calling your local social services agency to ask its opinion.

# IF YOU RECEIVE A PHONE CALL:

- 1** If a homeschooler receives a phone call from someone representing himself as a school or social services authority, never give information over the phone! Make it your goal to get information from the caller. Ask what has prompted this call, the caller’s name, telephone number, title, and the agency he represents. Give yourself time to calm down and consider the request. Tell the caller that you will either get back to him or that your attorney will get back to him. Above everything, keep calm, as this initial call can set the tone for the entire encounter.
- 2** If the caller wishes to arrange a meeting and you agree to meet, allow yourself plenty of calendar time between the day of the call and the day of a future meeting. You will want to decide on a strategy and/or consult an attorney. If you agree to meet, arrange to meet in the official’s office and definitely not in your home.

# IF YOU RECEIVE A LETTER IN THE MAIL

- 1** Read the letter slowly and carefully. Make sure that you know what is being asked of you, and take the time to discern who is asking. If the request is clear and unambiguous (such as asking for a copy of a birth certificate) and the law clearly specifies that it is required, it may be best to comply. Before supplying any information, either by mail or in person, verify the authenticity of the person and the agency making the request as well as the necessity of the information.
- 2** If the request is at all questionable, take time to study the issue and consult your attorney. If it means time, write or call the sender to say that you'll need more time.
- 3** Remember, if you mail anything or bring anything to an official's office, keep copies of what you mailed or brought for your files. If you decide to mail any items, mail them return-receipt requested. This documentation from the Post Office means you will receive proof that the letter you sent was signed for and received.
- 4** An electronic or e-mail notification is not sufficient legal notice of a legal challenge. Do not reply to an electronic notification of a legal challenge without seeking legal advice.

# IF YOU RECEIVE A VISITOR AT THE DOOR

- 1** First, you are entitled to know the reason for any visit. The visitor may tell you he does not have to tell you the reason, or he may tell you that he needs to come inside of your home to talk to you. ***Neither claim is true!*** Government officials are required to tell you the specific allegations that led to their visit.

- 2** Be polite and ask for a business card or an ID badge. If the visitor wants to enter your home, ask if he has a search warrant. Without a warrant, he has no legal authority to enter your home. Getting a warrant is not an easy task for a government official. The official will have to demonstrate to a judge that he has “probable cause” to believe that either (1) a crime has been committed or that (2) some other compelling reason exists for the agency to enter your home to investigate. A warrant requires much more than an anonymous tip or mere suspicion. Remember—no warrant, no entry.
- 3** Be calm! If you have a local lawyer or are a member of the Homeschool Center, call your attorney on the phone while the visitor is still at your door. Then, hand the phone over to the visitor and have your attorney do the talking for you.
- 4** Be respectful to the visitor, but also respect yourself and your family. If the visitor insists on seeing your children, bring the children outside the door. Allowing an official inside gives him too great of an opportunity to go on a “fishing expedition.” The visitor may request immediate answers to one or more questions, but tell him that you will speak to him only after you have consulted with your legal counsel.
- 5** The visitor may threaten to obtain a warrant. Don’t be frightened by this. Of course you will fully cooperate if he returns and shows you the warrant, but chances are that he is merely trying to frighten you. Don’t be frightened, but seek legal counsel immediately.

# MEMBERSHIP BENEFITS

As a member of the Homeschool Center, you have access to our professional, experienced, caring homeschool attorneys who . . .

- Can address any ongoing or current legal compliance questions or concerns
- Are available in the event that you have a homeschooling legal emergency
- Will litigate your case on a pro bono (no cost to you) basis if we determine that the issues involved will advance the liberty of homeschooling in America

Membership in the Homeschool Center provides access to the following:

- Free legal advice if you or your family member has been subject to religious discrimination at work
- Pro bono litigation in cases that advance church, Christian education, religious liberty, or sanctity of life issues
- Legal guidance after a car accident, where one of our attorneys will explain how to protect your rights after the accident and will refer you, if needed, to one our trusted attorney affiliates

## JOIN TODAY!

We want to be here for you! We receive hundreds of homeschool calls every year, and the numbers keep rising. So, if you haven't already, please consider joining today. At just **\$35 for the first year**, you really can't afford **NOT** to be a member!

Go to <http://homeschool.ncll.org/membership> to become a member.

