

Kansas Homeschool Legalities

KANSAS STATUTES

What do Kansas statutes require in regard to education?

K.S.A. 72-1111: Compulsory Attendance

(a) Subject to the other provisions of this section, every parent or person acting as parent in the state of Kansas, who has control over or charge of any child who has reached the age of 7 years and is under the age of 18 years and has not attained a high school diploma or a general educational development (GED) credential, shall require such child to attend continuously each school year (1) a public school for the duration of the school term...or (2) a private, denominational or parochial school taught by a competent instructor for a period of time which is substantially equivalent to the period of time public school is maintained in the school district in which the private, denominational or parochial school is located. If the child is 16 or 17 years of age, the parent or person acting as parent, by written consent, or the court, pursuant to a court order, may allow the child to be exempt from the compulsory attendance requirements of this section.

(b) If the child is 16 or 17 years of age, the child shall be exempt from the compulsory attendance requirements of this section if (1) the child is regularly enrolled in a program recognized by the local board of education as an approved alternative educational program, or (2) the child and the parent or person acting as parent attend a final counseling session conducted by the school during which a disclaimer to encourage the child to remain in school or to pursue educational alternatives is presented to and signed by the child and the parent or person acting as parent. The disclaimer shall include information regarding the academic skills that the child has not yet achieved, the difference in future earning power between a high school graduate and a high school drop out, and a listing of educational alternatives that are available for the child.

(c) Any child who is under the age of seven years, but who is enrolled in school, is subject to the compulsory attendance requirements of this section. Any such child may be withdrawn from enrollment in school at any time by a parent or person acting as parent of the child and thereupon the child shall be exempt from the compulsory attendance requirements of this section until the child reaches the age of seven years or is re-enrolled in school.

(d) Any child who is determined to be an exceptional child, except for an exceptional child who is determined to be a gifted child, under the provisions of the special education for exceptional children act, is subject to the compulsory attendance requirements of such act and is exempt from the compulsory attendance requirements of this section...

K.S.A. 72-53,101: Registration

The official custodian of every private elementary or secondary school shall register the name and address of the private elementary or secondary school with the state board of education.

AGE OF APPLICABILITY

Who is subject to Kansas' compulsory attendance statute?

K.S.A. 72-1111 imposes a school attendance requirement on children age 5-18. However, sections (b) and (c) provide for exceptions which narrow the compulsory attendance age range to 7-15.

If my children age 5-6 are already enrolled in public school, are they required to continue attending public school?

Under K.S.A. 72-1111(c), children under age 7 can be withdrawn at any time. Accordingly, Kansas statutes do not mandate attendance in either kindergarten or first grade.

Can students age 16 & up simply "drop out"?

K.S.A. 72-1111(b) provides that children age 16-17 can be exempt from compulsory school attendance once they and their parents or guardians have attended a "final counseling session" and signed a "disclaimer." (In the past, students could exempt themselves, even without their parents' permission, once reaching age 16.) Currently, if students age 16-17 simply stop attending school without attending final counseling, they are technically truant.

GENERAL HOMESCHOOLING

Is homeschooling legal in Kansas?

Yes. As noted above, K.S.A. 72-1111, Kansas' compulsory attendance statute, requires that children age 7-15 regularly attend school. (As noted, the statute technically applies to children age 5-18, but with exceptions is narrowed to ages 7-15.) However, the statute leaves to parents the choice of whether "school" is a public or a "private, denominational or parochial" school. There is no requirement that students must attend an "accredited" school. Homeschools are simply private nonaccredited schools that have been established in a residence, and thus students in regular attendance at such schools fully comply with the statute.

Are there any legal requirements or restrictions on homeschools in Kansas?

Homeschools are subject to the same requirements imposed on all private schools, which require that such schools must "register" and be "taught by a competent instructor for a period of time which is substantially equivalent" to the time public school is maintained.

Must I obtain the permission of either the state or the local school board to homeschool?

No. There are no statutory requirements in Kansas obligating parents to seek prior permission or approval from any legal authority to homeschool their children.

COMPETENT TEACHER

What does the "competent teacher" requirement for private schools in K.S.A. 72-1111 actually mean?

The term "competent teacher" is not defined in Kansas statutes or case law, and thus its precise meaning is unclear. (As a result, the requirement is probably unenforceable owing to its unconstitutional vagueness.) Accordingly, officials have typically utilized a common sense approach, looking at the school itself to determine competence. If the school is adequately planned and organized, if students are learning, etc., the instructor is presumed to be competent.

Are homeschooling parents required to take a teacher's examination or hold a state teaching certificate?

No. In Opinion No. 75-409, the Kansas Attorney General held: "Accreditation is not required of such private schools, and certification is not required of instructors therein as evidence of competence." Private schools in Kansas, including homeschools, are free to utilize any instructors they choose.

