Home Instruction Questions and Answers

General

1. Who is eligible to receive homebound instruction?

   A resident of the public school district enrolled in a public or nonpublic school is eligible for this service if qualified. Homebound instruction is a form of tutorial services, provided to public or nonpublic students, by the public school district of residence. These services are provided in accordance with Commissioner's Regulations 175.21 to students who are unable to attend their public or nonpublic school because of physical, mental, or emotional illness or injury. Parents requesting these services must comply with local board of education requirements to provide medical verification of the student's inability to attend school for a time that exceeds the number of days required by the district (about 10 days).

   Tutorial services are also used by public schools to comply with compulsory education requirements (Education Law 3205) for students unable to attend school because they have been suspended.

   If the parents and public school are in disagreement concerning the validity of the medical reason provided for the student not to attend school, the parents should encourage and provide permission for their private physician to discuss his/her recommendations with the Public School Medical Director. Parents also have the right to ask that their child be evaluated by the public school for special education, or the public or nonpublic school for Section 504 needs pursuant to the federal, Individuals with Disabilities Education Act ("IDEA"). Parents may appeal school practices to their school district's board of education or nonpublic school's governing body and then the Commissioner of Education that they believe the decisions to be unlawful.

   - Educational laws and the Regulations of the Commissioner of Education
   - Directions for making an appeal to the Commissioner of Education

2. May a district require parents to register their child in the public school if they plan to provide home instruction?

   No. Parents are not required to register their child in the public school if they plan to provide home instruction. However, the parent, if requested, must demonstrate that the child resides within the school district and is of compulsory age.

3. Are parents required to meet with school officials?

No. School officials may request a meeting with parents to discuss the process of home schooling, but they may not deny parents the right to home instruct if the parents decline such a meeting.

4. Must a district respond to a letter of intent?

   Yes. The district is obligated to reply within 10 business days of receiving the notice of intent by sending to the parents a copy of C.R. 100.10(link is external) and a form on which to submit an IHIP.

5. May parents engage a tutor to provide home instruction?

   Yes. Parents may engage the services of a tutor to provide instruction for all or a portion of the home instruction program.

6. May groups of parents provide home instruction collectively by engaging the services of a tutor to provide group instruction to their children?

   Parents providing home instruction to their children may arrange to have their children instructed in a group situation for particular subjects but not for a majority of the home instruction program. Where groups of parents organize to provide group instruction by a tutor for a majority of the instructional program, they are operating a nonpublic school and are no longer providing home instruction. Substantial equivalency of a nonpublic school program is not determined pursuant to Section 100.10 of the Regulations of the Commissioner(link is external).

7. Must parents file a health inspection report or fire inspection report?

   No. This is not required in the case of home instruction.

8. Must home instruction take place on days and during the times of day when school is in session?

   Instruction at home is usually given within the general time-frame of the normal school day, but greater flexibility in scheduling is possible. For example, parents may choose to provide instruction on weekends or in the evening. The total amount of instructional time per week should be generally comparable to that of the public school.

9. May a district require parents or tutors to produce credentials for home instruction?

No. State law does not require any specific credentials for the person(s) providing home instruction.

10. What is a Home Instruction Worksheet?

The Worksheet assists districts in maintaining and keeping records on home instruction. Although the worksheet is an internal district document completed by school officials, it may be filled out in consultation with the parents, if appropriate. Some of the information on the Worksheet will be derived from the quarterly reports and the annual evaluation.

11. Must the Home Instruction Worksheet be filled out by parents?

No. The Worksheet is for internal district use.

12. May students instructed at home by their parents take part in non-credit-bearing organized school activities such as clubs, sports, and intramurals?

Commissioner's Regulation (CR) 135.4(c)(7) directs that a participant in interscholastic sports must be enrolled in the public school; CR 135.1 directs that a participant in intramurals must be enrolled in the public school; however, children educated other than at the public school may participate in school-sponsored club activities. It is recommended that each board of education establish a policy to this effect.

13. May a student instructed at home participate in the school band and/or receive music lessons?

If the district considers these activities to be extra-curricular, such a student may participate in the band and/or receive music lessons. It is recommended that the board of education establish a policy regarding participation in these activities.

14. May students instructed at home be allowed to use school facilities such as the library, career information center and gymnasium?

Yes. Students may be allowed to use such school facilities provided that there is mutual agreement on the part of all involved parties.

