

## **Private Tutoring Provision Of The Pennsylvania School Code**

Regular daily instruction in the English language, for the time herein required, by a properly qualified private tutor, shall be considered as complying with the provisions of this section. For the purposes of this section, "properly qualified private tutor" shall mean a person who is certified by the Commonwealth of Pennsylvania to teach in the public schools of Pennsylvania; who is teaching one or more children who are members of a single family; who provides the majority of the instruction to such child or children; and who is receiving a fee or other consideration for such instructional services. No person who would be disqualified from school employment by the provisions of subsection (E) of section 111 may be a private tutor, as provided for in this section. The private tutor must file a copy of his Pennsylvania certification and the required criminal history record with the student's district of residence superintendent.

### **Act 169 Of The Pennsylvania School Code**

(d) Instruction to children of compulsory school age provided in a home education program, as provided for in section 1327.1 of this act, shall be considered as complying with the provisions of this section, except that any student who has been identified pursuant to the provisions of the Education of the Handicapped Act (Public Law 91-230, 20 U.S.C. Pt. 1401 et seq.) as needing special education services, excluding those students identified as gifted and/or talented, shall be in compliance with the requirements of compulsory attendance by participating in a home education program, as defined in section 1327.1, when the program addresses the specific needs of the exceptional student and is approved by a teacher with a valid certificate from the Commonwealth to teach special education or a licensed clinical or certified school psychologist, and written notification of such approval is submitted with the notarized affidavit required under section 1327.1(b). The supervisor of a home education program may request that the school district or intermediate unit of residence provide services that address the specific needs of the exceptional student in the home education program. When the provision of services is agreed to by both the supervisor and the school district or intermediate unit, all services shall be provided in the public schools or in a private school licensed to provide such programs and services. ((d) added Dec. 21, 1988, P.L. 1321, No. 169)

(1327 amended Dec. 15, 1986, P.L. 1602, No. 178)

Section 1327.1. Home Education Program.--

(a) The following words and phrases when used in this section shall have the meanings given to them in this subsection:

"Appropriate education" shall mean a program consisting of instruction in the required subjects for the time required in this act and in which the student demonstrates sustained progress in the overall program.

"Hearing examiner" shall not be an officer, employee or agent of the Department of Education or of the school district or intermediate unit of residence of the child in the home education program.

"Home education program" shall mean a program conducted, in compliance with this section, by the parent or guardian or such person having legal custody of the child or children.

"Supervisor" shall mean the parent or guardian or such person having legal custody of the child or children who shall be responsible for the provision of instruction, provided that such person has a high school diploma or its equivalent.

(b) The requirements contained in sections 1511 and 1511.1 except as provided for in this section, and section 1605 shall not apply to home education programs. A home education program shall not be considered a nonpublic school under the provisions of this act.

(1) A notarized affidavit of the parent or guardian or other person having legal custody of the child or children, filed prior to the commencement of the home education program and annually thereafter on August 1 with the superintendent of the school district of residence and which sets forth: the name of the supervisor of the home education program who shall be responsible for the provision of instruction; the name and age of each child who shall participate in the home education program; the address and telephone number of the home education program site; that such subjects as required by law are offered in the English language, including an outline of proposed education objectives by subject area; evidence that the child has been immunized in accordance with the provisions of section 1303 (a) and has received the health and medical services required for students of the child's age or grade level in Article XIV; and that the home education program shall comply with the provisions of this section and that the notarized affidavit shall be satisfactory evidence thereof. The required outline of proposed educational objectives shall not be utilized by the superintendent in determining if the home education program is out of compliance with this section and section 1327. The affidavit shall contain a certification to be signed by the supervisor that the supervisor, all adults living in the home and persons having legal custody of a child or children in a home education program have not been convicted of the criminal offenses enumerated in subsection (e) of section 111 within five years immediately preceding the date of the affidavit.