Are homeschooling parents required to possess a high school diploma or obtain a college degree?

No. Some states impose minimum education requirements on homeschoolers. However, no such requirements exist for private school instructors in Kansas, and thus there are no minimum education requirements for homeschoolers.

Must my spouse and I do all the teaching ourselves, or can we utilize tutors or other outside instructors?

There are no restrictions or requirements imposed on instructors in private schools. As a result, all private schools in Kansas, including homeschools, are free to utilize tutors or other instructors, or make use of outside programs from any source, in any manner they choose.

Can we team teach with other homeschoolers?

Yes. Again, there are no restrictions or requirements imposed on instructors in private schools, and thus private schools are free to share instructors, i.e., team teach, if they choose. In fact, this is an excellent way for homeschoolers to shore up any weaknesses they might have by sharing strengths and expertise.

Can single parents homeschool?

Technically, yes. However, single parents face additional difficulties in homeschooling. If a single parent works second or third shift and homeschools during the day, this will generally not be questioned. But when a single parent works outside the home during the day, a student schooled at home would be left alone during regular school hours. Several legal authorities around the state have indicated they would consider this situation truancy even if homeschooling were taking place during the evening hours. Accordingly, single parents working during the day are strongly encouraged to make arrangements for their children so that they will have other adult supervision during regular school hours. Other homeschooling families, relatives, friends, or neighbors could all assist in this fashion. Working on schoolwork in the church library under the supervision of the pastoral staff would also provide legitimate adult oversight. Single parents in Kansas are successfully homeschooling, but they must take care to organize their homeschool intelligently so as to avoid creating additional problems.

EQUIVALENT PERIOD OF TIME

Is a homeschool required to hold classes for exactly the same number of hours as the public schools?

The statutory requirement literally reads that private schools should be in session "for a period of time which is substantially equivalent to the period of time public school is maintained." The key to this requirement lies in the phrase "substantially equivalent," which is not precisely defined.

By accumulating at least as many classroom hours (50 minutes of class time constitutes a classroom hour) as required of public schools (currently 1,116 hours or 186 days x 6 hours/day), a homeschool has unquestionably met this statutory requirement. However, many homeschoolers insist that accomplishing an equivalent amount of academic work satisfies the "substantially equivalent" requirement, irrespective of the actual number of classroom hours accumulated, since homeschooling's one-on-one tutorial type of instruction typically allows for more rapid progress. As evidence, homeschoolers often cite the public school "home bound" program for students too ill to attend a regular class. Such students meet with a teacher once a week for only 2-4 hours, studying independently the remainder of the time, and yet manage to keep pace academically.

To date, the "substantially equivalent" requirement has not been addressed by any Kansas legal authority. However, the statute literally imposes a compulsory attendance, rather than a compulsory education, requirement. Accordingly, meeting the public school statutory hours per year requirement can only serve to strengthen a homeschool's case for legitimacy. As a result, Kansas homeschoolers are strongly encouraged to utilize a consistent schedule in their homeschooling endeavors, so as to enable them to demonstrate substantial compliance with this requirement.

Must a homeschool keep a log of classroom hours?

Technically, no. There is no statute requiring any private school, including a homeschool, to maintain a log of classroom hours to substantiate compliance with the "substantially equivalent" requirement. However, every homeschool should maintain consistent and up-to-date records of its academic activities.

If we choose to maintain a log of hours, what should be counted?

Because there is no official requirement to maintain such a log, there are no guidelines as to what things should be included. Time spent in the classroom and in independent study should obviously be counted. But when questions arise in this regard, useful rules of thumb are to count those activities that: a) have substantial academic merit, b) would have been counted by the public schools if they had been accomplished in a public school setting, or c) are directly related to the underlying purpose or philosophy of your homeschool.

Activities in the first group, in addition to regular classroom time, would include library research, civic involvement, museum outings, and other field trips. Activities in the second group would include lessons or participation in art, music, dance, drama, sports or industrial arts. Items in the third category depend upon the purpose and philosophy of your homeschool. For example, if your family homeschools for religious reasons, then time spent in Bible study, Scripture memorization, Bible Bowl, Sunday School, and church youth activities could be included.

These records should be maintained in such a fashion that they are of benefit in your homeschool. In other words, keep records that are useful; don't keep records only for the sake of recordkeeping. In addition, keep your records so that they can be shown to outsiders with a clear conscience. Thus, avoid "overdoing it" by, for example, counting doing the dishes as "Home Economics."

Do we have to follow the public school schedule?