15. Must students instructed at home meet immunization requirements for in-school students?

The provisions of Public Health Law Section 2164 which require parents to submit proof of immunization prior to admission of their children to a school do not apply to students being educated at home. If the Commissioner of Health notifies school officials of the outbreak of a disease for which immunization is required, however, parents of children on home instruction who seek to participate in testing or other activities on the premises of a public or nonpublic school must produce proof of immunization or the children must be denied access to the school building.

16. May parents or students on home instruction borrow instructional items from the public school such as library books, microscopes and movie projectors?

    Yes. Although a public school is not obligated by law to lend such items, it may allow parents or students to borrow available materials.

17. Is a student instructed at home entitled to benefit from the loan programs (textbooks, library materials and computer software) available to students enrolled in nonpublic schools?

    A student instructed at home is not enrolled in a nonpublic school and, therefore, the district is not obligated to loan those items which a district is required to provide, by statute, to children attending nonpublic schools. Although not required, a school district may offer such loans to the extent available.

18. Is the school district required to furnish health services to students on home instruction?

    No. The district is not required to furnish health services.

19. Is the district responsible for providing remedial programs for students instructed at home?

    No. The district is not responsible for providing remedial programs for these students.

20. May a student instructed at home participate in the instructional program of the school district?

    The legislature has not authorized part-time attendance and, therefore, a student instructed at home may not participate in the instructional program of the school district.

21. May a district provide dual enrollment services under Section 3602-c to students instructed at home?

    Generally, no, except for special education services.

22. Does a school district obtain State aid for students instructed at home by their parents?

    School districts cannot claim State aid for students instructed at home.

23. How should school officials deal with the grade placement of a student who has been instructed at home and subsequently enters the public school?

    As with any other transfer, the principal of the school determines the appropriate grade placement of the student.

24. Does a home-instructed student earn high school credits for completing the course work specified in the IHIP?

    Credit is given only by schools. It is recommended that when a home-instructed student transfers from a high school program into a school that the principal of the school award credit

on the basis of assessment or evidence that the student has successfully completed the course work.

25. May a student instructed at home be awarded a local or Regents diploma?

No. A high school diploma may only be awarded only to a student enrolled in a registered secondary school who has completed all program requirements set by the Regents, the school or the district.

26. Is a K-8 school district responsible for a high school student on home instruction?

Yes. The district of residence retains responsibility for the student's education but is encouraged to consult with the receiving high school on the adequacy of the IHIP, quarterly reports and the annual assessment.

27. Is a student instructed at home eligible to participate in summer school programs operated by the public school district?

Yes. Summer school programs are open to all residents of the district.

28. May a superintendent apply for a variance under Commissioner's Regulation 100.2(n) to enable a parent to implement a program designed to provide excellence in education?

Yes. A superintendent may apply for a variance for a home instruction program.

29. Under what circumstances is a home instruction program placed on probation?

As described below, the circumstances depend upon the option selected by the parents for complying with the annual assessment requirement of subdivision (h) of Section 100.10 of the Regulations of the Commissioner.

a. If parents submit test scores for an achievement test, the program will be placed on probation only if the composite score of the student is below the thirty-third percentile on national norms or the score fails to reflect one academic year of growth when compared to a prior test. The student's score on individual test subscores should not be considered in determining whether the program should be placed on probation.
b. If parents submit a written narrative, the program will be placed on probation only if the evaluator certifies that the student has not made adequate academic progress.

30. Under what circumstances may a school district require home visits?

A school district may require home visits, upon three days' written notice to the parents, only when the home instruction program is on probation. Under any other circumstances, a school official may request a home visit but a parent would not be required to consent to the request.

31. If parents provide instruction at home to more than one child and the program for one child is placed on probation, must the programs for other children in the family be placed on probation?

    No. Each child's achievement is evaluated separately. A situation may arise where one child's program is on probation, and yet one or more other children in the same family are making adequate progress so that their programs would not be placed on probation.

32. How should a district maintain records on students instructed at home?

    It is recommended that the district complete a Worksheet for each student to place in the student's file along with the current IHIP, quarterly reports and annual evaluation information. A notation on the student's permanent record card should indicate the period during which the student is on home instruction.

33. How long should a district retain records on a home-instructed student?

    There is no legal obligation specified in this matter. To the extent that records are kept, it is recommended that an annual Worksheet for each student be kept until six years after the student would have graduated from high school.

