

## ALABAMA

**Compulsory Attendance Ages:**

“between the ages of 7 and 17.” Alabama Code § 16-28-3.

**Required Days of Instruction:**

180 days (public schools only).

**Required Subjects:**

None.

**Home School Statute:** None.

### Alternative Statutes Allowing for Home Schools:

*Home Schools have two options:*

**Option 1: Church School Option.** Home schools qualify as church “schools … operated as a *ministry* of a local church, group of churches, denomination, and/or association of churches on a nonprofit basis which do not receive any state or federal funding.” Ala. Code § 16-28-1(2). Every child attending a church school is exempt from the requirements of this [compulsory attendance] section provided the child complies with the procedure in § 16-28-7 [parent or guardian reporting attendance in church school; see (a) below]. Ala. Code § 16-28-3. A church could establish different church schools within each home. Also, under this option, some home schoolers enroll their children in an existing church school but teach them at home.

- a. “The enrollment and attendance of a child in a church school shall be filed with the local public school superintendent by the parent … on a form provided by the superintendent … which shall be countersigned by the administrator of the church school.” Ala. Code § 16-28-7. (No requirement to file annually. Only need to file this form once at initial enrollment in church school.)
- b. The principal teacher of the church school must keep an attendance register for each day of the school year. Ala. Code § 16-28-8.
- c. A church school must “offer grades K-12, or any combination thereof....” § 16-28-1(2).
- d. If the local school district believes a family is not in compliance with the law, it must give the family 3 days’ written notice (§ 16-28-16) prior to instituting criminal charges. In an HSLDA case, the Alabama Court of Criminal Appeals reversed the conviction of a home school father who only received a 2-hour verbal notice from a truant officer. [*Maas v. Alabama*, 601 So.2d 209 (Ala.Ct.App. 1992)].
- e. According to an Alabama Attorney General’s opinion dated January 3, 1997, “[o]ther than the state laws requiring parents to report attendance and for church schools to report if a student is no longer in attendance at such a church school, there is no provision of Alabama law that permits or requires any state or local authority to regulate a church school.”

**Option 2: Private Tutor Option.** Under § 16-28-5, the children in a home school must be instructed by a competent private tutor. Under this statute:

- a. The teacher must be state certified.
- b. The certified teacher must teach "for at least three hours a day for 140 days each calendar year, between the hours of 8:00 a.m. and 4:00 p.m."
- c. The tutor must file with the county superintendent, a statement showing the child to be instructed, the subjects taught, and period of instruction. The tutor must keep a register of the child's work showing daily hours of instruction and attendance and shall make such reports as the State Board of Education may require.

**Teacher Qualifications:** None, if the home school is operated as a ministry of a local church. Certification is necessary if home school tries to qualify as "private school," § 16-28-1(1)(a) or as a "private tutor," § 16-28-5.

**Standardized Tests:** Not required by statute.

**Religious Freedom Act:** Alabama Constitutional Amendment No. 622

The Religious Freedom Restoration Amendment (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 homeschoo 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. § V(b). 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. 521 U.S. 507.

**PLEASE NOTE:**

Children enrolled in a virtual charter school, public on-line school, or public school independent study program are not eligible for HSLDA membership. Enrollment in these secular programs is enrollment in public school, which gives the public school authority over the student to impose state assessment, approval of curriculum, and supervision by a certified teacher. HSLDA membership extends only to students whose education is primarily administered and controlled by parents privately. If you have any questions please call our office.