No. The "substantially equivalent" requirement has not been interpreted as to require private schools to follow the local public school schedule. Private schools, including homeschools, are free to arrange their academic activities in any fashion which complies with the "substantially equivalent" requirement. Thus, homeschools can schedule their school year to begin in July and end in March, utilize a 9 weeks on/4 weeks off schedule, take a month off in the middle of the year, or hold classes from midnight to 6:00 a.m. to accommodate dad's work schedule.

Can our homeschooled children be outside during public school hours?

Yes. As noted previously, private schools in Kansas, including homeschools, can arrange their schedules as they choose, and thus homeschools are free to utilize a schedule that does not coincide with the local public school schedule. Accordingly, there is no reason why homeschooled students cannot be outside or in public during regular public school hours, so long as their school is complying with the "substantially equivalent" requirement.

In fact, one of the great advantages of homeschooling is the many opportunities it provides to work cooperatively with other homeschooling families and to utilize community resources, e.g., libraries, museums, and community centers. Obviously, putting such opportunities into practice requires being out in the community between 9:00 a.m. and 4:00 p.m.

However, in a society such as ours, where the majority of children attend public schools, there is a tendency to assume that children who are not on school grounds during public school hours must be truant. Accordingly, homeschoolers are urged to use restraint and good judgement in this area. Certainly, we should not be prisoners in our homes until public school lets out, but we must also be cognizant of the image we present if our children are too frequently seen outside unattended during public school hours.

REGISTRATION

Does Kansas impose any notification requirements on homeschoolers?

As noted above, K.S.A. 72-53,101 imposes a registration requirement at the original establishment of a private school in Kansas, which would include homeschools. However, there are no notification requirements imposed specifically on homeschools in Kansas. Thus, for example, homeschoolers in Kansas are not required to file an annual "notice of intent."

Is registration actually required for homeschools?

The statute imposes this registration requirement on "each official custodian of a private elementary or secondary school." Because a homeschool in Kansas is considered to be a private nonaccredited school, this statute, read literally, requires homeschoolers to register their schools with the Kansas State B.O.E.

What does registration require?

Registration is a simple process of identifying the name and address of the private school being established and the school's official custodian of records to the State B.O.E. No information concerning the names of the students, the names or qualifications of teachers, the curriculum in use, or the schedule being followed is required. Registration can be accomplished by mail by completing the standard registration form or online at www.ksbe.state.ks.us/outcomes/nonaccr3.html.

When should we register?

Ideally, homeschoolers should register as part of the setting up process, i.e., before they withdraw their children from public school to begin homeschooling.

Is there a fee to register?

No. There is no required fee to register a private school in Kansas.

Is annual registration required?

No. Once a private school registration is filed, it remains in effect thereafter. Re-registration would only be required if some element of the original information changes, e.g., if the school's name or address changes.

Are we required to name our homeschool?

Registration was originally designed with freestanding private schools in mind. It was assumed that such schools would have a name separate from the individuals organizing it. There is no statutory requirement that private schools must have a separate name. Thus, Kansas homeschools can choose to give their schools a name (e.g., Main St. Academy, New Covenant Day School) or to simply acknowledge themselves as a homeschool (e.g., Smith Family Homeschool).

Will the Kansas State B.O.E. acknowledge our registration?

Not unless requested. To receive an acknowledgment by mail, send two copies of your completed registration form, an SASE, and a letter requesting the KSBOE to return a receipted copy of your registration to you.

Can the Kansas State B.O.E. refuse our registration?

No. The KSBOE has no authority to refuse to accept a private school registration or in any way interfere with its establishment.

Does registration make us more likely to be investigated?

Private school registrations are a matter of public record, and thus available to anyone who inquires. The list of registered schools is available on the Internet. Although it is not standard practice for legal authorities in Kansas to deliberately search for homeschools included among the state's list of registered private schools, there have been instances of public school officials using this list to search for homeschools in their district. To the best of our knowledge, these efforts did not result in any legal complications for Kansas homeschoolers, but obviously, registration makes a homeschool more visible.

To date, registration does not appear to result in legal difficulties or increased risk of investigation for homeschooling families in Kansas.

If we register our school, will we ever hear from the Kansas State B.O.E.?

Infrequently, if at all. On occasion, Kansas homeschoolers have reported receiving notices and bulletins from the KSBOE concerning such matters as disease outbreaks and recommended immunizations. In addition, the KSBOE periodically sends out "confirmations" to verify its list of registered schools.

What happens if we don't register our homeschool?

Technically, failing to register violates the statute, but there are no stated consequences because the statute imposes no penalty for failing to do so. However, in a few instances, legal authorities have challenged the legitimacy of a family's homeschool because no registration was found on file. For this reason, CHECK encourages each Kansas homeschool to register.

If something changes, such as our address or school name, or if we stop homeschooling, must we notify the Kansas State B.O.E. again?