34. Should parents maintain records on students instructed at home?

    Parents are required to keep attendance records for each student, but there is no legal obligation for them to maintain any other records. It is recommended that parents keep evidence of their programs and their children's achievement and correspondence with the school district.

35. If a student instructed at home is unable to read adequately or find employment following completion of educational requirements as defined within the compulsory education laws, can the school district be held liable?

    No. As a matter of public policy, the highest court in New York State has declined to recognize a cause of action for educational malpractice. Where the board of education and superintendent of schools make good faith efforts to implement the requirements of Section 100.10 of the Regulations(link is external), there should not be a basis for liability under current law.

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Individualized Home Instruction Plan (IHIP)

36. Are parents required to submit more than a list of textbooks in the IHIP to comply with the requirements of subdivision (d) of Section 100.10(link is external)?

The IHIP must include for each of the required courses either a list of syllabi, curriculum materials and textbooks to be used or a plan of instruction to be followed. A different alternative may be used for different subjects. While a list of textbooks may be submitted, it is reasonable for the district to require more than the name, publisher, copyright date and author's name if the district is not familiar with the textbook's content. If the district requests additional information beyond the list of textbooks, the parents may, at their option, submit either a written scope and sequence describing the text or a copy of the text for the district's review (which copy shall be promptly returned to the parents). The purpose of such review is not to compare the text with those employed by the district, but rather: 1) to insure that the parent is providing the mandated subjects for the grade level in question, and 2) to provide the district with more complete information to assist its review of quarterly reports and annual assessments.

37. When the IHIP is submitted by the parents, does the school district have the responsibility to make a subjective judgment of the substantial equivalency of the home instruction program?

No. The purpose of these regulations is to provide a basis for objective determinations of substantial equivalence. IHIP submissions are to be evaluated to determine compliance with subdivisions (d) and (e) of Section 100.10. Quarterly reports are to be evaluated to determine compliance with subdivision (g). Annual assessments must comply with the requirements of subdivision (h). A home instruction program that adheres to the standards of the regulations at each stage of the process should be deemed to be substantially equivalent.

38. Must the parents indicate on the IHIP what will be taught and the total time of instruction?

The IHIP must include a list of the syllabi, curriculum materials, or plan of instruction to be used in each of the subjects required for that grade level. The total number of hours of instruction per quarter must be documented on the quarterly report. It is recommended that, in the secondary grades, hours per subject be included in each quarterly report.

39. When must a student begin to receive instruction?

Education Law 3205, which became effective on July 26, 1993, clarifies the age at which a student is subject to compulsory education. The law now requires children who turn six on or before December 1 to receive instruction from the start of the school year in September of that year. Children who turn six after December 1 must begin to receive instruction no later than the first day of school the following September.

40. Must the IHIP for a six-year-old indicate that the instruction is on the first grade level?

No. As with any age, instruction should be geared to the level appropriate to the student's needs and previous level of achievement.

41. Are students instructed at home required to take a second language?

No. They are not required to take a second language, but they may choose to study a second language.

42. Is physical education required?

Yes. Every student must have a physical education program. Activities may differ but outcomes should be similar to those established for students in the public school.

43. Must the topics proposed for study in each subject correspond to the material covered in the public school curriculum?

While the subjects required by Law and Regulation must be taught, the course content may differ.

44. If a student reaches the maximum age for compulsory attendance during the school year, must the IHIP for that student cover the full year?

Yes. Students who turn 16 (or 17 in New York City) between July 1 and June 30 are of compulsory attendance age during the entire school year.

45. Is a district required to review a IHIP for a student beyond compulsory attendance age?

No.

46. Can a district require parents to provide more information on the IHIP than the Regulations of the Commissioner require?

No. A district may require only that information set forth in subdivision (d) of Section 100.10 of the Regulations of the Commissioner(link is external).

47. May a superintendent find a program of home instruction deficient, if he/she concludes that the student needs socialization or interaction with other children?

No. This is not a basis for finding a program of home instruction deficient.

48. Must home instruction for a student of limited English proficiency include instruction in the English language?

Yes. Home instruction for such a student must include instruction in the English language.

49. Are parents instructing their children at home required to teach courses which involve education about substance abuse, AIDS, human sexuality and family planning?

