

ALABAMA

- Compulsory Attendance Ages:** “between the ages of six and 17.” The parent, legal custodian, or guardian of a child who is six years old may opt out of enrolling the child in school by written notification to the local school board that the child will not be enrolled until age seven. A child attending a church school prior to attaining his or her 16th birthday may withdraw at age 16. 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 Educators have three options:

Option 1: Enroll in a Church School. A church school “[i]ncludes only schools that offer instruction in grades K-12, or any combination thereof, including preschool, through on-site or *home programs*, and are operated as a ministry of a local church, group of churches, denomination, and/or association of churches which do not receive any state or federal funding.” Ala. Code § 16-28-1(2) (emphasis added). A home may be the location where a child receives instruction as a student enrolled in a church school. A parent may establish the church school in the home, or the home may be an extension of an existing church school.

- 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. If the local school district believes a family is not in compliance with the law, it must give the family written notice (Ala. Code § 16-28-16), within three days of which the family must become compliant. If the noncompliance was both without valid excuse or good reason and intentional, then criminal charges must be brought. In an HSLDA case, the Alabama Court of Criminal Appeals reversed the conviction of a home school father who only received a two-hour verbal notice from a truant officer. *Maas v. Alabama*, 601 So. 2d 209 (Ala. Ct. App. 1992).

Option 2: Enroll in a Private School. A private school “[i]ncludes only such schools that are established, conducted, and supported by a nongovernmental entity or agency offering educational instruction in grades

K-12, or any combination thereof, including preschool, through on-site or *home programs*.” Ala. Code § 16-28-1(1) (emphasis added). A home may be the location where a child receives instruction as a student attending a private school. A parent may establish the private school in the home, or the home may be an extension of an existing private school.

- a. Private schools are required by statute to register annually by October 10 with the Alabama Department of Education and must complete “uniform blanks” furnished by the Department, “giving such statistics as relate to the number of pupils, the number of instructors, enrollment, attendance, course of study, length of term, cost of tuition, funds, value of property, and the general condition of the school.” Ala. Code § 16-1-11.

Note: The Alabama State Department of Education has taken the position that this registration requirement was not intended for and, thus, does not apply to home-based private schools. Based on the practical reality that registration is not feasible at this time, HSLDA does not deem it necessary for home-based private schools to register with the state in order for parents to utilize the private school option. For details, please read HSLDA’s memo, Home-Based Education in an Alabama Private School, available at <http://members.hslda.org/state/AL/default.asp>.

- b. At the end of the fifth day from the opening of public school, the principal teacher of each private school must report on forms prescribed by the State Superintendent of Education to the county superintendent or city superintendent “the names and addresses of all children of mandatory school attendance age who have enrolled in such schools; and thereafter, throughout the compulsory attendance period, the principal teacher of each school . . . shall report at least weekly the names and addresses of all children of mandatory school attendance age who enroll in the school or who, having enrolled, were absent without being excused, or whose absence was not satisfactorily explained by the parent, guardian, or other person having control of the child.” Ala. § 16-28-7.
- c. Private schools must furnish all reports that may be required by the State Superintendent of Education and by the county superintendent of education or by the city board of education with reference to the school attendance laws. Ala. Code § 16-28-8.
- d. The principal teacher of the private school must keep an attendance register for each school day of the year. Ala. Code § 16-28-8.
- e. Private schools must require each pupil who is admitted to the school to present a certificate of immunization or testing for the prevention of the communicable diseases designated by the State Health Officer, except when the parent or guardian claims a religious or medical exemption. Ala. Code §§ 16-30-3, 16-30-4.
- f. Every private school “shall carry out a system of physical education, the character of which shall conform to the program or course outlined by the Department of Education.” Ala. Code § 16-40-1.

- g. Private schools in which 25 or more persons are congregated regularly for instruction must meet the requirements of the building code unless the building was used for that purpose prior to the effective date of the code. Ala. Code §§ 41-9-160(2) and 41-9-163(c).

Option 3: Instruction by a Private Tutor. A child may be instructed by a private tutor under section 16-28-5 of the Alabama Code if the following requirements are met:

- a. The private tutor must be an Alabama-certified teacher.
- b. The private tutor must offer instruction “in the several branches of study required to be taught in the public schools..., 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., and [use] the English language in giving instruction.”
- c. The private tutor must file with the county superintendent, a statement showing the child or children 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: No qualifications required to teach in a church or private school. A private tutor must be an Alabama-certified teacher. Ala. Code § 16-28-5.

Standardized Tests: Not required by statute.

Freedom from State Regulation: “Nonpublic schools, including private, church, parochial, and religious schools, offering educational instruction in grades K-12, as well as home-schooled students, are not subject to licensure or regulation by the state or any political subdivision of the state, including the State Department of Education.” Ala. Code § 16-1-11.2.

College Anti-Discrimination: “Any provision of law to the contrary notwithstanding, no public two-year or four-year institution of higher education in the state may deny admission to or otherwise discriminate against an otherwise qualified student based on the consideration, whether in whole or in part, that the student attended, graduated from, or is enrolled in a nonpublic school, including private, church, parochial, and religious schools, or was home schooled.” Ala. Code § 16-1-11.4.

Religious Freedom Act: Alabama Const. Art. I, Sec. 3.01.