Technically, no. However, it's a good idea. There is no statutory requirement for anything other than the original registration. But if your school's name or address changes, filing a new form allows your registration to remain current and on file.

WITHDRAWAL FROM PUBLIC SCHOOL

If our children currently attend public school, must we notify the public school that we are withdrawing to homeschool?

Yes. Three consecutive unexcused absences constitutes truancy in Kansas. Thus it is important that families notify the public school that their children are in fact withdrawing to attend a private school (the family's homeschool), rather than simply disappearing.

If our children have never attended public school in this area (either because they are too young or because we just moved here), should we still notify the public schools that we are homeschooling?

No. Parents are not under an obligation to notify public school officials of their homeschooling activities in either circumstance.

How should we notify a public school of our intent to withdraw?

Notification can be accomplished by letter, by phone, or in person, and consists of simply informing school officials that a child is withdrawing to attend a private school. (A sample letter of withdrawal is included in CHECK's *Kansas Homeschool Legal Packet*.)

Is there a "best time" to withdraw from a public school?

Once a family's homeschool program has been established, their children can be withdrawn from public school at any time. Some homeschoolers suggest that it would be less provocative to wait until between semesters to withdraw a student, or better yet, to wait until summer vacation and simply not enroll for the subsequent year. However, public school officials will inevitably contact parents whose children have not re-enrolled where no record of transfer or withdrawal is on file. Accordingly, the "best" time to withdraw is as soon as the family's homeschool program is established and ready to go.

Can we request our children's public school records?

Yes. All parents of public school children have the right to inspect their children's school records at any time and request that those records be transferred to a subsequent school upon withdrawal. (A request for records form is included in CHECK's *Kansas Homeschool Legal Packet*.) For grade school students (grades 1-8), these records will consist largely of such things as attendance records, grades, and standardized test scores, i.e., items the family will most likely already have in its possession. Thus, obtaining these records is not critical. However, for high school students (grades 9-12), these records will become part of the student's high school transcript, and accordingly, they should definitely be acquired.

What should we do if public school officials insist on visits to our home or inspections of our homeschool program to determine its "validity," or ongoing monitoring and testing to assess our "academic progress"?

Such requests should be refused. Public school officials have no authority to investigate the adequacy or legitimacy of any private school. Once a child has been withdrawn from a public school, he or she is outside the sphere of authority of any public school official. Accordingly, parents are under no obligation to respond to any demand issued by such officials once their children have been withdrawn.

What is "final counseling" or "exit counseling"?

Kansas statutes now require that students age 16-17 attempting to drop out of high school must attend, along with their parents, a "final counseling session conducted by the school during which a disclaimer to encourage the child to remain in school or to pursue educational alternatives is presented to and signed by the child and the parent." Such counseling is not relevant to students withdrawing to homeschool, since they are merely transferring from one school to another.

What should we do if school officials insist on such "final counseling"?

Unfortunately, some public school officials have misinterpreted the "final counseling" section to require counseling when students withdraw for any reason except to transfer to another accredited school. Because final counseling is not required for transferring students, including those transferring to nonaccredited schools, such requests should be refused.

LOCATION

Are we required to homeschool exclusively at home?

No. As noted previously, private schools in Kansas, which include homeschools, are free to arrange their academic activities as they choose. Accordingly, homeschools are free to utilize any facility, including facilities outside the home, in which to conduct their educational program.

Can we homeschool while traveling?

Yes. In fact, many families have opted to homeschool so that their children could accompany their parents whose employment required frequent or extended travel. Many military families homeschool to maintain continuity in their children's education through the frequent moves required of members of the armed forces.

Are we required to set up a "school room"?

No. Many families homeschool in the basement or around the kitchen table. Setting up a "school room" is a useful option if the family has the space available, but there is no requirement to do so.

CURRICULUM

Is there a specific curriculum required by the state?

No. In fact, no specific curriculum has been imposed on public schools either. Private schools in Kansas, including homeschools, are free to utilize any curriculum they choose, including prepackaged curricula, self-created programs, or some combination. If they choose, homeschools can also utilize the same materials as the local public schools, but they are not required to do so.

Are homeschools required to teach any specific subjects?

K.S.A. 72-1101 requires all accredited schools in Kansas to provide instruction in "reading, writing, arithmetic, geography, spelling, English grammar and composition, history of the United States and the state of Kansas, civil government and the duties of citizenship, health and hygiene." Because homeschools are not considered to be accredited schools, they are not subject to this requirement. However, this list nonetheless provides a useful benchmark of subjects which should be considered in any educational program.

Are we required to obtain state or local school board approval of our homeschool curriculum?

No. Although such requirements exist for homeschoolers in other states, prior approval is not required for Kansas homeschooling families.

