

20-2-690. Educational entities; requirements for private schools and home study programs; learning pod protection.

(a) This subpart recognizes the existence of public schools, private schools, and home study programs as educational entities.

(b) As used in this subpart, the term **“private school”** means an institution meeting the following criteria or requirements:

(1) The primary purpose of the institution is to provide education or, if the primary purpose of the institution is religious in nature, the institution shall provide the basic academic educational program specified in paragraph (4) of this subsection;

(2) The institution is privately controlled and operates on a continuing basis;

(3) The institution provides instruction each 12 months for the equivalent of 180 school days of education with each school day consisting of at least four and one-half school hours;

(4) The institution provides a basic academic educational program which includes, but is not limited to, reading, language arts, mathematics, social studies, and science;

(5) Within 30 days after the beginning of each school year, it shall be the duty of the administrator of each private school to provide to the school superintendent of each local public school district which has residents enrolled in the private school a list of the name, age, and residence of each resident so enrolled. At the end of each school month, it shall be the duty of the administrator of each private school to notify the school superintendent of each local public school district of the name, age, and residence of each student residing in the public school district who enrolls or terminates enrollment at the private school during the immediately preceding school month. Such records shall indicate when attendance has been suspended and the grounds for such suspension. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of enrollment by the Department of Driver Services for the purposes set forth in subsection (a.1) of Code Section 40-5-22; and

(6) Any building used by the institution for private school purposes meets all health and safety standards established under state law and local ordinances.

(c) Parents or guardians may teach their children at home in a **home study program** which meets the following requirements:

(1) The parent, parents, or guardian must submit within 30 days after the establishment of a home study program and by September 1 annually thereafter a declaration of intent to utilize a home study program to the Department of Education, which shall provide for written or electronic submittal of such declaration of intent. The Department of Education shall provide a copy of such declarations to the local school systems in which the home study programs are located;

(2) The declaration shall include a list of the names and ages of the students who are enrolled in the home study program, the address where the home study program is located, the local school system in which the home study program is located, and a statement of the 12 month period that is to be considered the school year for that home study program. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, or pursuant to the subpoena of a court of competent jurisdiction;

(3) Parents or guardians may teach only their own children in the home study program, provided the teaching parent or guardian possesses at least a high school diploma or a state approved high school equivalency (HSE) diploma, but the parents or guardians may employ a tutor who holds a high school diploma or a state approved high school equivalency (HSE) to teach such children;

(4) The home study program shall provide a basic academic educational program which includes, but is not limited to, reading, language arts, mathematics, social studies, and science;

(5) The home study program must provide instruction each 12 months to home study students equivalent to 180 school days of education with each school day consisting of at least four and one-half school hours unless the child is physically unable to comply with the rule provided for in this paragraph;

(6) The parent or guardian shall have the authority to execute any document required by law, rule, regulation, or policy to evidence the enrollment of a child in a home study program, the student's full-time or part-time status, the student's grades, or any other required educational information. This shall include, but not be limited to, documents for purposes of verification of enrollment by the Department of Driver Services, for the purposes set forth in subsection (a.1) of Code Section 40-5-22, documents required pursuant to Chapter 2 of Title 39 relating to employment of minors, documents for purposes of verification as set forth in subsection (c) of Code Section 20-2-319.6, and any documents required to apply for the receipt of state or federal public assistance;

(7) Students in home study programs shall be subject to an appropriate nationally standardized testing program administered in consultation with a person trained in the administration and interpretation of norm reference tests to evaluate their educational progress at least every three years beginning at the end of the third grade and records of such tests and scores shall be retained but shall not be required to be submitted to public educational authorities; and

(8) The home study program instructor shall write an annual progress assessment report which shall include the instructor's individualized assessment of the student's academic progress in each of the subject areas specified in paragraph (4) of this subsection, and such progress reports shall be retained by the parent, parents, or guardian of children in the home study program for a period of at least three years.

(d) Any person who operates a private school without complying with the requirements of subsection (b) of this Code section or any person who operates a home study program without complying with the requirements of subsection (c) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$100.00.

