



2002 view of the Statue of Liberty in New York Harbor.  
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## Legally homeschooling in CONUS as a military family

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## PCSing

The arrival of PCS orders may set off an alarm for some homeschooling families. Parents new to homeschooling often wonder, “Which rules do I follow? Do I follow the rules of my home state? Do I follow the rules at the new assignment? Do I follow some special rules for military families?”<sup>1</sup> The short answer is that you follow the laws of the place where you sleep each night.

## Educational jurisdiction

The Constitution of the United States does not address education, so schooling bypasses direct federal control and each state manages its own school system.

In the United States, schooling laws for children of compulsory attendance ages vary by state, as do the compulsory attendance ages themselves. Although states maintain schooling laws under the Tenth Amendment of the United States Constitution<sup>2</sup>, the federal government uses financial carrots or sticks to influence how states run their schools: “Do this and you will be given X-amount of dollars. Don’t do this and the money will dry up.” Most everyone wants that ‘free’ money, so some ‘best practices’ tend to follow federal wishes.

Federal rules, constraints, and guidelines affect the states' schooling bureaucracies as a whole, with a trickle-down through the schools to the children. Trickle-down appears in ways such as the increased standardized testing to show whether each school's teaching met the requirements of the No Child Left Behind Act (NCLB). NCLB requirements do not apply directly to the children<sup>3</sup>, but the children feel the effects. An exception to my 'federal laws don't apply directly to kids' statement would be if a child's parents apply for their child to receive schooling services under a federal program such as the Individuals with Disabilities Education Act (IDEA).<sup>4</sup>

As with many things, some people see the states' control of education as an indicator of a healthily decentralized system, while others see chaos. The same holds with the federal influence. Some people see the federal control through funding as an appropriate way to both bolster states' efforts, yet smooth the differences between state programs, while others see the federal tweaking as interference.

### **State control**

A state's laws about schooling apply to whoever lives within each state's borders, similar to how state speed limit laws apply to all vehicles driven within a state regardless of where the owner has the vehicle registered. Vehicles with South Dakota license plates may not drive 75 mph on an Iowa highway just because long stretches of South Dakota Interstates have 75 as the speed limit.

### **As military families, aren't we legally different from civilian families?**

Concerning schooling, if you live in Texas, for example, and your children attend public school, they would attend schools governed by Texas laws. You would not expect the school to ask for your family's sponsor's home of record and then import texts from that state for the use of only your children. Homeschooling laws in the states apply in the same way.

The confusion about which laws military families follow while homeschooling, seems to come from some special statuses applied to

service members. The best known examples concern driving licenses, state taxes and voting, courtesy of the Servicemember's Civil Relief Act (SCRA)<sup>5</sup>, originally signed into law in 1940. The most recent rewrite of the SCRA was in 2003.

To state the obvious, each service member joined one of the military services, but family members remain civilians. Like any civilian who moves to a state, that state's laws apply to the family regardless of where their hearts lie, or to which state the family's military breadwinner pays income tax.<sup>6</sup>

The SCRA applies directly to service members but not to members within a family. If the civilian spouse of a service member earns taxable income in a state, then the family must pay any state tax levied on income within the state. The same would hold for any income from a service member's part-time civilian job (if any).

Some states do allow leeway for wives and husbands of service members, again usually concerning driving licenses, but the exceptions apply only in the state granting them. In any case, no state offers the choice of picking and choosing which compulsory attendance laws parents want to follow. Neither the federal government nor the Department of Defense (DoD) may grant schooling exceptions concerning the children of service members.<sup>7</sup>



Flag images courtesy Wikimedia Commons

### **Aren't Puerto Rico and Guam "overseas?"**

For Air Force families, orders may arrive for Andersen AFB on the American territory of Guam. For Army families, orders might read, Fort Buchanan in the Commonwealth of Puerto Rico. Like the states Hawai'i and Alaska, these assignments lie outside of CONUS, and like those states, the Guamanian and Puerto Rican education and homeschooling laws apply. The laws of American territories apply to military family members like any other American state law.



Author's younger daughter during 1987 PCS.  
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## Adjusting to a move

Homeschooling-service-member-parents and their spouses may find navigating the homeschooling laws of the various states an exercise in 'lifelong learning.' With each transfer to a new assignment, the parents must research and understand the homeschooling laws (if any) of their new military home.