(2) In the event the home education program site is relocating to another school district within this Commonwealth during the course of the public school term or prior to the opening of the public school term in the fall, the supervisor of the home education program must apply, by registered mail, thirty (30) days prior to the relocation, to the superintendent of the district in which he or she currently resides, requesting a letter of transfer for the home education program to the district to which the home education program is relocating. The current superintendent of residence must issue the letter of transfer thirty (30) days after receipt of the registered mail request of the home education program supervisor.

(i) If the home education program is not in compliance with the provisions of this section, the superintendent of the current district of residence must inform the home education supervisor and the superintendent of the district to which the home education program is relocating the status

of the home education program is relocating the status of the home education program and the reason for the denial of the letter of transfer.

(ii) If the home education program is in hearing procedures, as contained in this section, the superintendent of the current district of residence must inform the home education supervisor, the assigned hearing examiner and the superintendent of the district to which the home education program is relocating the status of the home education program and the reason for the denial of the letter of transfer.

(3) The letter of transfer, required by clause (2), must be filed by the supervisor of the home education program with the superintendent of the new district of residence. In the case of pending proceedings, the new district of residence superintendent shall continue the home education program until the appeal process is finalized.

(c) A child who is enrolled in a home education program and whose education is therefore under the direct supervision of his parent, guardian or other person having legal custody shall be deemed to have met the requirements of section 1327 if that home education program provides a minimum of one hundred eighty (180) days of instruction or nine hundred (900) hours of instruction per year at the elementary level, or nine hundred ninety (990) hours per year at the secondary level.:

(1) At the elementary school level, the following courses shall be taught: English, to include spelling, reading, and writing; arithmetic; science; geography; history of the United States and Pennsylvania; civics; safety education, including regular and continuous instruction in the dangers and prevention of fires; health and physiology; physical education; music; and art.

(2) At the secondary school level, the following courses shall be taught: English, to include language, literature, speech and composition; science; geography; social studies, to include civics, world history, history of the United States and Pennsylvania; mathematics, to include general mathematics, algebra and geometry; art; music; physical education; health and safety education, including regular and continuous instruction in the dangers and prevention of fires. Such courses of study may include, at the discretion of the supervisor of the home education program, economics; biology; chemistry; foreign languages; trigonometry; or other age-appropriate courses as contained in Chapter 5 (Curriculum Requirements) of the State Board of Education.

(d) The following minimum courses in grades nine through twelve are established as a requirement for graduation in a home education program:

- (1) Four years of English.
- (2) Three years of mathematics.
- (3) Three years of science.
- (4) Three years of social studies.
- (5) Two years of arts and the humanities.

(e) In order to demonstrate that appropriate education is occurring, the supervisor of the home education program shall provide and maintain on file the following documentation for each student enrolled in the home education program:

(1) A portfolio of records and materials. The portfolio shall consist of a log, made contemporaneously with the instruction, which designates by title the reading materials used, samples of any writings, worksheets, workbooks or creative materials used or developed by the student and in grades three, five, and eight results of nationally normed standardized achievement tests in reading/language arts and mathematics or the results of Statewide tests administered in these grade levels. The department shall establish a list, with a minimum of five tests, of nationally normed standardized tests from which the supervisor of the home education program shall select a test to be administered if the supervisor does not choose the Statewide tests. At the discretion of the supervisor, the portfolio may included the results of nationally normed standardized achievement tests for other subject areas or grade levels. The supervisor shall ensure that the nationally normed standardized tests or the Statewide tests shall not be administered by the child's parent or guardian.

(i) A teacher or administrator who evaluates a portfolio at the elementary level (grades kindergarten through six) shall have at least two years of experience in grading any of the following subjects: English, to include spelling, reading and writing; arithmetic; science; geography; history of the United States and Pennsylvania; and civics.

(ii) A teacher or administrator who evaluates a portfolio at the secondary level (grades seven through twelve) shall have at least two years of experience in grading any of the following subjects: English, to include language, literature, speech, reading and composition; science, to include biology, chemistry and physics; geography; social studies, to include economics, civics, world history, history of the United States and Pennsylvania; foreign language; and mathematics, to include general mathematics, algebra, trigonometry, calculus and geometry.

(iii) As used in this clause, the term "grading" shall mean evaluation of classwork, homework, quizzes, classwork-based tests and prepared tests related to classwork subject matter.