RECORDKEEPING

Are there any specific records that Kansas homeschoolers must maintain?

No. There is no specific statutory requirement which mandates the maintenance of any specific type of records in private schools.

Even if we are not required to keep records, are there any we should keep?

Every homeschool should maintain records appropriate to its program. For example, if a homeschool utilizes a graded program, then a grade book should be maintained. Homeschools enrolled in satellite school programs should retain copies of all work and reports submitted to the supervising school. Highly recommended for all homeschools are written lesson plans and a regular schedule, a portfolio of student work, copies of tests given, and for those families utilizing standardized achievement tests, a permanent record of achievement test scores.

How long should these records be retained?

Although there are no specific requirements or guidelines, homeschool records probably should be retained for several years, longer if they prove to be useful in planning subsequent years' programs. Records for a student's high school activities should be maintained until the high school transcript is completed.

TESTING

Is any type of testing required by the state?

No. There is no statutory requirement in Kansas which mandates any specific type of testing, general or standardized, for students in private schools. Further, no student in Kansas, public or private, is required to submit to standardized achievement testing.

Even though not required, is standardized testing a good idea?

Used properly, standardized achievement testing (Iowa Test of Basic Skills, California Achievement Test, etc.) can be useful in gauging student progress and identifying academic weaknesses. Taking such tests also helps homeschooled students develop test-taking skills, which will be very important for students headed for college. And in those rare cases where the legal authorities challenge the legitimacy of a homeschool, standardized test scores provide powerful evidence of academic progress. For these reasons, homeschooling families are encouraged to utilize a nationally recognized standardized achievement test for their students at least every other year. Such testing is available through several local support groups around the state and from a number of homeschool curriculum publishers.

If we utilize standardized achievement testing, must the test scores be released to anyone?

No. Homeschoolers are under no obligation to release their students' standardized test scores to anyone for any reason.

SPECIAL NEEDS STUDENTS

What do Kansas statutes require regarding special needs students?

K.S.A. 72-977: Compulsory attendance of exceptional children at school for receipt of services; provision of services privately; nonapplicability to gifted children.

(a) Except as otherwise provided in this section, it shall be the duty of the parent of each exceptional child to require such child to attend school to receive the special education and related services which are indicated on the child's IEP or to provide for such services privately.

(b) The provisions of subsection (a) do not apply to gifted children or to parents of gifted children.

Who is considered a "special needs student"?

The "special needs" designation in Kansas generally applies to handicapped, learning disabled, and gifted students.

Are special needs students required to attend public school?

No. The Kansas Attorney General specifically addressed this issue in Opinion 87-113 (which concerned the statute as originally enacted), which states: "The statute requires exceptional children to attend special education services but does not state that exceptional children must attend public school." Subsequent amendments clarified this point, specifically acknowledging private provision of services.

Can special needs students be homeschooled?

Yes. So long as special needs services appropriate for the child are being provided in some fashion, special needs students can enroll in a "private, denominational or parochial" school just like other students.

If our special needs student participated in a special needs program at the local public school, can they prevent us from homeschooling or continue to exert any influence over our child once we withdraw?

No. During the time that a student participates in a public school special needs program, public school personnel have considerable authority over that student, even to the point of overruling some parental decisions. However, once the student is withdrawn from public school, their authority ceases, and they have no further right to participate in any future decision regarding that student.

Once we withdraw, can we continue to participate in public school special needs programs if we choose while homeschooling?

It depends upon the school district in question. A district can if it chooses permit a "special needs only" enrollment. Many districts do so, but others do not. Homeschooling families will simply need to inquire. By re-entering the public school's special needs program, the school personnel's authority is re-established.

PUBLIC SCHOOL PARTICIPATION

Once we withdraw from public school, can we still participate in any public school programs or activities?

With the exception of activities under the jurisdiction of the Kansas State High School Activities Assn. (KSHSAA), the answer is yes, if the district chooses to permit it. However, at present, there is no statute or statewide policy in this area. As a result, participation by homeschoolers in such public school activities as enrolling in classes or driver education, taking school trips, and participating in drama exists at the discretion of each school district, and in some cases, at the discretion of the individual school principal. For example, Lawrence public schools have adopted a district wide policy allowing homeschoolers to enroll in any public school class or program. A number of other Kansas school districts have done this as well. However, not all districts are willing to do so. Homeschoolers interested in participating in activities with their local public schools are encouraged to simply contact their local school district and ask to be allowed to participate.

What about participating on public school sports teams or other competitive activities such as music or debate?

Activities involving competition between public school districts are under the jurisdiction of the KSHSAA, whose rules and regulations currently preclude participation by any student not completely enrolled in a public school. Accordingly, homeschool students cannot participate in such activities even if the school district is willing to permit it. In fact, under current rules, by allowing homeschooled students to participate, a district would endanger its KSHSAA membership and thus its eligibility to participate in any activity involving other public schools.