-- Families that move to a state with a legal attitude that parents who show competence in other areas of their children's upbringing, such as providing food, clothing, shelter and supervision, probably have enough intelligence to direct their children's learning may enjoy that transfer.

-- Families moving to a state that seems to consider schooling beyond the grasp of parents who are competent in all other aspects of raising children, may feel stressed.

Any transfer upsets children's schooling plans and routines, regardless of the method used to provide their education. Homeschooling parents have more control over the curriculum used by their children than do parents with children in public or private school, and for them the schooling upheaval is in adjusting to the laws of their new home. Moving from a state that dictates complex homeschool records to one in which the legislators placed their trust in the parents, is easy. Going the other way is difficult.

The policies of military superiors who equate homeschooling with educational neglect or truancy may also stress homeschooling parents. These superiors sometimes feel they must supervise homeschooling parents, supervision the superiors would not consider for parents who have chosen to enroll their children in a public or private school, even if the chosen school system performs below par.<sup>8</sup> As homeschooling has become better known, this attitude seems to be fading, but it may not be gone.<sup>9, 10</sup>

### **Complying with the local laws**

So how do you find out about the local laws? Do you just go to the state's Department of Education website and read the official bureaucratic meaning of the law? Or should you find a comprehensive includes-all-states dot-com website and read the interpretation by the writers of that site?

In my opinion, you should find

- either a national site that links to state websites, or a reputable state website with advice from homeschooling parents who have lived in the state and analyzed the requirements
- a state-specific email chat group.

An email chat group of unschoolers might be ideal, regardless of your own homeschooling style. The ways the unschoolers have discovered for complying with the laws in the difficult states will probably be less complicated than the methods of the people who enjoy I-dotting and T-crossing. Of course, if you enjoy I-dotting and T-crossing yourself, your records may be as complex as you like.<sup>11</sup>

Many official explanations of laws lean towards the kind of strict following of customary schooling practices necessary for the management of large groups of people and their 'permanent files,' which is how some overseas commanders have read this, the sum total of a commander's responsibility with respect to homeschooling according to DoD 1342.6-M<sup>12, 13</sup>:

#### C1.4. FUNCTIONS AND RESPONSIBILITIES

C1.4.3. The Installation Commanders shall:

C1.4.3.6. Encourage all eligible dependents who have not completed high school to enroll in a DoDDS approved education program. If a DoDDS program is unsuitable to the parents, the installation commander shall encourage the parents to enroll their dependents in an alternate program.

And turned it into these policy subparagraphs:

6. ... Sponsors are encouraged to:

a. Maintain a portfolio (record of curriculum) containing:

- (1) The approximate commencement date and ending date of the program;
- (2) An approximate number of hours per week the child spends in instruction;
- (3) The subject areas to be covered in the planned curriculum;
- (4) Method(s) used to determine mastery of materials and subjects in the curriculum;
- (5) A list of textbooks or other instructional materials used;
- (6) Progress on nationally-normed, standardized achievement test(s);
- (7) Samples of student's work; and
- (8) Representative tests and assignments.

b. Have his/her student participate in the school's testing program when tests are administered under the annual standardized testing program in the Department of Defense Dependant Schools (DoDDS), and have the results serve as a means of assessing annual progress for that year. Sponsors may arrange for school age family members to take assessments by contacting the counselors at DoDDS.

c. Register with DoDDS in order to utilize DoDDS equipment, facilities and other available resources as well as for the participation in activities and selected classes as sponsors choose necessary.<sup>14</sup>

The policy on the previous page is from an overseas military community that was eliminated in the post-Cold War drawdown in Europe, but even though it's gone, the sentiment is not forgotten, as shown by the current advice (as of this writing) from the Fort Bragg, North Carolina Morale, Welfare and Recreation website<sup>15</sup> (all-caps portion from original):

While not mandated by law, home schools are ENCOURAGED to:

