

KENTUCKY PRIVATE & HOME SCHOOL NETWORK

# Kentucky Home Education Best Practices

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& Family Protection Resources Hand Book

**Don Woolett & Debbie Woolett**

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Promoting Kentucky Family Constitutional Liberties and the right of parents to control and educate their children according to the dictates of their conscience without warrantless interference from the State.

# Kentucky Laws and Forms

## Best Practice Document

### I. Background Information

#### ***A. Task Force***

On March 14, 1997 twelve home school representatives from Christian Home Educators of Kentucky (CHEK) and the Kentucky Home Education Association (KHEA) and twelve officers and board of directors of the Kentucky Directors of Pupil Personnel Association met to share their views on the status of home schools in Kentucky. From that meeting a task force was formed to address the issues that were raised at that meeting.

The task force was comprised of:

Joe Adams - Christian Home Educators of Kentucky

Cheri Fouts - Kentucky Home Education Association

Louie Hammons - Director of Pupil Personnel (Garrard County)

Sherwood Kirk - Director of Pupil Personnel (Ohio County)

David Lanier - Kentucky Home Education Association

Marilann Melton - Director of Pupil Personnel (Warren County)

Roger VonStrophe - Director of Pupil Personnel (Newport)

Don Woolett - Christian Home Educators of Kentucky

David Thurmond, Director of the Division of Planning, who is the nonpublic school liaison for the Kentucky Department of Education, served as a consultant to the task force.

The task force met on a monthly basis for the next three months. This document is a product of their efforts.

On November 14, 2000 a task force was called to review and revise this document. The only revisions updated the section on Home School Resources and the added a new section on the Recognition of Credits.

#### **B. Rights of Parents/Guardians to Home School Their Children**

Kentucky compulsory attendance laws require that every child between the ages of 6 and 18 be enrolled in school. This requirement may be met by attending public school, private school (including home school),

parochial school, or church regular day school. The parent or person in charge of the student is clearly charged with the responsibility to see that the child attends school.

In the case of homes schooling, the parent is required to notify the local superintendent of schools by letter that the child is being home schooled. The letter must include the names, ages, and place of residence of each pupil in attendance at the school. The parent must notify the local superintendent of schools within the first two weeks of each school year of their intent to home school their child(ren).

### **C. Kentucky Department of Education - Home School Requirements.**

The following are the minimal requirements for the operation of a home school in Kentucky:

**1.** Education is a fundamental right. *Rose V. Council for Better Education, Inc. Ky.*, 790 S.W. 2d 186 (1989).  
Compulsory attendance laws

(KRS 159.010) require that every child between the ages of 6 and 18 be enrolled in school. KRS 159.030 exempts a child from attending public school who is enrolled and regularly attending a private, parochial or church regular day school. Home schools are considered to be private schools in Kentucky, and the laws relating to private schools apply equally to home schools.

Therefore, when you decide to educate your children at home, you must first establish a bona fide school for your children to attend. Furthermore, you are required to notify the local superintendent of schools by letter that you have established a school, and to report the names, ages, and place of residence of each pupil in attendance at the school, together with any facts that the superintendent may require to facilitate carrying out the laws relating to compulsory attendance and employment of children. (KRS 159.160) It is recommended that you keep a copy of any information that you provide to the local school district.

**2.** The private, home, and parochial schools shall teach those subjects that will educate children to be intelligent citizens. State law requires that instruction be offered in English and in the branches of study that are taught in the public schools. This is interpreted to include at least reading, writing, spelling, grammar, history, mathematics and civics. KRS 158.080, and *Kentucky State Board for Elementary and Secondary Education v. Rudasill, Ky.*, 589 S.W. 2d 877 (1979).

**3.** Private, home and parochial schools shall provide instruction for a term at least as long as the term in effect for the public school in the district where the child resides. (KRS 158.080) The minimum school term is defined in KRS 158.070 & 158.080 shall be at least 1062 hours "of instructional time for students delivered on not less than one hundred seventy (170) student attendance days".

**4.** The private and parochial schools shall record and maintain scholarship reports of each student's progress at the same interval as in the local public school, grading all subjects taught. (KRS 159.040)

**5.** Kentucky requires that an accurate record of pupil attendance be kept. (KRS 159.040)

Attendance may be recorded in a notebook, or on a computer list or in a register provided by the Kentucky Department of Education to the local school district.