If at some point in the future we decide to re-enroll our children in public school, what can we expect?

The answer depends upon the school district in question. Some districts accept work accomplished in the homeschool at face value and enroll the student along with his/her age peers. Others insist upon placement examinations to determine the student's current grade level. And still others have threatened to disregard all student work accomplished while homeschooling, forcing the student to re-enroll at the same point where he/she originally withdrew from public school. Typically, public schools are more flexible in regard to grade school students (grades 1-8) than high school students (grades 9-12), since admitting the latter requires determining "high school credit equivalency." Homeschoolers interested in re-enrolling are encouraged to contact the school district in question well ahead of time to determine their policy in this area.

What Kansas statute results in investigations of homeschools?

K.S.A. 72-1113: School Attendance

(a) Each board of education shall designate one or more employees who shall report to the secretary of social and rehabilitation services [SRS], or a designee thereof, all cases of children who are less than 13 years of age and are not attending school as required by law, and to the appropriate county or district attorney, or a designee thereof, all cases of children who are 13 or more years of age but less than 18 years of age and are not attending school as required by law

(e) Whenever the secretary of social and rehabilitation services receives a report required under this section, the secretary shall investigate the matter

(f) Whenever a county or district attorney receives a report required under this section, the county or district attorney shall investigate the matter.

Are all Kansas homeschools investigated by the authorities?

No. Investigations only result if students of a homeschool family are reported to the local legal authorities as "not attending school," who are then required by the statute above to "investigate the matter." Such reports can technically be filed by anyone, including neighbors, family members, and even anonymous individuals. Typically, such reports are filed by officials from the public school from which a student withdraws. SRS has informed us that it no longer considers such reports received from private citizens, only those received from public school officials.

Students withdrawing to homeschool are merely transferring from one school to another and thus should not be reported as "not attending school" under this statute. Unfortunately, many public school officials incorrectly believe that they are required to report families withdrawing to homeschool, either because Kansas statutes require it or because they will somehow be legally liable in the future if they fail to report. Both contentions are incorrect.

Fortunately, not every Kansas homeschooling family is reported in this manner, and most have never been investigated. However, homeschooling families should prepare for the possibility of being reported if they withdraw from public school.

Who does the investigating?

Kansas statutes allocate responsibility for conducting investigations between the Dept. of Social & Rehabilitation Services (SRS) and the county/district attorney. Investigations concerning children under age 13 are handled by SRS. Investigations concerning children age 13-17 are conducted by the county/district attorney.

How should homeschoolers respond to an investigator?

HSLDA's Recommended Approach

Students in regular attendance at a functioning school, which includes a nonaccredited private school established in a residence, i.e., a homeschool, are in complete compliance with Kansas' compulsory attendance statute. Accordingly, Kansas homeschoolers do not have to cooperate with an investigator, and thus are under no obligation to permit home visits, grant interviews with the family's children, or produce documents such as texts, lesson plans, or test scores.

Further, investigators cannot force their way into a family's home. Such an action would require a warrant, and warrants can only be issued if "probable cause" (i.e., evidence that a crime has been or is being committed) exists. Because homeschooling is legal in Kansas, "probable cause" does not exist.

Home School Legal Defense Association specifically recommends that Kansas homeschoolers simply inform an investigator that their family has established a nonaccredited private school (including the name of the school if registered with the KSBOE) that utilizes a regular and credible educational program with a competent teacher for a substantially equivalent period of time. No further cooperation is recommended.

Many Kansas homeschoolers have adopted this approach. In fact, so many homeschoolers in Kansas have refused to accede to home visits over the past several years that SRS has recently revised its investigator's field manual. Effective Jan. 1, 1996, if a family reported as having children "not attending school" represents to an SRS investigator that they are homeschooling, and no other evidence exists to contrary, then the SRS investigator must close the investigation.

An Admonition from CHECK

It is a natural human tendency to assume that families who refuse to be open must have some reason for hiding. Further, if legitimate homeschooling families refuse to speak with investigators, then such investigators will only get to

see families with real problems significant enough to warrant an investigation for other reasons, which could conceivably taint their attitude about homeschooling.

Accordingly, in the interest of building both a positive image for homeschooling families and strong relations with local legal authorities, many Kansas homeschoolers have welcomed investigators into their homes. By going this "extra mile," homeschoolers in several communities (notably Wichita) have established excellent relationships with the local legal authorities. By observing many homeschooling families up close, local legal authorities have seen that homeschooling is indeed a legitimate educational option. Obviously, such an "open door" policy is not without some risk and should definitely not be instituted in any community without first attempting to ascertain the attitude of the authorities, but working with the local authorities may prove to be beneficial to local homeschoolers by helping to establish a climate of trust and cooperation.