(2) An annual written evaluation of the student's educational progress as determined by a licensed clinical or school psychologist or a teacher certified by the Commonwealth or by a nonpublic school teacher or administrator. Any such nonpublic teacher or administrator shall have at least two years of teaching experience in a Pennsylvania public or nonpublic school within the last ten years. Such nonpublic teacher or administrator shall have the required experience at the elementary level to evaluate elementary students or at the secondary level to evaluate secondary students.

The certified teacher shall have experience at the elementary level to evaluate elementary students or at the secondary level to evaluate secondary students. The evaluation shall also be based on an interview of the child and a review of the portfolio required in clause (1) and shall certify whether or not an appropriate education is occurring. At the request of the supervisor, persons with other qualifications may conduct the evaluation with the prior consent of the district of residence superintendent. In no event shall the evaluator be the supervisor or their spouse.

(f) The school district of residence, shall, at the request of the supervisor, lend to the home education program copies of the school district's planned courses, textbooks and other curriculum materials appropriate to the student's age and grade level.

(g) When documentation is required by this section to be submitted to the district of residence superintendent or the hearing examiner, the superintendent or the hearing examiner shall return, upon completion of his review, all such documentation to the supervisor of the home education program. The superintendent or hearing examiner may photocopy all or portions of the documentation for his files.

(h) Such documentation required by subsection (e)(1) and (2) shall be provided to the public school district of residence superintendent at the conclusion of each public school year. In addition, if the superintendent has a reasonable belief that, at any time during the school year, appropriate education may not be occurring in the home education program, he may, by certified mail, return receipt requested, require documentation pertaining to the portfolio of records and materials required by subsection (e)(1) to be submitted to the district within fifteen (15) days; and documentation pertaining to subsection (e)(2) to be submitted to the district within thirty (30) days. If the tests required in subsection (e)(1) have not been administered at the time of the receipt of the certified letter by the supervisor, the supervisor shall submit the other required documentation and shall submit the test results with the documentation at the conclusion of the school year.

(i) If the superintendent of the public school district determines, based on the documentation provided, at the end of or during the school year, that appropriate education is not taking place for the child in the home education program, the superintendent shall send a letter by certified mail, return receipt requested, to the supervisor of the home education program stating that in his opinion appropriate education is not taking place for the child in the home education program and shall return all documentation, specifying what aspect or aspects of the documentation are inadequate.

(j) Upon receipt of the certified letter required by subsection (i), the supervisor of the home education program shall have twenty (20) days to submit additional documentation demonstrating that appropriate education is taking place for the child in the home education program. If documentation is not submitted within that time, the home education program for the child shall be out of compliance with the requirements of this section and section 1327, and the student shall be promptly enrolled in the public school district of residence or a nonpublic school or a licensed private academic school.

(k) If the superintendent determines that the additional documentation submitted still does not demonstrate that appropriate education is taking place in the home education program, he shall so notify the supervisor of the home education program by certified mail, return receipt requested, and the board of school directors shall provide for a proper hearing by a duly qualified and impartial hearing examiner within thirty (30) days. The examiner shall render a decision within fifteen (15) days of the hearing except that he may require the establishment of a remedial education plan mutually agreed to by the superintendent and supervisor of the home education program which shall continue the home education program. The decision of the examiner may be appealed by either the supervisor of the home education program or the superintendent to the Secretary of Education or Commonwealth Court.

(l) If the hearing examiner finds that the documentation does not indicate that appropriate

education is taking place in the home education program, the home education program for the child shall be out of compliance with the requirements of this section and section 1327, and the student shall be promptly enrolled in the public school district of residence or a nonpublic school or a licensed private academic school.

(m) At such time as the child's home education program has been determined to be out of compliance with the provisions of this section and section 1327, the supervisor or spouse of the supervisor of the home education shall not be eligible to supervise a home education program for that child, as provided for in subsection (b) (1) of this section, for a period of twelve (12) months from the date of such determination.

(1327.1 added Dec. 21, 1988, P.L. 1321, No. 169)