

## IDAHO

<b>Compulsory Attendance Ages:</b>	“attained the age of 7 years, but not the age of 16 years.” Idaho Code § 33-202.
<b>Required Days of Instruction:</b>	As determined by the parents.
<b>Required Subjects:</b>	Only those that are commonly and usually taught in the public schools.

**Home School Statute:** None.

### **Alternative Statutes Allowing for Home Schools:**

Home schools are governed by Idaho Code § 33-202 which exempts children who are “otherwise comparably instructed.” If the child “is otherwise comparably instructed.” (In the 1992 legislative session, the language “as may be determined by the board of trustees of the school district” was deleted from § 33-202. This essentially removed the local district’s approval authority over home schools.)

1. Because the word “comparably” is not defined by statute, school boards vary from district to district as to what guidelines they assert home schoolers must follow to achieve comparability.
2. The statute does not require home schools to initiate contact with the school district.
3. In *Welker v. Independent School District of Boise City No. 1*, No. 93225, (May 25, 1990) p. 4, Judge McKee ruled that home schoolers are not required by law to answer questionnaires from the school district concerning the nature of their home study program.

“...There is no constitutional or statutory impediment to anyone asking questions. While the parents have objected to answering the [school district’s] questions on constitutional grounds, in practicality they could have simply discarded the document without comment. There is no statute or rule which compels them to answer, and there is no direct sanction provided for any refusal to do so.”

4. In another Fourth District Court decision, *In the Interest of Patterson*, No. 13477, 13478, (Oct. 2, 1990) Judge Dutcher ruled the school district, not the parents, has the burden to prove the home school is not in compliance with the law.

“...In a proceeding under the Youth Rehabilitation Act, the state must prove lack of comparable instruction ... and the burden does not shift to the defense [i.e. the home schooler] to affirmatively defend, or prove compliance, since the full panoply of criminal procedural due process applies to juvenile prosecutions.”

The Court also held that under the Youth Rehabilitation Act, “children cannot be compelled to answer questions about their home schooling program.”

**Teacher Qualifications:** No specific qualifications for home school teachers.

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

**Religious Freedom Act:** Idaho Code § 73-401 et seq.

The Religious Freedom Restoration Act (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 homeschool 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. 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. 520 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.

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