If we decide to permit an investigation, what happens?

Typically, the investigator will call to schedule an appointment to visit the family and review the family's educational program. In some counties, the investigator will ask the family to complete a questionnaire concerning its program.

What does an investigator look for?

The purpose of an investigation is to establish the validity of the report of a child "not attending school." In other words, are the family's children truant or are they attending a bona fide school? Accordingly, the investigator is typically interested in reviewing the various elements of the homeschooling program — textbooks, schedules, lesson plans, student work, etc.

Aren't investigators simply looking for something to find fault with?

In some other states, there have been instances where investigators have been openly hostile towards homeschoolers and have utilized home inspections in an attempt to gather evidence against the family. This has not typically been the case in Kansas. For the most part, investigators have simply attempted to determine the validity of a report received of children "not attending school." Unfortunately, there have been exceptions, which is why HSLDA recommends that homeschoolers refuse home visits.

How should we prepare for an investigation?

The best way to prepare is to simply do a good job homeschooling, by utilizing an effective curriculum, holding classes regularly, and keeping records up to date. Beyond these, the best advice is to prepare for an investigator's visit as you would for any honored guest: cleaning and organizing the house, dressing the kids nicely and coaching them to good behavior, having materials laid out beforehand, etc.

Should both parents be present during an investigation?

Yes, if at all possible. Since homeschooling is a total family effort, having both parents available to meet with an investigator presents the family's educational efforts in the best possible light. If one parent is unavailable, arrange to have a fellow homeschooler or a sympathetic friend on hand during the meeting.

Should our children be present during an investigation?

Generally, yes, if their presence will reflect well on the family's homeschooling efforts. On the other hand, if their good behavior cannot be guaranteed or if their presence will distract mom and dad from dealing with the investigator, then arrange for the children to be supervised away from home during the meeting.

If the investigation doesn't go well, what then?

If an investigator believes there are serious deficiencies in a family's homeschool program, he/she will most likely first discuss these deficiencies with the family, in the hope of rectifying the situation. If this does not correct the problems, the case is then forwarded to the county/district attorney for review to determine if a case should be filed. Usually during this process, there are additional conferences with the family, also in the hope of correcting any problems that exist before going to court. Finally, if problems persist, a case is filed in juvenile court.

Please note that although there have been numerous contacts between Kansas homeschooling families and the local authorities over the years, there have been only a handful of cases filed against Kansas homeschoolers, and these have mostly been confined to a few "problem counties" owing to the personality of the local county attorney. Most investigations of homeschools are simply closed and the families thereafter left alone. The few cases which have been passed on for further review have usually involved genuine problems, e.g., significant curriculum inadequacies, children unsupervised for long periods of time, children holding jobs during school hours, and so on.

Are homeschoolers in Kansas likely to end up in court?

No. Fortunately, court cases involving Kansas homeschooling families have been fairly infrequent. In most instances, contacts with the legal authorities are resolved favorably to the homeschooling family before going to trial. In most cases actually reaching court, the homeschooling family prevailed outright. However, there have been a few cases over the years where the homeschooling family lost.

What were the issues that caused some families to end up in court?

In the early 1980s, a number of legal authorities around the state questioned whether a private nonaccredited school established by parents in a residence exclusively for the education of their own children could qualify as a "school" under Kansas' compulsory attendance statute. In other words, early cases questioned the legitimacy of schooling at home in Kansas. This issue has largely been settled in favor of homeschooling.

The relatively few recent cases in Kansas have primarily involved families experiencing difficult situations, for example:

- single parent families attempting to homeschool while the parent works during the day;
- families where one family member (e.g., the noncustodial spouse or a grandparent) strongly objects to homeschooling;
- students experiencing significant problems (e.g., truancy, discipline issues) in public school before withdrawing to homeschool;
- families attempting to homeschool students in trouble with local authorities.

As noted above, most contacts between Kansas homeschool families and local legal authorities are resolved without going to court. However, because families in unusual situations are more likely to be scrutinized, they must take care to insure that their homeschools are above reproach.

Have the cases actually reaching court in Kansas settled the issue in favor of homeschooling?

In those few cases in Kansas actually reaching the courtroom, all but one since 1982 were adjudicated at the district court level. The homeschooling family has prevailed in most of them. However, district court cases cannot be cited as precedent statewide. Only one case, *In Re Sawyer*, reached the appellate level, reaching the Kansas Supreme Court in 1983. Although the Court ultimately ruled against the homeschooling family, the *Sawyer* case has been cited by numerous legal authorities around the state, including the Attorney General, as the basis for the position that homeschooling is legal in Kansas on a case-by-case basis.

