

HOME-SCHOOLED STUDENTS

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 (X) Local
 (X) Notice

NEW NOTE: We are suggesting changes to this policy to be consistent with recent amendments to state law regarding exemptions to mandatory vaccinations. State law no longer permits parents to receive religious-based exemptions to required immunizations. In response to this change, parents who had previously received such exemptions must now choose between either ensuring that their children are immunized, or provide instruction at home to their unvaccinated children. To the extent to which school districts previously could permit unvaccinated home-schooled children to participate in certain school activities, recent changes in law now prohibit districts from offering such opportunities to those who do not qualify for medical-based exemptions to immunization.

This policy now clarifies that, homeschooled students may no longer participate in school activities which are not otherwise open to the general public. Under Commissioner's regulations 8 NYCRR §135.1, homeschooled students could not participate in interscholastic sports (i.e., those that take place between school districts) or intramural sports (i.e., those that take place within the district or its schools). New text is underlined below.

The Board of Education shall ensure that children instructed at home are taught by a competent instructor and receive an education substantially equivalent to that offered in the district's schools.

Parents/Guardians who wish to educate their children at home must submit to the district an individual home instruction plan (IHIP), outlining the educational goals to be met and the course materials and syllabi to be used each year for the child's learning process. The district may accept or deny an IHIP. Parents/Guardians must submit quarterly reports which will provide the district with the necessary information to make determinations of substantial equivalency and competency of instruction on an ongoing basis.

Parents/Guardians may appeal to the Board a determination by the Superintendent of Schools or designee that an IHIP is not in compliance with the Regulations of the Commissioner of Education. Parents/Guardians shall have the right to appeal the final determination of the Board to the Commissioner of Education within 30 days of receipt of such determination.

Special Education

OLD NOTE: This section reflects Chapter 217 of the Laws of 2008 which amended §3602-c of Education Law. The amendment deems home-schooled students with disabilities, and students suspected of having a disability, to be nonpublic school students solely for the purpose of receiving special education services during the school year.

A student with an IHIP, who is a resident of the school district and has a disability, or is suspected of having a disability, is eligible to receive services from the school district, in accordance with law, regulation and district policy (4321 et. seq.). A parent/guardian must request special

education services in writing to the Board by June 1st, unless the child is first identified or moves into the district after June 1st. In that case, the parent/guardian must request the services within 30 days of being identified or of moving into the district.

Special education services will be provided on an equitable basis compared to programs and services provided to other students with disabilities attending public or nonpublic schools within the district. The Board will determine the location where services will be available to home schooled students.

Participation in Extracurricular Activities

NEW NOTE: Students who are not immunized and are not entitled to a medical exemption to vaccinations and who receive instruction at home by their parents are not entitled to participate in credit-bearing activities, or interscholastic or intramural sports. However, SED guidance advises that the Board of Education may permit such students to participate in the district's other school-sponsored, extracurricular activities. If the Board wishes to do this, it should adopt policy language such as that in the paragraph below.

However, in keeping with the provisions of state law, to protect district students from contracting certain communicable diseases in the school setting, we advise that the district should only permit such participation by homeschooled students who can show acceptable evidence of either (1) immunization from the same communicable diseases that is required for attendance at public school, or (2) documentation of a need for a medical exemption. This would require districts to check documentation of immunization or medical exemptions, which can be done through the New York state Immunization Information System. The alternative approach would be to not permit participation by any homeschooled student. That alternative language is shown in the next NOTE field below.

Students instructed at home by their parents are not entitled to participate in interscholastic or intramural sports. However, the Board shall permit such students to participate in other school-sponsored extracurricular activities as long as they can provide either documentation of immunization to, or a medical exemption for immunization from, the same communicable diseases required for entry into the public schools. Specifically, the Board will permit home-schooled students to:

- participate in non-credit-bearing organized school activities such as clubs that are not open to the general public;
- participate in band and/or receive music lessons only if these activities are considered to be extra-curricular (not credit-bearing or graded or required for class); and
- use school facilities such as the library, career information center and gymnasium if there is mutual agreement on the part of all involved parties.

NOTE: If the Board wishes to restrict participation in school activities for all homeschooled students, the following language may be used instead: "Students instructed at home by their parents are not permitted to participate in district activities or use district facilities, other than as permitted under district policy 1500, Public Use of School Facilities."

Instructional Materials

The Board authorizes the Superintendent to loan instructional materials, if available, to students receiving home instruction. The Superintendent or his/her designee shall determine the availability of resources and develop appropriate procedures.

Cross-ref:

4321, Programs for Students with Disabilities, *et seq.*

5420, Student Health Services

Ref:

Education Law §§ 3204(2); 3210(2)(d); 3602-c (2-c)

Public Health Law § 2164 (as amended by Chapter 35 of the Laws of 2019)

8 NYCRR §§ 100.10; 135.1; 135.4

Appeal of Ponte, 41 EDR 174 (2001)

Matter of Abookire, 33 EDR 473 (1994)

State Education Department Memorandum, “New Requirements for the Provision of Special Education Services to Home-Instructed (“Home-Schooled”) Students, July 2008

State Education Department Memorandum, “Home Instruction Questions and Answers,” <http://www.p12.nysed.gov/sss/homeinstruction/homeschoolingqanda.html>, Sept. 2016

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