

OKLAHOMA

- Compulsory Attendance Ages:** “over age of five (5) years and under the age of eighteen (18) years.” Oklahoma Statutes Annotated Title 70, § 10-105(A)-(B).
- Required Days of Instruction:** 180 days. Okla. Stat. Ann. tit. 70, § 1-109.
- Required Subjects:** None, strictly speaking. However, some courts have suggested that home school education should be equivalent or comparable to public school education. Teaching the following subjects is therefore strongly recommended: math, language arts, science, and social studies. See 70 Okla. Stat. Ann. § 11-103.6.

Home School Statute: None.

Alternative Statutes Allowing for Home Schools: Okla. Stat. Ann. tit. 70 § 10-105(A).

1. It is unlawful for a parent of a school aged child “to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education [i.e., home schooling] are provided for the full term the schools of the district are in session.”
2. Oklahoma is the only state with a constitutional provision guaranteeing the right to home school. Section 4, Art. 13 of the Constitution of Oklahoma guarantees the home school exemption by stating that the legislature “shall” provide for the “compulsory attendance at some public or other school, unless other means of education are provided of all children in the State who are sound in mind and body, between the ages of eight and sixteen, for at least three months each year.”

It seems quite evident that the “other means of education” language is directly applicable to home schooling since it was added for the specific purpose of protecting the right of parents to choose home schooling. In 1907, during the Oklahoma Constitutional Convention, one of the delegates, Mr. Buchanan, proposed that the phrase “unless other means of education be provided” be added to Article 13, Section 4. Favorably responding to Mr. Buchanan’s proposal, another delegate, Mr. Baker stated,

“I think Mr. Buchanan has suggested a solution. A man’s own experience sometimes will teach him. I have two little fellows that are not attending a public school because it is too far for them to walk and their mother makes them study four hours a day.”

As a result of this discussion on home schooling, the “other means of education” language was added to Article 13, Section 4.

3. Oklahoma law does not require parents to use certified teachers or state-approved curricula, initiate contact with, register with or seek approval from state or local officials, test their students or permit public school officials to visit or inspect homes. If a parent is teaching his children the basic subjects for at least 180 days, the law requires nothing more.
4. Home schools are not regulated, since the framers of the Oklahoma Constitution specifically intended “other means of education” to include home schooling and gave the state no authority to regulate that exemption from compulsory attendance. In *Snyder v. Asbery* (No. 78,045, Oklahoma Court of Appeals, Div. 2, May 18, 1993), the Oklahoma Court of Appeals returned two children to the custody of their home schooling father, reversing a lower court decision. On page 4 of the decision, the Court agreed with the home schooling father, stating “...the State Department of Education has no jurisdiction in home schooling. See 70 O.S.1991 § 3-104 ... Okla. Const. art. 13, § 5...”
5. In the case, *Sheppard v. Oklahoma*, 306 P.2d 346 (Okla. Crim. App. 1957), the court held that requirements of school attendance laws could be met even though children were not attending public or private school. The court said “education may be furnished without attendance at any school.” *Sheppard*, at 353. The court also emphasized “it was incumbent on the state to offer proof” that “no other means of education was provided.” *Sheppard*, at 356.

In other words, the state failed to carry its burden of proof since it failed to prove that “other means of education” was not being provided. The court indicated further that, if the state finds other means of education are being provided, then they must prove that the means of education is not “adequate and comparable” to instruction in public schools. *Id.* at 356. The court also suggested the state could inquire about the curriculum in two areas: period of instruction and subjects taught. *Id.*

6. The Oklahoma Supreme Court in *School Brd. Dist. No. 18 v. Thompson*, 103 P. 578, 24 Okla. 1 (1909), upheld parental rights against the public school’s authority. “Under our form of government ... the home is considered the key stone of the governmental structure. In this empire, parents rule supreme during the minority of their children ... they may ... withdraw them entirely from public schools and send them to private schools, or provide for them other means of education.”
7. According to Attorney General Opinion No. 73-129 (Feb. 13, 1973) Oklahoma law recognizes the right of parents to carry out this responsibility through home schooling “so long as the private instruction is supplied in good faith and equivalent in fact to that afforded by the State.” “Equivalency” has never been defined by any court or Attorney General opinion, nor is equivalency mandated by law. However, it seems clear that the point of the Attorney General opinion is that home schooling must not be used as a subterfuge for truancy. See *Wright vs. State*, 209 P. 179 (1922).
8. Under Sec. 10-109(A), an attendance or police officer may detain and assume temporary custody of a child “except for children being home schooled pursuant to Section 10-105.”

Teacher Qualifications: None.

Standardized Tests: Not required by statute.

Religious Freedom Act: Oklahoma Statutes, Section 251 of Title 51

The Religious Freedom Restoration Act (RFRA), passed with the help of HSLDA members, gives religious home schoolers another legal means to protect their right to home school. If the parents' free exercise of religion is substantially burdened by having to comply with the homeschool law, the parents may use the RFRA as a defense or file suit against the state. Under this statute, the burden is on the state to prove that its requirement "furthers a compelling state interest" and is the "least restrictive means" of fulfilling its interest that children be educated. This Act restores the highest protection of the individual's right to freely exercise his religious beliefs taken away by the U.S. Supreme Court in its 1997 City of Boerne decision. 520 U.S. 507.

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