Parents are required to provide health education at all grade levels. Section 804 of the Education Law requires that such health education include instruction to discourage the misuse and abuse of alcohol, tobacco and other drugs. Section 135.3(b) of the Regulations of the Commissioner of Education requires that the elementary and secondary health education curriculum include age appropriate instruction concerning the nature, methods of transmission and methods of prevention of the acquired immune deficiency syndrome (AIDS). Parents must address the topic of AIDS as a part of the required health instruction at least once in grades K-6, once in grades 7-8 and once in grades 9-12. Parents may include instruction on human sexuality and family planning as part of their children's health education, but are not required to do so.

50. If a parent wanted to duplicate a home school program that is similar to the diploma requirements of public school students where would they look to find the requirements?

Section 100.5 of the Regulations of the Commissioner(link is external)

51. Must a district notify parents that the IHIP is in compliance with C.R. 100.10?

Yes. The district is obligated to notify parents that the IHIP is in compliance. It is strongly recommended that such notification be in writing.

52. Must a board of education approve the IHIP?

No. The superintendent of schools is responsible for reviewing the IHIP and notifying the parents of its status.

53. When is the board of education involved in the process?

If the superintendent of schools determines that a revised IHIP is not in compliance and the parents contest that determination, the parents may meet with the board to present evidence of compliance. The board then makes its determination of compliance or noncompliance.

54. If the board finds that an IHIP is not in compliance, do the parents have the right to appeal?

Yes. The parents may appeal a determination of noncompliance by the board to the Commissioner of Education within 30 days of receiving notice of the determination.

55. Must the parents of a student instructed at home file an IHIP with the district if the student is enrolled in a correspondence school?

Yes. The obligation to file an IHIP does not depend on the source of material used but rather on the location of the student's instruction. The board of education is responsible for ensuring that any student of compulsory age living within the district is receiving an adequate program

of instruction. The parents and the district must comply with C.R. 100.10(link is external) even if the supplier of the curriculum materials considers the student to be enrolled in its school or program.

56. Does the State Education Department approve programs of home instruction provided by correspondence schools?

    No. The State Education Department does not perform this function. Correspondence school materials for home instruction must be reviewed by the superintendent of schools.

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Evaluation

57. When should parents inform the school district of their choice of a standardized test or alternative evaluation method?

    No date is specified in the regulation but it is recommended that parents provide this information by the end of the third quarterly reporting period.

58. When is it necessary for parents to obtain the consent of the school district if they are using a norm-referenced achievement test for the annual assessment?

    a. If the parents are having the student tested at a registered nonpublic school, the consent of the public school district is not required.
    b. If the parents are having the student tested at the public school, the testing should be done at the time of the school's own testing program, unless a mutually agreeable alternative is reached. The district should give the parents several weeks' notice of the dates for this testing.
    c. If the parents are having the student tested at another location, the school district is required to review, and (if in agreement) consent to the parents' selection of the test administrator.

59. Are students instructed at home required to take any State tests such as the PEP tests or RCTs?

    No. These tests may be used to meet annual assessment requirements, but home-instructed students are not required to take them.

60. Which State tests suffice for an annual assessment?

    Any State tests designed to evaluate individual student achievement are acceptable. State tests designed to evaluate a school's program (Program Evaluation Tests) are not appropriate for this purpose.

61. If parents instructing their children at home choose to use PEP tests or RCTs as a part of their annual evaluation, should the school district include their scores with the scores of the public school students?

No.

62. Can parents of a fourth-grader opt for an alternative form of evaluation?

Yes. Alternative forms of evaluation may be used every other year for pupils in grades 4 though 8. Thus, grade 4 could be the first year in this pattern.

63. Must the district administer tests during the school year to home-instructed students?

No. The district is not obligated to administer any tests unless the student is referred to the Committee on Special Education for evaluation.

64. May a student instructed at home take Regents examinations?

Yes. If a request is made, school officials are encouraged to admit a student receiving home instruction to Regents examinations. If a Regents examination has a lab requirement, the student may be admitted to the examination if there is evidence that the student has met the lab requirement. The IHIP, quarterly reports and/or verification from the student's teacher can provide such evidence.

Regents examinations may only be administered at the public school or registered nonpublic school because they are secure examinations. The test results can be helpful to the student and also to public school officials.

65. If parents want to use one of the standardized tests listed in the home instruction regulation but not used by the school district, who orders and who pays for it?

If the parent chooses to use a test that has not been ordered for use in the public schools of the district, the school district, upon request of the parent, would order the test. The parent would, however, pay for the cost of procuring it.

