

Washington State's Laws Regulating Home-Based Instruction



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**WASHINGTON STATE'S LAWS
REGULATING
HOME-BASED INSTRUCTION**

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INTRODUCTION

Washington State's laws regulating home-based instruction, extension programs in approved private schools, and the part-time attendance in public schools of students receiving home-based instruction.

In May 1985, the Governor signed into a law chapter 441, Laws of 1985, (SSB 3279, the "Home-Based Instruction" Law). Three statutes were amended by this law: RCW 28A.225.010 Attendance mandatory—Age—Exceptions; RCW 28A.195.010 Private schools—Extension programs for parents to teach children in their custody—Scope of state control; and RCW 28A.150.350 Part-time students—Defined—Enrollment authorized—Reimbursement for costs—Funding authority recognition—Rules, regulations. New sections were added to chapter 28A.225 RCW Compulsory School Attendance and Admission. In 1991, RCW 28A.305.190 Eligibility to take general educational development test was also amended.

There are no rules and regulations implementing chapter 28A.225 RCW since the authority to enforce this statute rests with local school district authorities under RCW 28A.305.310 and RCW 28A.195.040. Therefore, those portions of the new legislation which amended or added to chapter 28A.225 RCW and chapter 28A.200 RCW Home-Based Instruction will not be put into rules or regulations.

The State Board of Education is authorized to promulgate rules relating to the approval of private schools. The Superintendent of Public Instruction is responsible to implement the statute relating to part-time attendance and the General Educational Development (GED). Rules and regulations governing extension programs in private schools and part-time attendance in the public schools of students receiving home-based instruction were adopted in 1987. Rules and regulations authorizing students who receive home-based instruction to take the GED were passed in 1991.

The Office of Superintendent of Public Instruction (OSPI) is distributing this information in response to numerous questions that have been directed to the agency since the passage of the law in 1985. This document contains the following information:

Part One

- Responses to Questions Relating to Chapter 28A.225 RCW and Chapter 28A.200 RCW

Part Two

- Responses to Questions Relating to RCW 28A.195.010

Part Three

- Responses to Questions Relating to RCW 28A.150.260

Appendix

- Request for Part-Time Attendance or Ancillary Services (sample format)
- Declaration of Intent to Provide Home-Based Instruction (sample format)
- State Board of Education-Approved Standardized Achievement Tests for Home-Based Instruction
- RCW 28A.150.260
- RCW 28A.150.350
- Chapter 28A.200 RCW
- Chapter 28A.225 RCW
- Chapter 392-134 WAC

PART ONE

Chapter 28A.225 RCW Compulsory School Attendance and Admission Chapter 28A.200 RCW Home-Based Instruction

- 1. What are the requirements of compulsory school attendance and admission laws in Washington, including the age levels of children affected and the requirements a parent must meet in order to be in compliance with the law?**

RCW 28A.225.010 requires all parents of any child 8 years of age and under 18 years of age in this state to cause such children to attend the public school of the district in which the child resides for the full time when the school is in session, unless:

- The child is attending an approved private school or is enrolled in an extension program of an approved private school.
- The child is receiving home-based instruction.
- The child is attending an education center.
- The school district superintendent has excused the child from attendance because the child is physically or mentally unable to attend school; is attending a residential school operated by the Department of Social and Health Services; is incarcerated in an adult facility*; or has been temporarily excused upon the request of his or her parents for purposes agreed upon by the school authorities and the parent, provided that such excused absences will not be permitted if deemed to cause a serious adverse effect upon the student's educational progress.
- The child is 16 years of age or older and the child is regularly and lawfully employed and either the parent agrees that the child should not be required to attend the school or the child is emancipated in accordance with chapter 13.64 RCW; the child has already met graduation requirements in accordance with State Board of Education rules and regulations; or the child has received a certificate of educational competence under rules and regulations established by the State Board of Education.

* A 1998 amendment added by Section 14 of chapter 224, Laws of 1998.

2. What constitutes home-based instruction?

RCW 28A.225.010(4) defines instruction as home-based if it consists of planned and supervised instructional and related educational activities, including curriculum and instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of an appreciation of art and music provided for a number of hours per grade level established for approved private schools (see question 3 below) and if such activities are provided by a qualified parent.

The statute further states that the Legislature recognizes that home-based instruction is less structured and more experiential than the instruction normally provided in a classroom setting. Therefore, the provisions relating to the nature and quantity of instructional and related educational activities shall be liberally construed.