6.KRS 158.040 requires that all private schools be open to inspection by directors of pupil personnel or officials of the Department of Education. *(NOTE: In our opinion, home schools fall under the Fourth Amendment to the U.S. Constitution's search & seizure provisions and may not be entered except by invitation of the parent or guardian of the home, except under extenuating circumstances, or an official court order. D.W.)*

#### **D. The Role of the Director of Pupil Personnel**

The director of pupil personnel has the responsibility to enforce the compulsory attendance and census laws in the attendance district he/she serves. When a question arises as to whether a child is actually being schooled at home it is within the authority of the director of pupil personnel to ask for evidence that a bona fide school exists. Evidence that a school actually exists might include:

1. Whether the parent/guardian has notified the local board of education by letter of intent to teach the child(ren) at home giving the names, ages, and address of each child.
2. Whether instruction is taking place over a term at least as long as the term in effect for the public school in the district where the child resides. (170 instructional days times 6.25 hours = 1062 instructional hours per school year)
3. Whether instruction covers at least reading, writing, spelling, grammar, history, mathematics, and civics.
4. Whether the teacher records and maintains scholarship reports of each student's progress at the same interval as in the local public school, grading all subjects taught.
5. Whether an accurate record of pupil attendance is being kept.

When there is reason for concern the director of pupil personnel should notify the private school of the parent's need to provide this information. If the records are incomplete, the director of pupil personnel has the option of making a visit to inspect the private school to determine whether instruction is taking place. In the case of a home school, if the parents refuse access to the home, the director of pupil personnel may arrange a meeting at the school district office or at a neutral site. Following assessment, if the director of pupil personnel concludes that minimum standards of instruction are not being met, he/she may take action under KRS 159.

KRS 159.130 defines the powers and duties of directors of pupil personnel: The director of pupil personnel and his assistants shall be vested with the power of peace officers, provided however they shall not have the authority to serve warrants. They may investigate in their district any case of nonattendance at school of any child of compulsory school age or suspected of being of that age. They may under the direction of the superintendent of schools and the Kentucky Board of Education, institute proceedings against any person violating the laws of compulsory attendance and employment of children.

## **E. Commentary on the Law and Its Application from the Perspective of the Christian Home Educators of Kentucky and the Kentucky Home Education Association**

This commentary will refer to the paragraph numbers of the list of Home School Requirements (HSR), page 3. It is suggested that you refer to it periodically while reading the commentary.

HSR notes that the six items listed are the minimal requirements for the lawful operation of a home school in Kentucky. Home schooling is an area whose upper limits are bounded only by an individual's initiative and creativity, so any home schooling family may exceed these minimal requirements many times over. Nevertheless, it is important to recognize the bottom line required to operate a home school legally in Kentucky.

**1.** Kentucky compulsory attendance statutes require that children from the age of 6 to 18 must be enrolled in either a public or private school. Home schoolers are in no way exempt from that law. Some points to remember:

a) Current Kentucky law requires that any child who is six(6) years of age, or who may become six (6) years of age by October 1st, must be enrolled in a primary school program. A primary school program means that part of the elementary school program in which children are enrolled from the time they begin school until they are ready to enter the fourth grade. Formally this was called kindergarten, 1st grade, 2nd grade, and 3rd grade. Most students are in the primary school program for four (4) years. A student must successfully complete the primary school program before entering the fourth grade.

Any child who is five (5) years of age, or who may become five (5) years of age by October 1st, may enter a primary school program. If you elect to suspend formal schooling with your child until the age of six, he or she will be a year behind his or her peers in terms of the conventional grading system. This is not a problem necessarily, simply something which you should consider while making your decision. If you wish to avoid this issue, then begin your child in the primary school program when he or she is five years old.

**b)** Kentucky law states that if a child is not enrolled in public school either the private school or parent of the child must inform the local school board of that child's whereabouts during the school year. Your notification letter to the local school board allows the superintendent to be in compliance with the portion of the compulsory attendance law that requires him to account for every child in his district.