Are future court cases likely?

The preponderance of district court victories coupled with the tremendous growth of homeschooling in Kansas in recent years would seem to make the prospect for future court cases in Kansas unlikely. However, because the individuals holding positions of authority can change quickly with the next election or judicial appointment, the possibility for court cases in the future always exists.

If I face legal difficulties, is there help available?

Yes. There are a number of Christian homeschooling attorneys in Kansas who assist homeschoolers in dealing with legal authorities at all levels. However, the best help is available through Home School Legal Defense Assn., which provides professional legal assistance for homeschoolers nationwide. For member families, HSLDA handles all contacts with the authorities concerning homeschooling issues, including representation in court should that prove necessary.

How can our family join HSLDA?

Application forms are available from CHECK Publications and from HSLDA directly. The regular annual membership fee is \$100. Kansas homeschooling families can join or renew with HSLDA for \$85 as part of CHECK's discount group.

How do we participate in CHECK's discount group?

On the line asking for discount group affiliation on HSLDA's application form, indicate: CHECK Discount Group for Kansas #293199.

When should we join HSLDA?

Homeschooling families should join HSLDA before withdrawing their children from public school to begin homeschooling. As with auto insurance, which won't sign you up from a crash site, families cannot join HSLDA if they are in the middle of ongoing legal difficulties regarding homeschooling. Once such issues cleared up, however, the family's application to HSLDA will be accepted.

Can we homeschool children other than our own?

Yes. Homeschools in Kansas are considered to be private nonaccredited schools, and thus they can accept (or reject) any students they choose.

Can we charge tuition?

Yes. Homeschools, like all private schools, are free to set whatever rate of tuition they see fit.

Does accepting other students subject our homeschool to additional requirements or restrictions?

Yes. Accepting students other than immediate family members raises several additional issues that families should consider.

- HSLDA coverage. The legal assistance provided by HSLDA is designed exclusively for families homeschooling their own children. It does not currently apply to other children accepted into the family's school. Families planning to include children other than their own should explore other insurance arrangements.
- Home owners insurance. Many home owners insurance policies do not cover business activities conducted in the home. Families planning to accept students at tuition should consult their home owners insurance agent to determine what coverages exist and what additional insurance might be necessary.
- Income taxes. Accepting students at tuition will transform the family's nonprofit educational activities into a for-profit venture that must be reported on the family's income tax return in some fashion. Families planning to do so should consult a tax advisor so that adequate records can be maintained.
- Zoning. Many communities have enacted zoning ordinances which prohibit the conducting of business in residential areas. Establishing a private school in a residence may conflict with such regulations. Please note that to date no Kansas homeschooling family accepting outside students has experienced any such difficulties. Nonetheless, families planning to accept students at tuition, especially if they plan to accept more than a few students, should check into their local ordinances to determine if any potential problems exist in this area.
- Building and fire codes. Building and fire codes imposed on private schools are considerably stricter than those for residences, e.g., requiring heavier gauge electrical wiring, fire escapes on multi-story buildings, blast doors for furnace rooms, etc. It would be difficult for a residence to meet such requirements without going before the local county commission to request a variance. If local legal authorities were determined to cause trouble for a homeschool accepting outside students, this would be the easiest way for them to do so. To date, such issues have not been raised against homeschools in Kansas, but the possibility admittedly exists.

ESTABLISHING A HOMESCHOOL

What is the best way to establish a homeschool in Kansas?

Kansas families are strongly encouraged to prepare to homeschool carefully and systematically, rather than attempting to rush into it quickly or pulling their children out of their current school before all preparations have been completed. If children withdraw and do not immediately transfer to a functioning school, they are technically truant. However, if an unacceptable situation exists, for example if school officials are insisting on student testing to which the family objects or if a student's physical safety is in jeopardy, obviously parents cannot afford to wait. But barring such an extreme situation, there are several recommended steps to establishing a homeschool in Kansas.

1. Register your school with the Kansas State B.O.E. Registration forms are available from CHECK Publications and from the KSBOE directly.
2. Establish your homeschool program. Curriculum, lesson plans, schedules, and so forth are the defining characteristics of a "school," and accordingly, these are the most important elements to be considered in establishing a homeschool. Once these are in place, your homeschool is officially ready to go, and students can enroll at any time.
3. Enroll with HSLDA as part of CHECK's discount group. Even though legal problems in Kansas are fairly infrequent, it never hurts to have help if problems arise. Home School Legal Defense Association provides the best help available.
4. Formally withdraw your children from their current school. Don't just disappear. Specifically inform their present school, by phone, by letter, or in person, that your students are withdrawing to attend a private school.
5. Most importantly, do a good job homeschooling!