RCW 28A.200.020 states that parents who are causing their children to receive home-based instruction shall be subject only to those minimum state laws and regulations that are necessary to ensure that a sufficient basic educational opportunity is provided to the children receiving such instruction. Therefore, all decisions relating to philosophy or doctrine; selection of books, teaching materials and curriculum; and methods, timing, and place in the provision or evaluation of home-based instruction shall be the responsibility of the parent except for matters specifically referred to in chapter 28A.225 RCW.

3. What are the total annual program hours per grade level established for approved private schools?

RCW 28A.150.220 defines the total annual program hours as being:

- | | |
|---------------------|-----------------------------------------|
| Kindergarten | At least a total of 450 hours. |
| Grades 1 through 12 | An annual average total of 1,000 hours. |

4. What qualifications must a parent meet in order to cause his/her child(ren) to receive home-based instruction?

RCW 28A.225.010(4) requires that the instructional and educational activities be:

- a. Provided by a parent who is instructing his or her child only and is supervised by a person certificated under chapter 28A.410 RCW. The supervision consists of and includes planning of objectives by the certificated person and the parent, a minimum each month of an average of one contact hour per week with the child being supervised by the certificated person, and evaluation of such child's progress by the certificated person. The number of children supervised by the certificated person shall not exceed 30.
- b. Provided by a parent who is instructing his or her child only and who has either earned 45 college-level credit hours or the equivalent in semester hours or has completed a course in home-based instruction at postsecondary institution or a vocational-technical institute.
- c. Provided by a parent who is deemed sufficiently qualified to provide home-based instruction by the superintendent of the local school district in which the child resides.

5. What requirements must a course meet in order to qualify as a course in home-based instruction?

Other than the requirement that the course be completed at a postsecondary institution or a vocational-technical institute, the statute is not specific and does not establish other requirements such as number of hours, nature of the course, approval of the course, nor does it specify an authority other than the postsecondary or vocational-technical school to make such requirements.

6. Is a superintendent required to review a parent's request to be assessed as sufficiently qualified to provide home-based instruction?

The statute does not clearly dictate that a superintendent must honor such a request. The statute identifies this as one of three options by which a parent may qualify to provide home-based instruction. Without further specification from the statute it would appear that a superintendent has the authority to deem a parent as sufficiently qualified but is not, by this statute, required to review such a request.

7. What criteria might a superintendent use to assess whether or not a parent should be deemed sufficiently qualified to provide home-based instruction?

The statute does not provide criteria by which a superintendent might deem a parent sufficiently qualified. A superintendent may develop his/her own criteria for purposes of assessing a parent's qualification to provide home-based instruction.

In addition to other requirements, a superintendent might require signed and notarized statements from parents. A superintendent may also elect to ask the school board to establish policies and procedures on this and related issues.

8. What is the extent to which a superintendent may be held liable should he/she deem a parent to be sufficiently qualified and subsequently the child does not progress satisfactorily?

The statute is silent on this issue. Determination of liability could be pursued through the courts on an individual case-by-case basis.

9. Where does a parent address a request for the declaration of intent format and when must the statement be filed?

The format prescribed by the Superintendent of Public Instruction must be requested from **the local school district superintendent's office**. A sample of the prescribed format is included with this packet. The declaration of intent, which is printed on a local school district's form, stationery, or letterhead, must be filed with the local school district superintendent by September 15 of the school year or within two weeks of the beginning of any public school quarter, trimester, or semester.

10. What duties must a parent perform who is providing his/her child(ren) with home-based instruction?

Chapter 28A.200 RCW states that each parent who is providing home-based instruction must:

- a. File annually a signed declaration of intent that he or she is planning to cause his or her child to receive home-based instruction.
- b. Ensure that test scores or annual academic progress assessment and immunization records, together with any other records that are kept relating to the instructional and educational activities provided, are forwarded to any other public or private school to which the child transfers.
- c. Ensure that a standardized achievement test approved by the State Board of Education is administered annually to the child by a qualified individual or that an annual assessment of the student's academic progress is written by a certificated person who is currently working in the field of education. The results of the standardized test or the annual academic progress assessment shall be made a part of the child's permanent records. If, as a result of the annual test or assessment, it is determined that the child is not making reasonable progress consistent with his or her age or stage of development, the parent shall make a good faith effort to remedy any deficiency.

Other than those items specifically required by the statute, all decisions relating to philosophy or doctrine, selection of books, teaching materials and curriculum methods, timing and place in the provision or evaluation of home-based instruction shall be the responsibility of the parent.