**c)** When you write your local school board, you should state that your children will be attending a particular school, giving the name and address of the school. You must also include the name, age and home address of each child in your school. You need not include anything else in the letter whatsoever. We do not recommend that you include test scores, letters of recommendations, or any other material since it implies that you are requesting permission from the school board to teach your children at home. You are not requesting permission, simply informing them of the situation.

**d)** The letter to the school board should be sent within ten days of the beginning of school and will need to be sent each year you home school. We agree that it is wise for you to keep a copy of the letter and any other correspondence affecting your children or the operation of your home school.

**e)** As a result of religious or philosophical convictions, some parents elect not to notify the local school district of their home schooling activities. It is not our purpose to comment one way or the other on these convictions; however, it is important to note that there are civil penalties which could include monetary fines and incarceration for persons convicted of non-compliance with compulsory education laws; anyone who elects to disregard the reporting requirements should be aware of the risks involved.

**2.** Kentucky law requires that you educate your children at least as long as the public schools in your district. At the present time that number is 170 instructional days, approximately 6.25 hours per day (totaling 1,062 hours per calendar year). You need not educate your children on the same days that the public schools in your area are in operation, and you may educate your children more days than the public schools require.

**3.** This section of the HSR is relatively self-explanatory. Kentucky law does not limit in any way the subjects or the point of view which will be included in your home school. It does require, however, that you teach the basics in the English language.

**4.** HSR requires that private schools, including home schools, keep scholarship records of the students in that school. Furthermore, it requires that the scholarship reports be summarized or tabulated at the same interval as the grading period of the local public school district, normally every nine weeks. This particular provision of the law has caused a great deal of confusion among both public school officials and home school parents in the past. A few points of clarification:

**a)** This provision does not require that the home school parents submit these reports to their local school district, state department of education, or anyone else. It simply requires that they maintain the records in some sort of ongoing fashion.

**b)** HSR makes no statement concerning the form which these scholarship reports must take. The form may be a traditional report card, a portfolio of exemplary work, a narrative assessment or any one of many other forms of assessment. The point seems to be that there needs to be some reasonable record of academic accomplishment maintained by the parents in the home school.

**c)** We would recommend that whatever your preferred form of student assessment, the records be kept in a formal, organized manner for two reasons: first, this will be your child's permanent record of educational accomplishment. It is only right that the records be in a form that is concise and useful. Second, in the event your records should ever come under scrutiny by someone else, the quality of your school will be judged to some degree by the quality of your records. While it may be the case that records kept on the back of envelopes, calendar pages, or paper plates do meet the letter of the law, such a casual approach to record keeping would raise doubts in the minds of skeptics.

5. Keep an attendance book. It can be a book you obtain from writing the state, a grade book you purchase at a local office supply store, a computer log, or any other reasonable method for maintaining attendance. Be sure that you can account for at least the minimum required hours (1,062 hours) per year in your records.

Many families combine the requirements of this provision and provision #4 above in one grade book which keeps both attendance and scholarship records.

6. HSR #6 is one of the most controversial portions of the home school law in Kentucky. It provides that private schools shall be open to inspection by directors of pupil personnel or officials of the Department of Education. It is believed that this was originally written without awareness of the existence of home schools, places that were both homes and schools. As a result, the provisions of this statute appears to conflict with the rights given by the U.S. Constitution to every American citizen against unreasonable search and seizure.

It is our understanding that "home inspections" by school personnel will **stop at the threshold** unless consent is given by the homeowner. In the absence of imminent threat (the house is on fire, for instance) entry into a private home can only occur with the presentation of a lawfully executed warrant. All homeschoolers should be aware of this fact.

On the other hand, if genuine concerns exist in the mind of school personnel as to the legitimacy of a particular home school, it may be in that family's interest to meet with the school official, preferably at a neutral site, in order to address any questions.

**In conclusion, we recommend consideration of the following:**

a) In the event you are informed of an impending visit, talk with the official and try to agree upon a suitable time and place outside your home to review your records.

b) In the event a home visit is unannounced or in cases where prior mutually agreeable arrangements cannot be made, we recommend that you seriously consider the ramifications of allowing government officials to enter your home without warrant. It is certainly your prerogative to invite anyone to see your home school: friends, family or local school officials. It is another thing for you to accede to their demand to review your material in your home.

c) Furthermore, we suggest that you conduct your home school in such an exemplary manner that no one in your community will be concerned about the quality of the job you are doing.