1. Offer instruction of at least similar quality, scope and duration as local conventional schools.
  1. Five clock hours of instruction with the student each school day should consist of:
    1. Formal academic instruction in the home;
    2. Directed educational activities appropriate to the age of the student.
  2. Conduct instruction each school year for 180 days.
  3. Remember that minds are usually more receptive to formal academic instruction in the morning hours after an adequate amount of sleep.
2. Maintain a current daily log, journal or lesson plan book throughout the entire school year.
  1. It should contain:
    1. Time devoted to the formal study of each subject each day;
    2. Page numbers, chapters or units of the textbooks (or very brief descriptions of concepts) covered during various time periods each day.
  2. It should be retained at your school until the student has enrolled in a conventional school or has graduated.
  3. Be certain that nationally standardized testing:
    1. Is ordered by each February 1. [Click here for a list of testing companies;](#)
    2. Is administered each year during the same week of your choice between March 1 and April 15;
    3. Is not administered or scored by relatives, guardians, or anyone living in the same household as the student.
      1. An educational institution/organization is preferred.
      2. Machine-scoring is most ideal. (Always allow at least eight weeks to receive test results if the test is machine scored.)
    4. Includes the subject areas of social studies and science, whenever applicable.

## Dream sheet considerations

As stated in the text, educational laws rest with the state. These laws vary, and so do laws concerning homeschooling. If you plan to homeschool beyond the time you guess that your sponsor's service will next transfer him (these things are often as predictable as the answers from a Magic 8-Ball), or if you've already decided to homeschool forever, you might be interested in a ranking of the difficulty of homeschooling in any of the states.

### Levels of homeschooling 'difficulty' for CONUS, Alaska and Hawai'i

**No notice required:** Parents are not required to notify the state of their intention to homeschool.

**Low regulation:** Parents need only notify the state or district of their intention to homeschool.

**Moderate regulation:** Parents must give notification and report test scores, and/or be subject to professional evaluation of student achievement.

**High regulation:** Parents must give notification and report achievement test scores, and/or submit to professional evaluations and approval or home visits by state officials.

Double-check the information here because, over time, laws do change.

#### No notice required

Alaska  
Connecticut  
Idaho  
Illinois  
Indiana  
Michigan  
Missouri  
Oklahoma  
New Jersey  
Texas

#### Low regulation

Alabama  
Arizona  
California  
Delaware  
District of Columbia  
Kansas  
Kentucky  
Maine  
Mississippi  
Montana  
Nebraska  
Nevada  
New Mexico  
Wisconsin  
Wyoming

#### Moderate regulation

Arkansas  
Colorado  
Florida  
Georgia  
Hawaii  
Iowa  
Louisiana  
Maryland  
New Hampshire  
North Carolina  
Ohio  
Oregon  
South Carolina  
South Dakota  
Tennessee  
Virginia  
Washington state

#### High regulation

Minnesota  
Massachusetts  
New York  
North Dakota  
Pennsylvania  
Rhode Island  
Utah  
Vermont  
West Virginia



Author's husband and younger son during PCS to Germany.  
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## Conclusion

PCSing causes enough stress even without the difficulty of figuring out new homeschooling requirements from scratch. I hope it helps to know that only the laws of the state in which a family lives are the ones that apply to their homeschooling. Just as states do not prepare the students in their school systems for meeting the education rules of other states, so military homeschooling families do not have to worry if their current homeschooling records do not fit the homeschooling rules of the state of any future assignment.

Do read any homeschooling law of your new home and seek out an explanation sympathetic to homeschooling if the law's language seems to need a lawyer to translate it into English. Follow the law without volunteering more than is asked.

Since at least the 1980s, military homeschooling parents have coped with the changes caused by PCSes without letting discouragement change their plans solely because of that discouragement. You may find that after one or two PCSes, you are now the old pro.

Good luck, and happy travels.

## Notes

**1** photocopied 1990s-era letter from the Office of the Assistant Secretary of Defense (addressee and date whited out) that circulated in USAREUR and concerned concerning regulatory exemptions for homeschooled children.

“These laws are binding on all persons within the State’s border, including the dependents of the Department of Defense (DoD) (including the Military Services). The Secretary of Defense does not have the legal authority to issue the kind of regulatory exemption from State education laws which you have suggested.”