11. Who must provide materials, tests, texts, progress forms, etc., for the student who is receiving home-based instruction?

It is the parent's responsibility to provide materials and equipment necessary to meet the planned objectives for the home-based instruction.

12. Are there any statewide organizations that a parent might contact for more information about homeschooling?

Yes.

Washington Homeschool Organization
6632 South 191st Place, Suite E100
Kent, WA 98032
425/251-0439
www.washhomeschool.org

and

Family Learning Organization
PO Box 7247
Spokane, WA 99207-0247
800/405-8378
www.familylearning.org

13. May a district supply materials and equipment if it so chooses?

A school district may establish regulations relating to the sale of materials at cost or to the lending or rental of such materials.

14. Which standardized tests may be used and who must provide the test?

The State Board of Education has approved a list of standardized tests. The list is included in the appendix.

It is the parent's responsibility to ensure that the testing (or the annual assessment described below) is done and that the results are a part of the student's permanent record.

If the student is at a grade level in which all students in the local school district are tested, the parent may request that the student take the test as an ancillary service. The school district is required to provide this service under the Part-Time Attendance Act, RCW 28A.150.350.

15. Who is a "qualified" individual for purposes of administering the standardized test?

The instructions for administering the standardized tests which accompany the testing instruments identify those persons whom the testing service recognizes as qualified to administer the tests.

- 16. If a parent chooses to provide for an annual assessment of the child’s academic progress instead of the administration of the standardized test, who must perform this assessment and of what must the assessment consist?**

According to chapter 28A.200 RCW, the annual assessment must be performed by a certificated person who is currently working in the field of education.

The statute does not specify what constitutes an annual assessment, but does state that if, as a result of the annual test or assessment, it is determined that the child is not making reasonable progress consistent with his or her age or state of development, the parent shall make a good faith effort to remedy any deficiency. Therefore, it is reasonable to assume that the assessment should contain statements and documents that reflect the child’s progress, or lack thereof, which is or is not consistent with his or her age or stage of development.

- 17. What constitutes “reasonable” progress and who determines whether or not the progress being made by the student is “reasonable”?**

The statute does not define reasonable progress nor does it specify who is to determine whether or not reasonable progress is being made. However, the section relating to reasonable progress found in chapter 28A.200 RCW is a part of the Compulsory School Attendance Law, which contains provisions for the prosecution of those individuals who are found to be in violation of the law. Therefore, in each case in which a parent is to be prosecuted for alleged violation, “reasonable progress” would be determined by the court hearing the case. In addition to the provisions for prosecution for noncompliance with this act, certain provisions that apply to the health, safety, and well being of children can be found in the statutes and regulations of the Department of Social and Health Services (DSHS). DSHS is authorized and mandated to investigate reports of suspected child neglect and/or abuse.

- 18. Who is responsible for determining the placement of a student transferring from “home-based” instruction to a public or private school?**

Chapter 28A.200 RCW states that at the time of a transfer to a public school, the superintendent of the local school district in which the child enrolls may require a standardized achievement test to be administered and will have the authority to determine the appropriate grade and course level placement of the student after consultation with the parent and a review of the student’s records. This procedure applies as well to the administrator of a private school to which a student transfers.

- 19. May a student who is taking courses in “home-based” instruction be allowed to credit these courses toward high school graduation in the case of a student transferring to a public school from the home-based instruction situation?**

A school district may adopt rules governing the acceptance of off-campus learning for credit but is not required to do so. Acceptance or nonacceptance of course work that is not completed under the jurisdiction of the public school is the prerogative of the school district.

Local school boards are authorized under WAC 180-50-310 to adopt rules governing the acceptance of correspondence courses and under WAC 180-50-300 to adopt rules granting credit for off-campus learning experiences.

- 20. If a student is instructed at home throughout high school, may a parent issue the student a diploma?**

There are no statutes that authorize the issuance of a high school diploma. Chapter 180-51 WAC High School Graduation Requirements specifies what courses of study are required for graduation from a high school in Washington State. There appears to be nothing that would enjoin a parent from issuing a diploma from a home-based instruction program which meets the requirements found in chapter 180-50 WAC. However, parents and students should be advised that businesses, institution of higher learning, and branches of the armed services establish their own criteria for determining the credibility of a diploma and may or may not honor a diploma or any other documentation that they deem unacceptable for their purposes.

- 21. What is the responsibility of the public school district in the event that cases of noncompliance are reported to public school officials?**

Public school officials are required to report cases of noncompliance to the person designated as the enforcement officer of the truancy laws as stated in chapter 28A.225 RCW.