**Considerations prior to embarking on a home school journey**

In order to have the very best possible experience as a home schooling parent, we suggest that you take into consideration the following practical issues; responsible home education can be a daunting task and should not be entered into without due consideration. Although it affords ample opportunity for educational excellence and flexibility, it requires a high degree of commitment and energy to be successful. Listed below are some factors that should be thoroughly considered prior to embarking on a home school journey.

Home schooling is very time-consuming. To do an adequate job the home school parent(s) must devote considerable time and energy to class preparation, instructional time, grading papers, etc. Many families have had to change their lifestyle significantly -- switching from a two-income to a one-income family, for instance -- in order to accommodate the demands of home schooling. It is a decision that should not be made on impulse or without sufficient forethought.

Home schooling requires initiative. While excellent material is available to assist the home schooling parent, putting it together in a manageable form for a given family requires a great deal of work and creativity. Since each family is different it is clear that the final form home education takes will vary from family to family. To be a good home schooler requires a certain independent spirit, willingness to try new things and a reasonable level of self-confidence.

Home schools are not accredited by the State. Unless a home schooling family functions as a satellite classroom for an accredited school, the diploma awarded by a home school may not be recognized by other schools or agencies. Some home schooled children take the General Equivalency Diploma (GED) exam for the purpose of obtaining a standard credential. Other college-bound home school graduates take the SAT or ACT tests and usually have little problem with college admission.

For more information regarding homeschooling in your area, contact:

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**donwolett@gmail.com**

**Familypsn.org**

## II. Best Practice Approach to Home School Verification

In the interest of the education of all children in the Commonwealth of Kentucky, and based upon the laws as they relate to compulsory attendance of school age children and their right to an education, whether in a public or private/home school, the following best practice approach is suggested as a way both public and private/home school personnel may approach the question of insuring that all children are enrolled in a bona fide school.

**A.** Parents/Guardians of school age children, by law, must notify the public school district of the enrollment of their child(ren) in a private or parochial school within the first two weeks of each public school year. Home school representatives of Christian Home Educators of Kentucky and the Kentucky Home Education Association and the officers of the Kentucky Directors of Pupil Personnel Association agree that *in the absence of any mitigating factors the school(s) which have properly notified public school districts should be presumed to be in compliance with the law and operating a bona fide school; thus, necessitating no further investigation.*

**B.** It is the responsibility of the local director of pupil personnel or his/her designee to investigate any evidence which would suggest that a child(ren) is not enrolled in a bona fide school. The investigation is for the sole purpose of determining that a bona fide school does exist and in no way is intended to investigate and approve the education provided by the school. Any investigation could include, but is not limited to, phone calls, home visits (the privacy of the home must be recognized and no visit inside the home may be conducted without the consent of an adult resident or a duly issued warrant), review of academic and attendance documents, etc.

**C.** Circumstances/evidence which would cause a public school district to have concern about whether or not a bona fide school did exist, thus causing an investigation to occur, would include, but is not limited to:

- 1.** Notification, after the public school year has begun and at any time other than a semester break, by parent/guardian of intent to withdraw their child(ren) from the public school for the purpose of home schooling; (This would not apply to students moving in from out-of-district.)
- 2.** Notification by the parent/guardian of intent to home school their child(ren) when disciplinary action (i.e. truancy, expulsion, notification relative to driver's license, etc.) was being contemplated or had begun;
- 3.** Request from an agency or individual to determine if the child(ren) are in school. Requests from an agency concerned with child welfare (i.e. juvenile court, Department of Social Service, etc.) should be investigated as a matter of course. Requests made by a private citizen should proceed only as it relates to probable cause and/or legal requirements;
- 4.** Notification (as required by law) by the parent/guardian of their intent to home school their child(ren) was not received by the public school district within two weeks of the start of the public school year;
- 5.** Evidence of a compelling nature which would suggest the inability of the parent or proposed teacher to operate/maintain a bona fide school. Should there be any disagreement on the part of the directors of pupil

personnel and parents/guardians, it is anticipated that common sense rules will be used to ascertain the information requested by either party. Everyone should have a clear understanding of what are the rights and obligations of the directors of pupil personnel and parents/guardians to insure that all school age children are enrolled in a bona fide school.

