

South Carolina Law

59-65-47

In lieu of the requirements of Section 59-65-40 or Section 59-65-45, parents or guardians may teach their children at home if the instruction is conducted under the auspices of an association for homeschools which has no fewer than fifty members and meets the requirements of this section. Bona fide membership and continuing compliance with the academic standards of the associations exempts the home school from the further requirements of Section 59-65-40 or Section 59-65-45.

The State Department of Education shall conduct annually a review of the association standards to insure that requirements of the association, at a minimum, include:

- A. a parent must hold at least a high school diploma or the equivalent general educational development (GED) certificate;
- B. the instructional year is at least one hundred eighty days;
- C. the curriculum includes, but is not limited to, the basic instructional areas of reading, writing, mathematics, science, and social studies, and in grades seven through twelve, composition and literature; and
- D. educational records shall be maintained by the parent-teacher and include:
 - 1. a plan book, diary, or other record indicating subjects taught and activities in which the student and parent-teacher engage;
 - 2. a portfolio of samples of the student's academic work; and
 - 3. a semiannual progress report including attendance records and individualized documentation of the student's academic progress in each of the basic instructional areas specified in item (c) above.

By January thirtieth of each year, all associations shall report the number and grade level of children home schooled through the association to the children's respective school districts.

59-65-40

- A. Parents or guardians may teach their children at home if the instruction is approved by the district board of trustees of the district in which the children reside. A district board of trustees shall approve homeschooling programs which meet the following standards:
1. the parent:
 - A. holds at least a high school diploma or the equivalent general educational development (GED) certificate and, beginning in the 1989-90 school year, attains a passing score on the basic skills examination developed pursuant to Section 59-26-20 (b) (1) after the State Department of Education has validated the test for use with homeschooling parents; or
 - B. has earned a baccalaureate degree; [**Note** : As a result of Lawrence v South Carolina State Board of Education (1991, SC), the requirement of (a) passing score on the basic skills examination or (b) obtaining a baccalaureate degree was repealed. In other words, parents must hold at least a high school diploma or the equivalent general educational development (GED) certificate. For more information, see CASE NOTES following this section.]
 2. the instructional day is at least four and one-half hours, excluding lunch and recesses, and the instructional year is at least one hundred and eighty days;
 3. the curriculum includes, but is not limited to, the basic instructional areas of reading, writing, mathematics,

science, and social studies and in grades seven through twelve, composition and literature;

4. as evidence that a student is receiving regular instruction, the parent shall present a system for maintaining and maintain the following records for inspection upon reasonable notice by a representative of the school district:
 - A. a plan book, diary, or other written record indicating subjects taught and activities in which the student and parent engage;
 - B. a portfolio of samples of the student's academic work; and
 - C. a record of evaluations of the student's academic progress. A semiannual progress report including attendance records and individualized assessments of the student's academic progress in each of the basic instructional areas specified in item (3) must be submitted to the school district.
5. students must have access to library facilities;
6. students must participate in the annual statewide testing program and the Basic Skills Assessment Program approved by the State Board of Education for their appropriate grade level. The tests must be administered by a certified school district employee either with public school students or by special arrangement at the student's place of instruction, at the parent's option. The parent is responsible for paying the test administrator if the test is administered at the student's home; and
[**Note** : As of publication, students in grades kindergarten through second grade are not required to participate in statewide testing.]
7. parents must agree in writing to hold the district, the district board of trustees and the district's employees harmless for any educational deficiencies of the student sustained as a result of home instruction. At any time the

school district determines that the parent is not maintaining the homeschool program in keeping with the standards specified in this section the district board of trustees shall notify the parent to correct the deficiencies within thirty days. If the deficiencies are not corrected within thirty days, the district board of trustees may withdraw its approval.