- 22. Are there any penalties for failing to comply with this act?**

Persons who fail to comply with the duties specified in chapter 28A.200 RCW are liable for prosecution under RCW 28A.225.020.

- 23. Will supervision of the home-based instruction by the certificated teacher be counted as teaching experience for certification purposes?**

Professional Education and Certification at OSPI recognizes only those teaching experiences performed in public schools and approved private schools.

24. May a student who has been homeschooled take the GED test?

Yes. WAC 180-96-005 and RCW 28A.305.190 allow persons between the ages of 16 and 19 who have been instructed at home in compliance with RCW 28A.225.010(4) and chapter 28A.200 RCW to take and successfully complete the GED and be issued a GED certificate.

PART TWO

RCW 28A.195.010 Approved Private Schools—Extension Programs for Parents to Teach Children in Their Custody—Scope of State Control

1. What is an approved private school?

An approved private school is one that is approved by the State Board of Education pursuant to RCW 28A.305.130 and maintains minimum approval requirements pursuant to RCW 28A.195.010 and chapter 180-90 WAC.

These minimum requirements include:

Filing an annual certificate of compliance with state standards.

Providing a minimum school year of 180 days or the equivalent in total annual minimum program hour offerings as prescribed in RCW 28A.150.220.

Providing classroom teachers who hold appropriate Washington certification except as provided for in law.

Safeguarding permanent records.

Maintaining physical facilities that meet health and fire safety requirements.

Providing curriculum in the basic skills of occupational education, science, math, language, social studies, history, health, reading, writing, spelling, and development of appreciation of art and music, all in sufficient units for meeting State Board of Education graduation requirements (chapter 180-51 WAC).

Maintaining an up-to-date policy statement.

The school does not engage in a policy of racial segregation or discrimination.

2. What requirements must an approved private school meet in order to operate an extension program?

RCW 28A.195.010(4) states that an approved private school operating an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody shall require at a minimum that:

- a. The parent, guardian, or custodian be under the supervision of a certificated employee of the approved private school.

- b. The planning by the certificated person and the parent, guardian, or person having legal custody include objectives consistent with other approved private school program requirements.
- c. The certificated person spends a minimum average each month of one contact hour per week with each student under his/her supervision who is enrolled in the approved private school extension program.
- d. Each student's progress be evaluated by the certificated person.
- e. The certificated employee shall not supervise more than 30 students.

(A residential dwelling used in an extension program is deemed to be an adequate physical facility for the purpose of meeting the health and fire safety requirements for approved private schools.)

The administrator of an approved private school must sign a statement of assurance that these requirements will be met. The statement is incorporated as a part of the private school's annual certificate of compliance with state standards.

3. If a parent enrolls a student in an approved private school's extension program, must he/she file a declaration of intent or meet the other requirements specified in chapter 28A.225 RCW?

No. The student enrolled in an extension program meeting the requirements found in RCW 28A.195.010(4) is considered an enrollee in the approved private school and is not a student receiving home-based instruction pursuant to chapter 28A.225 RCW. Therefore, the parents are not subject to the requirements for home-based instruction specified in chapter 28A.200 RCW.

4. Must public schools include eligible students in extension programs in approved private schools in federal programs?

Yes. The students enrolled in extension programs are considered enrollees in the approved private school. As such they are included in federal programs for which they are eligible on the same basis as other eligible students in the private school.

5. Must students in the extension program of an approved private school be tested with a standardized achievement test annually?

No. They are not required to take a standardized achievement test. Each student's progress must be evaluated by a certificated person.

6. Do immunization requirements apply to extension students?

Yes. The immunization requirements found in WAC 248-100-163 apply to these students.

7. May a private school extension student enroll in a public school as a part-time attendance student?

Yes. RCW 28A.150.350 provides for the enrollment of a private school student in the public school for the purpose of taking a course or receiving an ancillary service not available in the private school.

PART THREE

RCW 28A.150.350 Part Time Students—Defined—Enrollment Authorized—Reimbursement for Costs—Funding Authority Recognition—Rules, Regulations

- 1. Do students receiving home-based instruction have access to instruction through part-time attendance and/or ancillary services in the public schools?**

Yes. RCW 28A.150.350(2) specifies that the board of directors of any school district is authorized and, in the same manner as for other public school students, shall permit the enrollment of and provide ancillary services for part-time students who would be otherwise eligible for full-time enrollment in the school district. A student who is receiving home-based instruction which includes courses at and/or receiving ancillary services from the local school district is by definition a part-time school student.