## **No Pass / No Drive**

Statutes [[KRS 159.051](#)] [[KAR 13.070](#)]

Contact Don & Debbie Woolett or CHEN: Christian Home Education Network for a copy of the filing document.

Or

You may find a copy of the filing document on our website at

**[Familypsn.org](http://Familypsn.org)**

**&**

**CHEN: Christian Home Education Network**

**Richard & Larissa Tomlin**

**[chen@impartingwisdom.com](mailto:chen@impartingwisdom.com)**

## **Public School Graduation Requirements**

**704 KAR 3:305.** Minimum requirements for high school graduation.

Please refer to the above statutes for an up-to-date list of these requirements as they may change from time to time.

# **KY. FAMILY PRIVACY, CIVIL RIGHTS, & PRIVATE EDUCATION LIBERTIES.**

As early as 1979, the Supreme Court Case of “Kentucky State Bd of Edu v. Rudasill case brief 589 S.W.2d 877, determined The state could not require public school attendance to the exclusion of private and parochial schools. The court affirmed in part and reversed in part the trial court's judgment, which held that the commonwealth's textbook approval, teacher certification, and school accreditation requirements violated the state and the federal constitutions (US Const. Amendment 1 & Ky Constitution, section 5). Section 5 states in part, “... *nor shall any man be compelled to send his child to any school to which he may be conscientiously opposed; No human authority shall, in any case whatever, control or interfere with the rights of conscience.*”

## **Civil Rights, Chapter 21, Section 1983**

### ***Civil action for deprivation of rights:***

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

### **Kentucky Civil Rights Act 344.450**

#### **Civil remedies for injunction and damages.**

Any person injured by any act in violation of the provisions of this chapter shall have a civil cause of action in Circuit Court to enjoin further violations, and to recover the actual damages sustained, together with the costs of the law suit. The court's order or judgment shall include a reasonable fee for the plaintiff's attorney of record and any other remedies contained in this chapter.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 323, effective July 15, 1996. -- Created

1974 Ky. Acts ch. 104, sec. 8

# Warrantless Search & Seizure

## U. S. Constitution, Bill of Rights Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### Constitution of Kentucky Section 10

#### *Security from search and seizure: Conditions of issuance of warrant.*

The people shall be secure in their persons, houses, papers and possessions, from unreasonable search and seizure; and no warrant shall issue to search any place, or seize any person or thing, without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.

- **Probable Cause: Real evidence that gives rise to a belief that a crime is occurring or has occurred.**

### NOTE!

*The information herein is public information and is **IN NO WAY** intended as a substitute for competent legal advice from a qualified attorney.*

*Don Woolett & Debbie Woolett*

Kentucky Home Education Best Practices Consulting



[www.hslda.org](http://www.hslda.org)



## Sample Letter of Notification

*Your School Director of Pupil Personnel  
Name of local School Board  
Address of School Board*

*Dear Director of Pupil Personnel:*

This letter is to inform you that we will home school our children, listed below, during the 2010-2011 academic school year pursuant to all the applicable Kentucky Revised Statutes.

<u>Names</u>	<u>Ages</u>
<i>James Smith, Jr.</i>	<i>14</i>
<i>Sarah Smith</i>	<i>10</i>
<i>Anne Smith</i>	<i>8</i>

Our school is located in our home, at the above address.

The school administration, on behalf of the students enrolled therein, expressly prohibit the release of any and all information contained in this notice, including directory information as defined in 20 U.S.C. § 1232g (a)(5)(A), without the prior written consent of parents of the students or of students who have reached the age of majority. See 20 U.S.C. § 1232g (a)(5)(B).

Thank you,

*Signature*

*Parents Name*

### (Sample Letter of Notification)

**We recommend sending this letter via certified mail, return receipt requested. Keep the returned receipt in your files as proof that you sent the Letter of Intent. Do not send additional information like test scores, social security numbers, etc.**

#### **NOTE:**

**We at the Kentucky Private & Home School Network, and CHEN: Christian Home Education Network strongly recommend documenting EVERYTHING you do concerning your home education program!**

*The information herein is public information as well as what our attorneys tell us and is **IN NO WAY** intended as legal advice or as a substitute for competent legal advice from a qualified attorney*