66. May a parent administer a standardized test or prepare the written narrative of assessment?

Yes. With the consent of the superintendent, a parent may perform these actions.

67. What is a home instruction peer review panel and what is its function under the regulations?

A home instruction peer review panel is an advisory group of home instructing parents who prepare a written narrative of a student's achievement. Members of such a panel may be chosen by the parent with the consent of the superintendent.

68. What action should be taken by the district if parents do not submit any evaluation?

If phone calls or letters do not elicit the information, the district should notify parents by registered mail that the evaluation is due and set a reasonable date for its submission. If the information is not forthcoming, the district is without evidence that instruction has been taking place. In that case, the district would be obligated to report the case to the central registry as a case of suspected educational neglect.

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Commencement of Home Instruction During the School Year

69. May a district refuse to consider a parent's request for home instruction if it occurs during the school year?

No. The district must respond to a letter of intent and to the submission of an IHIP at any time during the school year.

70. If home instruction begins during the normal school year, which timelines apply?

The regulation specifies that parents who decide to begin home instruction or parents who move into the district after the start of the school year must file a letter of intent within 14 days of beginning home instruction within the district.

From that point on, the usual timelines apply:

- Within 10 business days of receiving the letter, the district must furnish the parent with a copy of C.R. 100.10(link is external) and an IHIP form for each child.
- Within 4 weeks of receiving it, the parent must submit the completed IHIP to the district.
- Within 10 business days of receiving the IHIP, the district must notify the parent whether it complies with the requirements of the regulation or give written notice of any deficiency.
- Within 15 days of receiving a notice of deficiency, the parent must submit a revised IHIP which corrects the deficiencies.
- Within 15 days of receiving the revised IHIP, the district must notify the parent as to whether it complies with the regulation.

71. If home instruction begins during the school year, when should parents schedule quarterly reports to the district?

The number of reports should be proportional to the period of home instruction. For example, if instruction begins at about the end the first reporting period in the public school, the parent would schedule three reports during the remainder of the year.

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College Entrance

72. If home-instructed students cannot be awarded local or Regents high school diplomas, how can they gain entrance to colleges?

First, please note that seeking admission to college is entirely a choice that students make, and successfully gaining admission to college is entirely the responsibility of home-instructed students and their parents. It is not the responsibility of the State Education Department or the local public school district to secure college admission for home-instructed students.

Second, colleges set their own admissions requirements. These requirements vary from college to college. The burden, therefore, is on home-instructed students (and their parents) to seek and acquire information on the admissions requirements of the colleges of their choice. The burden is also on home-instructed students (and their parents) to convince colleges to accept them. Because of this, home-instructed students (and their parents) may wish to seek information regarding the admissions requirements of the colleges of their choice well in advance of the actual application for admission.

Third, Listed below are some suggested strategies for home-instructed students (and their parents) to consider using to help them gain entrance to colleges. Consideration can be given to using a combination of these strategies. Please note that there is no guarantee that following any or all of the strategies listed below will ensure a home-instructed student's admission to any college. Again, if home-instructing students choose to pursue admission to college, they (and their parents) are fully responsible for this.

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Suggested Strategies

1. A portfolio of the student's work, demonstrating its breadth and depth, might be developed over time. This portfolio can be shared with college admissions personnel to demonstrate the student's capabilities.
2. If a home-instructed student has taken Regents exams at the public school of residence, he/she can request the public school district to produce, on school letterhead, a list of the exams taken, the date on which they were taken, and the score the student earned. This list of Regents exam scores can be shared with college admissions personnel.
3. Home-instructed students can take the Scholastic Aptitude Test (SAT) and/or other standardized tests used for college admissions purposes. Scores on these tests can be shared with college admissions personnel. Home-instructed students should contact their public school district about arrangements for taking the Scholastic Aptitude Test and/or achievement examinations offered by the College Board or the American College Testing Service.
4. If the student is beyond the age of compulsory education, and has completed a program of home instruction in compliance with Section 100.10 of the Regulations of the Commissioner of

Education(link is external), he/she can request that the superintendent of schools of the public school district of residence attest to this, in writing, on district letterhead. This can be shared with college admissions personnel. Please note, however, that the superintendent of schools may, but is under no obligation to, attest to this.

5. Home-instructed students can take the GED exam, when they have reached eligibility to do so. Students passing the GED exam can share their General Equivalency Diplomas with college admissions personnel.

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