

The following is a summary of the NDHSA's understanding of the law and is not intended as legal advice. For legal advice contact Home School Legal Defense Association, if you are member, or an attorney familiar with home school law or contact the NDHSA office at 1854 107th St. NE, Bottineau, ND 58318 701.263.3727 office@ndhsa.org or www.ndhsa.org

QUALIFICATIONS OF PARENTS TO HOME SCHOOL

If you have a high school diploma or a G.E.D. you may home school your children in North Dakota. If you have neither, you may still home school, but you will need to be monitored by a N.D. state-certified teacher for at least two years. You may request a monitor from your school district of residence or you may privately contract with any willing N.D. state-certified teacher to act as your monitor. The monitor is required to be in contact with the child and the parent an average of one hour per week and an additional 1/2 hour per month per additional child. Twice yearly *the monitor* is required to file a progress report with the school district of residence.

MONITORING REQUIREMENTS

Parents who must be monitored can be monitored by any ND state-certified teacher.

1. A ND state-certified teacher providing monitoring or testing services must notify the local public school district in which the child resides that these services are being provided.

2. Home educating parents have **two options if they must qualify under the monitoring provision:**

- *You can request that your local school district provide you with a monitor and they must do so free of charge, it's the law!* If the local public school district provides the monitor, the district receives one half of the foundation aid payment to provide these services and the school district is responsible to hire the monitor.
- *Or you can privately contract with any willing, ND state-certified teacher to act as your monitor.* He or she does not have to be currently employed by any school. If you choose to privately contract then you bear the cost of the monitoring. No set fees exist so they are determined between the parent and the monitor. A privately-employed monitor does not have to reside in the same community or public school district in which you live. As conditions for monitoring a privately-employed teacher or a private school can, if they so desire, make certain requirements that go beyond the requirements of the law.

3. **The time and place of the monitoring** is not specified in the law and therefore subject to negotiation between the monitor and the parent and can be accomplished anywhere that is satisfactory to both parties.

- We believe the law does not require the monitoring be done while your school is in session. The monitoring can be done either during or after school. Problems have occurred when the monitoring is done while the home school is in session.
- If you are monitored by the public school, we believe the law does not require unannounced visits by the monitor. Even if you choose to have a public school monitor come to your home, we believe prior arrangements can be made to protect your privacy as much as possible. The demand of government (i.e. a local public school teacher or administrator) to come unannounced and demand entry into your home without proper notification, we believe, is a gross invasion of privacy. Your home is a private residence. You have a right to insist on reasonable notice. Should this become a problem, home educators are encouraged to maintain their poise and courtesy. If you are a member of HSLDA, a call by one of the staff attorneys usually resolves this type of difficulty.

4. Length and amount of monitoring

The law requires that the monitoring be an average of one hour per week for the first child and an additional 1/2 hour per **month** per additional child. Since the law specifically states this is an average, the monitoring might conceivably be done once a month for four hours. Clearly the law allows for a flexible schedule as long as the required hours are met. This allows the schedule to be suitable for both the home educator and the monitor.

Monitoring ceases permanently (no matter how many other children you may home school) after two years if the child tests at or above the 50th percentile on the composite score of the standardized achievement test in a year in which testing is required. There has been an attempt by some local school superintendents to reinstate monitoring once successfully completed if at a later date a child in the program tests below the 50th percentile. This is not allowed by the home school statutes.

If testing is not required by law in the first two years of monitoring, the monitoring period may not be extended except upon mutual consent of the parent and the monitor. Again, once the parent has completed the monitoring requirements for one child, the parent may not be monitored with respect to other children being educated at home. Monitoring is pro-rated for those who are not homeschooling full-time.

COMPULSORY ATTENDANCE LAW

According to the Department of Public Instruction's interpretation of the law, when a child reaches his or her seventh birthday on or before August 31, the compulsory attendance law goes into effect for that child. When a child reaches his 16th birthday the compulsory attendance law is no longer in effect for that child.

The law requires that you provide instruction for four hours a day for 175 days. The law does not require home schoolers to submit a calendar to the local school! Some privately-employed monitors may require submitting a school calendar as part of their monitoring requirements. Private schools and privately-employed monitors can impose whatever requirements they wish as a condition of providing services.