- B. The district board of trustees shall provide for an application process which elicits the information necessary for processing the homeschooling request, including a description of the program, the texts and materials to be used, the methods of program evaluation, and the place of instruction. Parents must be notified in advance of the date, place, and time of the meeting at which the application is considered by the board and parents may be heard at the meeting.
- C. Within the first fifteen instructional days of the public school year, students participating in home instruction and eligible for enrollment in the first grade of the public schools must be tested to determine their readiness for first grade using the readiness instrument approved by the State Board of Education for public school students. If a student is determined to be "not ready" or is determined to lack the necessary emotional maturity, the parent must be advised by appropriate school district personnel whether a kindergarten or a first grade curriculum should be used for the child. Nothing in this section may be interpreted to conflict a parent's right to exempt his child from kindergarten as provided in Section 59-65-10 (A). [**Note** : As stated above, as of publication, students in grades kindergarten through second grade are not required to participate in statewide testing.]
- D. Should a student in a homeschooling program score below the test requirements of the promotion standard prescribed for public school students by the State Board of Education for one year, the district board of trustees shall decide whether or not the student shall receive appropriate instructional placement in the public school, special services as a handicapped student, or homeschooling with an instructional support system at parental expense. The right of a parent to enroll his child in a private or parochial school as provided in Section 59-65-10 (A) is unaffected by this provision.

- E. If a parent is denied permission to begin or continue homeschooling by a district board of trustees, the decision of the district board of trustees may be appealed, within ten days, to the State Board of Education. Any appeal from the decision of the State Board of Education must be taken, within thirty days, to the family court.

CASE NOTES:

The requirement that a parent who provides a homeschooling program to his or her child must pass the basic skills examination (EEE) is unenforceable, since the process for validating the examination failed to meet the standard of reasonableness where the EEE did not test teaching ability, the panel who evaluated each item of the EEE for task relatedness and bias were not given a description of successful homeschooling, and the scores given the examination by those who were homeschoolers versus those who were not was substantially different. *Lawrence v South Carolina State Board of Education* (1991, SC).

ATTORNEY GENERAL'S OPINIONS:

Use of a correspondence courses does not, alone, constitute a school under compulsory school attendance laws. 1984 Op Atty. Gen, No 84-12. p. 42. Although school district boards of trustees may take reasonable period of time to review and act on application for home instruction, deadlines may not be set beyond which applications would no longer be considered. 1991 Op Atty. Gen, No 91-8, p. 36.

Requirements of 59-65-40 must be met before parents or guardians may teach their children at home. This is so regardless of whether, in absence of 59-65-40, home instruction would constitute private school or "member school" of organization of other home schools within meaning of 59-65-10. 1991 Op Atty. Gen, No 91-8, p. 36.

Statutory provisions do not authorize students to be taught by anyone other than their parents or guardians in a home instruction setting. 1989 Op Atty. Gen, No 89-22, p. 60.

The home instruction law does not authorize on-site visits to a home prior to approval of a home instruction program, nor does it authorize subsequent visits to determine whether standards are being met; prior visits would only be permissible with the agreement of the parent or guardian as an alternative to providing additional information about the place of instruction. 1989 Op Atty. Gen, No 89-22, p. 60.

59-65-45

In lieu of the requirements of Section 59-65-40, parents or guardians may teach their children at home if the instruction is conducted under the auspices of the South Carolina Association of Independent Home Schools. Bona fide membership and continuing compliance with the academic standards of South Carolina Association of Independent Home Schools exempts the homeschool from the further requirements of Section 59-65-40.

The State Department of Education shall conduct annually a review of the association standards to insure that requirements of the association, at a minimum, include:

- A. a parent must hold at least a high school diploma or the equivalent general educational development (GED) certificate;
- B. the instructional year is at least one hundred eighty days; and
- C. the curriculum includes, but is not limited to, the basic instructional areas of reading, writing, mathematics, science, social studies, and in grades seven through twelve, composition and literature.

By January thirtieth of each year, the South Carolina Association of Independent Home Schools shall report the number and grade level of children homeschooled through the association to the children's respective school districts.