- 2. What constitutes a “course” for purposes of part-time attendance?**

A “course” is defined as any instructional curricular service or activity in which preschool through twelfth grade students are enrolled by a public school.

- 3. Are sports activities considered an ancillary service?**

WAC 392-134-005 defines ancillary service as any cocurricular service or activity, any health care service or activity, and any other services or activities, except “courses,” for or in which preschool through twelfth grade students are enrolled by a public school. The term shall include, but not be limited to, counseling, psychological services, testing, remedial instruction, speech, and hearing therapy, health care services, tutorial services such as home or hospital instruction for the physically disabled, and sports activities.

To qualify to participate in interscholastic activities, a student must meet eligibility criteria. Such criteria is determined by the Washington Interscholastic Activities Association (WIAA). Information may be obtained by contacting the WIAA at 1211 West Lake Sammamish Blvd. S.E., Bellevue, WA 98099, 206/746-7102.

- 4. Will state funds be allocated to the school district for providing services and/or instruction to part-time students?**

Yes. RCW 28A.150.350(3) states that the Superintendent of Public Instruction shall recognize the costs to each district occasioned by enrollment of and/or ancillary services provided for part-time students and shall include such costs in the distribution of funds to school districts pursuant to RCW 28A.150.260. Each

school district will be allocated basic education funds occasioned by attendance of and/or ancillary services provided for part-time students on a part-time basis as reported to the Superintendent of Public Instruction according to law, rule, and instructions. At the time of enrollment, students must be physically present at school as required by WAC 392-121-105(1). Chapter 392-134 WAC Finance—Apportionment for Part-Time Public School Attendance contains the rules and regulations that implement the statutes pertaining to part-time attendance. School districts shall report part-time attendance on Form SPI P-240B, Final Enrollment Report of Home-Based Instruction Students Attending Public School Part-Time or Receiving Ancillary Services.

5. Under what circumstances may ancillary services be reported for the purpose of receiving state funds?

WAC 392-134-025(2) states that each district shall report to the Superintendent of Public Instruction the number of hours that courses and/or ancillary services, or any combination of courses and ancillary services, are provided to part-time students in the basic enrollment data for state funding purposes. Hours reported for each cocurricular experience that generates credit shall not exceed the hours of the respective course for which the cocurricula experience was credited. Form SPI P-240B is used for reporting ancillary services as well as part-time attendance.

6. May a part-time student use school district transportation?

A part-time student may use school district transportation at normal times and at the designated route stops. Allocation of state funds for transportation is dependent upon meeting regulations cited in chapter 392-141 WAC Transportation—State Allocation for Operations.

7. Is there any circumstance by which a public school district may provide supervision by certificated staff of students and parents in home-based instruction?

A school district may provide this supervision at district expense.

8. Is a public school district required to provide this supervision?

No. This is a service which may be provided at the discretion of the school district.

9. If a school district provides such supervision, may the public school employee supervise a religious-based curriculum?

No. Article 1, Section 11 of the Constitution of the State of Washington states that no public money or property shall be appropriated for or applied to any

religious worship, exercise or instruction, or the support of any religious establishment.

10. May a school district enroll a student who is receiving home-based instruction as a full-time equivalent student for purposes of receiving full funding by providing supervision, materials, curriculum, and testing?

Under no circumstances may a student who is receiving home-based instruction as defined in chapter 28A.225 RCW be reported as a full-time equivalent student for purposes of receiving state funds. (See Section 1, question 2 for the definition of home-based instruction.)

For purposes of meeting compulsory attendance requirements, a student is enrolled in a public school, **or** is enrolled in a private school, **or** is receiving home-based instruction. (See also question 11 below.)

11. Are there any circumstances by which a school district may provide the same model of instruction that home-based instructed students receive to students who are full-time public school students?

No. The definition of home-based instruction found in RCW 28A.225.010(4) does not meet direct supervision requirements for the allocation of state funds. Full-time equivalent student is defined in WAC 392-121-121. However, WAC 392-121-182 Finance, General Apportionment: Alternative Learning Experience Requirements authorizes school districts to adopt rules by which a school district may receive credit toward full-time enrollment for teaching/learning experiences conducted off-campus. Under such rules a student is enrolled as a public school student. Alternative school district programs must meet minimum program hours and direct supervision requirements to receive state funds.

See the appendix for a sample format to request part-time attendance or ancillary services (registration form).