TESTING

Standardized achievement testing

- The law requires that a standardized achievement test be **given in grades 4, 6, 8 and 10**.
- The test is to be given **in the child's learning environment or in the public school at the option of the parent**.
- The test **must be administered by a ND state-certified teacher**.
- If the **testing is done by the public school it pays for the testing**; the standardized achievement test being used by the public school must be employed.
- **If the testing is done by a privately-employed ND state-certified teacher, the parent is responsible for the cost of the test.** If the parent requests a test administrator from the school district of residence one may be provided free of charge. The parent may choose any nationally-normed, standardized achievement test and it must be administered during its norming dates.
- **Requirements for those scoring below the 30th percentile on the composite score.**

If a child scores below the 30th percentile on the composite score of the standardized achievement test, that child must be evaluated for a potential learning problem by a multidisciplinary assessment team according to the guidelines established by the superintendent of public instruction.

The child with no disability must now have a plan of remediation. If a plan is not filed, the parent is deemed to be in violation of the compulsory attendance law. The plan must be developed in consultation with a state-certified teacher selected by the parent; the parent is responsible for all costs related to it. The plan remains in effect until the child scores at or above the 30th percentile **OR** has achieved a score indicating one year of academic progress compared to the previous year's test results. The plan may require amendment in consultation with a state-certified teacher.

The child that scores below the 30th percentile and has a disability but is not "developmentally disabled", must have an individual education plan (IEP) developed privately or through the local school district. An annual determination of reasonable academic progress conducted by the local school superintendent must be based on the child's IEP. If the plan is not filed, the child is no longer eligible to be home educated. The child does not have to be evaluated again unless the reevaluation is performed pursuant to the provision of special education and related services.

Mental abilities tests

Aptitude or cognitive testing is NOT required for home educated students (*Conklin vs. Sanstead*). They may be helpful to parents in understanding the results of the standardized achievement test, however, it is wisest to have it administered privately and the results provided only to the parent.

ND State Assessment test

This test is a result of the *No Child Left Behind Act*. The 2002 Federal law prohibits any state receiving federal education funding from requiring home schoolers to take any state testing (state assessment test) designed to assess public school achievement. The NDSA test may not be used to fulfill statutory requirements for testing unless it is capable of rendering scores in percentiles.

THE STATEMENT OF INTENT

- The Statement of Intent (SOI) is to be filed at least 14 days before you plan to begin home schooling or within 14 days of establishing your residency.
- The SOI is to be filed on every child between the ages of 7 and 16.

NOTE: If you do not file a Statement of Intent for a child 16 or older, your child will be considered a dropout by the DPI for statistical purposes. However, if a Statement of Intent is filed, you may be pressured to submit to procedures that are not required in the law for a child over the compulsory attendance age. Please confer with HSLDA, if you are a member, or with an attorney familiar with home school law if you have questions about this. If your child plans to participate in extra-curricular or curricular activities at the local public school an SOI must be filed even if the child has passed the compulsory attendance age.

- The law requires the SOI to contain: the name and address of the parent who will supervise and the child who will receive home education; the date of birth and grade level of each child receiving home education; the intention of the parent to supervise home education; the qualifications of the parent who will supervise home education; a list of courses in which the child intends to enroll and the public school district offering the courses; a list of extracurricular activities in which the child intends to participate and the public school district or approved nonpublic school offering the activities; proof of immunization; and proof of identity.
- The NDHSA has published an SOI for your use; two copies are included in the paper-based HS PKT; the SOI is available at www.ndhsa.org. The local superintendent's signature is not required by law. We recommend that the SOI be filed by certified mail.
- *Proof of immunization* must be submitted with the SOI. If you have chosen not to immunize, ND law allows an exemption based on **religious, moral or philosophical beliefs or for health reasons**.
- *Proof of the child's identity* must accompany the statement of intent (NDCC section 54-23.2-04.2). Proofs include: a certified copy of the child's birth certificate; the certified transcripts of the student's records from the previous school attended; or any record deemed appropriate by the local school superintendent (such as a baptismal/dedication record or social security card).