(e) The State Board of Education shall devise, adopt, and make available to local school superintendents, who shall in turn make available to administrators of private schools and parents or guardians with children in home study programs, such printed forms and procedures as may be reasonably necessary to

carry out efficiently the reporting provisions of this Code section, but such printed forms and procedures shall not be inconsistent with or exceed the requirements of this Code section.

(f)

(1)

(A) This subsection shall be known as “The Learning Pod Protection Act.”

(B) This subsection is necessary to ensure that parents in this state who choose to voluntarily associate to advance the primary education of their children shall not be subject to additional restrictions or regulations.

(2) As used in this subsection, the term:

(A) “Learning pod” means a voluntary association of parents choosing to group their children in kindergarten through grade 12 together at various times, to include traditional before and after school hours, or places to participate in or enhance a remote learning option offered by their primary educational program. Payment for services by parents of children who participate in a learning pod does not alter this definition of a learning pod.

(B) “Operation of a learning pod” means the parents of the children participating in the learning pod and any other individuals assisting those parents while engaged in any actions taken to organize, facilitate, or operate the learning pod and any facility, home, or other structure utilized by the learning pod.

(C) “Parent” means the parent or guardian of any child under the age of 18.

(D) “Primary education” means any learning mode or system recognized by the state for a student to participate in education in kindergarten through grade 12.

(3) Each learning pod shall remain subject to laws or other legal provisions relating to civil rights, insurance, conflicting interest transactions, the protection of the physical health and safety of its students, and the prevention of unlawful conduct, including unlawful conduct in or near a public school. Otherwise, each learning pod shall be exempt from statutes, rules, regulations, guidelines, or other regulatory provisions imposed by the state, local governments, or local school systems, including, but not limited to, the following:

(A) All provisions contained in this title related to elementary and secondary education including, but not limited to, provisions related to staff ratios, staff certifications, background checks, and minimum requirements for instructional space;

(B) All regulatory provisions related to the operation of a day-care or child care center or an at-home day care contained in Chapter 1A of this title, including, but not limited to, staff certifications, background checks, and instructional space minimum requirements; provided, however, that this subsection does not alter the regulation of any day-care center, child care center, or home day-care center related to any operations or other matters not directly related to the operation of a learning pod;

(C) Any state or local building or fire codes applicable to educational or child care facilities; and

(D) Any other state or local statute, rule, or code which would not be applicable to any group, building, or facility but for the operation or presence of a learning pod.

(4) No state, local, or local school system employee shall initiate or conduct any site inspection, site visit, or other investigation that would not have been initiated or made but for the operation or presence of a learning pod.

(5) No school district shall take any action or in any manner discriminate against or otherwise distinguish any student or parent based on their participation in a learning pod.

(6) No state agency, local government, or school district shall require that any learning pod be in any manner required to register or otherwise report its existence or anything related to the operation of a learning pod.

(7) Participation in a learning pod to facilitate a remote learning option offered by the student's primary education provider shall satisfy all mandatory attendance requirements provided for in Code Section 20-2-690.1.

(8) In any administrative or judicial hearing or other action regarding this subsection, the following burdens of proof may be deemed to apply by the presiding officer:

(A) Whether any state, local, or local school system law, regulation, guideline, or any other action complies with the requirements of this subsection shall be a judicial question and determined without regard to any assertion of compliance with this subsection; and

(B) Any state, local, or local school system adopting a law, regulation, or guideline or taking any other action providing for the operation of learning pods shall be required to establish by clear and convincing evidence that such law, regulation, guideline, or action:

(i) Does not unduly impede on the freedom of parents and guardians to provide care and supervision of their children;

(ii) Does not single out educational activities while similar gatherings of children for recreational or social activities remain unregulated; and

(iii) Is narrowly tailored to protect the public health and safety.

(9) The provisions of this subsection are severable. If any part of this subsection is declared invalid or unconstitutional, that declaration shall not necessarily affect any portions which remain.