

NHELD believes in empowering individuals to help themselves. Toward that end, we have posted the following for those who are new and wondering how to protect your rights.

## **Looking up the Law 101**

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By Attorney Deborah G. Stevenson

Because of the tremendous influx of new parents across the nation, who are deciding to homeschool, and who ardently are trying to find out what they are required to do in order to homeschool, we are putting together some tips for parents about how to research the laws in their state.

This is the first in the series of tips on how to arm yourself with knowledge as to what, exactly, the law is, so that you won't be duped by anyone; so that you are fully prepared to comply with what is necessary; but also fully prepared, and confident, in refusing to comply with that which is not necessary.

When it comes to homeschooling, what is the law?

What is your right to homeschool?

What does the law say about any requirements to homeschool?

It can be an intimidating experience for anyone looking up the law.

Before anyone can make sense of it, however, you need to start with the basics.

Don't feel embarrassed, at all, by not being familiar with the system. Many, many government officials who are supposed to be applying or enforcing the law, don't even know what the law is, in many cases. They also need to start with the basics, or they should.

What the law says about how to homeschool depends on the state in which you live.

In this case, state law controls.

There are different kinds of state "laws", however, and it makes a difference what kind of "law" applies in any given situation. The term, "law" is most often used generically to mean all of the various kinds of "law".

First, there is "law" created by a state's legislature. The legislature is made up of our elected members of the state senate and state house of representatives. Different states have different names for this kind of law. For example, In California, Indiana, and Georgia, legislature made law is called a Code, while in Massachusetts, it is called a General Law. Most states, however, call legislature made law "statutes" or statutory law.

One step below a statute is "law" made by state agencies, which are part of the executive branch of government, made up primarily by unelected appointed civil servants. This kind of "law" generally is called a "regulation", or an "administrative regulation". State agencies adopt regulations in order to implement, or go into greater detail about, the statutes made by the legislature. For example, a legislature may make a law establishing three school districts in a county, and that the state Department of Education may adopt regulations concerning the qualifications of teachers to be hired in the school districts.

Below a regulation, are "policies". Policies are adopted by the local body, such as a school district, in order to further implement, or go into greater detail about, how the statutes and regulations are to be implemented in that particular school district. "Policies", generally, are rules that apply only internally to those within the jurisdiction of that local entity.

Statutes and regulations generally apply statewide, and are called "enforceable law". Policies generally are not called "enforceable law".

The distinctions can be important. If a local entity does not understand the distinction, it may adopt a "policy" and try to compel someone outside of its jurisdiction to comply with that "policy", when it has no authority to do so. For example, if a Notice of Intent to homeschool is not contained as a requirement in a statute or in a regulation, then parents may not be compelled to file one. If the local school district adopts as its local "policy" that a Notice of Intent must be filed when the parents have withdrawn the child from enrollment in that school district, the parents are not legally required to comply with that "policy". If the parents are not aware that "policies" of a local school district do not apply to them, or if they are not aware that, regardless of what a local school district employee says, there is no requirement in any statute or regulation that compels compliance, the parents may be fooled into compliance unnecessarily.

So, when you are researching what the "law" is in your state, make sure you know whether you are looking at a statute, a regulation, or a policy, before you decide whether to comply. Look them all up, and then make your decision.

*Attorney Stevenson is the founder of National Home Education Legal Defense, LLC. For more information you can go here: [nheld.us](http://nheld.us)*