<http://militaryhomeschooling.files.wordpress.com/2010/09/whats-all-the-fuss-about-14.pdf>

**2** U.S. Constitution: Tenth Amendment

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

<http://caselaw.lp.findlaw.com/data/constitution/amendment10/>

**3** Standards and Assessment Group and Accountability Group, “8. Standards and Assessments Peer Review,” U.S. Department of Education

“The No Child Left Behind Act of 2001 (NCLB) established requirements for the standards and assessment systems of states.”

<http://www2.ed.gov/admins/lead/account/saa.html#plans>

**4** Categories of Disability under IDEA Law

<http://www.nichcy.org/disabilities/categories/pages/default.aspx>

**5** Servicemembers Civil Relief Act

<http://www.military.com/benefits/legal-matters/scra/overview>

**6** “Military Legal Residence and Home of Record,” Rod Powers, About.com

<http://usmilitary.about.com/cs/militarylaw1/a/homeofrecord.htm>

**7** photocopied 1990s-era letter from the Office of the Assistant Secretary of Defense (addressee and date covered with a whiting-out product) that circulated in USAREUR and concerned concerning regulatory exemptions for homeschooled children.

<http://militaryhomeschooling.files.wordpress.com/2010/09/whats-all-the-fuss-about-14.pdf>

**8** “Sometimes a failing grade isn’t failing,” 16 Sep 2010, Kansas City Star

“The number of Kansas school districts that failed to meet adequate yearly progress goals during the 2009-10 testing year was more than double the number that failed to meet AYP a year earlier. ... An inability to attain an unattainable goal by 2013-14 isn’t a mark of failure. The only real failure would be in giving up, and not trying to help each student reach his or her potential.”

<http://www.kansascity.com/2010/09/16/2229258/sometimes-a-failing-grade-isnt.html>

- 9** "USFJ, DODDS compiling school attendance data," 25 Mar 2008, Stars and Stripes, "To improve that number this time, Col. Jeff Newell, the 374th Airlift Wing commander, made it mandatory for military and civilian families at Yokota who home-school or send their children to off-base schools to register with the school liaison officer."  
<http://www.stripes.com/news/usfi-dodds-compiling-school-attendance-data-1.76870>
- 10** "DoDDS decentralizing," 7 Sep 1995, Herald-Post, Heidelberg, Mannheim, Worms, Karlsruhe, Germany  
"Lagomarsino said DODDS doesn't have data on whether there are children overseas who aren't getting an education. With the regulation, officials can gather this information."  
[http://militaryhomeschooling.wordpress.com/?attachment\\_id=334](http://militaryhomeschooling.wordpress.com/?attachment_id=334)
- 11** "Doing the minimum to comply with homeschooling laws and other good ideas," Larry and Susan Kaseman, Sep/Oct 1999, *Home Education Magazine*  
[http://www.homeedmag.com/HEM/165/so\\_clmn\\_tch.html](http://www.homeedmag.com/HEM/165/so_clmn_tch.html)
- 12** Administrative and Logistic Responsibilities for DoD Dependents Schools, Department of Defense Office of the Under Secretary of Defense (Personnel and Readiness), PDF-page 11  
[http://www.dodea.edu/offices/logistics/docs/is\\_1342\\_6a.pdf](http://www.dodea.edu/offices/logistics/docs/is_1342_6a.pdf)
- 13** DoDEA Policy Memorandum, Home Schooling, 6 Nov 2002  
"DoDEA encourages DoD sponsors who wish to home school their dependents to communicate their desire to their commanders to determine if there are any command policies or other rules ensuring that home schooling practices meet host nation, state, commonwealth, or territory requirements. Sponsors are responsible for complying with applicable local requirements."  
<http://www.dodea.edu/foia/iod/pdf/02OD002.pdf>
- 14** Hanau military community policy letter "Subject: Recording Parents'/Guardians' Choice to Educate Their School Age Family Members," Policy No: 16-4 Proponent: AETV-HUG-SLO Date: 22 Jan 01  
<http://web.archive.org/web/20010424055836/http://www.104thasg.hanau.army.mil/Policyletters/16-4.htm>
- 15** "Home School Requirements, Reminders and Recommendations," State of North Carolina Home School Information, School Support Services, Fort Bragg MWR  
<http://www.fortbraggmwr.com/sls/homeschool.php>