

9091

I N A S S E M B L Y

January 25, 2016

Introduced by M. of A. MAGNARELLI -- read once and referred to the
Committee on Education

AN ACT to amend the education law, in relation to home instruction

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph d of subdivision 2 of section 3210 of the educa-
2 tion law is amended to read as follows:

3 d. Exception. In applying the foregoing requirements a minor required
4 to attend upon full time day instruction by the provisions of THIS part
5 [one of this article] may be permitted to attend for a shorter school
6 day or for a shorter school year or for both, provided, [in accordance
7 with the regulations of the state education department,] the instruction
8 he OR SHE receives has been approved by the school authorities as being
9 substantially equivalent in amount and quality to that required by the
10 provisions of THIS part [one of this article]. HOME INSTRUCTION OF A
11 MINOR THAT IS CONDUCTED IN ACCORDANCE WITH SECTION THREE THOUSAND TWO
12 HUNDRED TWENTY-NINE OF THIS PART SHALL BE DEEMED TO COMPLY WITH THIS
13 SECTION AND SUBDIVISION TWO OF SECTION THREE THOUSAND TWO HUNDRED FOUR
14 OF THIS PART.

15 S 2. The education law is amended by adding a new section 3229 to read
16 as follows:

17 S 3229. HOME INSTRUCTION. THE PURPOSE OF THIS SECTION IS TO ESTABLISH
18 PROCEDURES TO ASSIST SCHOOL AUTHORITIES IN FULFILLING THEIR RESPONSIBIL-
19 ITY UNDER SUBDIVISION TWO OF SECTION THREE THOUSAND TWO HUNDRED FOUR AND
20 PARAGRAPH D OF SUBDIVISION TWO OF SECTION THREE THOUSAND TWO HUNDRED TEN
21 OF THIS PART AND TO ASSIST PARENTS WHO EXERCISE THEIR RIGHT TO PROVIDE
22 REQUIRED INSTRUCTION AT HOME TO SUCH STUDENTS IN FULFILLING THEIR
23 RESPONSIBILITIES PURSUANT TO SUBDIVISION TWO OF SECTION THREE THOUSAND
24 TWO HUNDRED TWELVE OF THIS PART. COMPLIANCE WITH THIS SECTION DEMON-
25 STRATES THE COMPETENCY OF THE INSTRUCTOR AND VERIFIES THAT THE INSTRUC-
26 TION BEING PROVIDED AT HOME TO STUDENTS OF COMPULSORY SCHOOL ATTENDANCE
27 AGE IS SUBSTANTIALLY EQUIVALENT AS REQUIRED BY SUBDIVISION TWO OF
28 SECTION THREE THOUSAND TWO HUNDRED FOUR OF THIS PART. NOTWITHSTANDING
29 ANY OTHER PROVISION OF LAW, TO THE EXTENT THAT ANY PROVISION OF THIS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 SECTION IS INCONSISTENT WITH ANY OTHER LOCAL LAW, RULE OR REGULATION,
2 THE PROVISIONS OF THIS SECTION SHALL GOVERN AND BE CONTROLLING.

3 1. NOTICE OF INTENTION TO INSTRUCT AT HOME.

4 A. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION,
5 PARENTS OR OTHER PERSONS IN PARENTAL RELATION TO A STUDENT OF COMPULSORY
6 SCHOOL ATTENDANCE AGE SHALL ANNUALLY PROVIDE WRITTEN NOTICE TO THE
7 SUPERINTENDENT OF SCHOOLS OF THEIR SCHOOL DISTRICT OF RESIDENCE OF THEIR
8 INTENTION TO EDUCATE THEIR CHILD AT HOME BY JULY FIRST OF EACH SCHOOL
9 YEAR. THE SCHOOL YEAR BEGINS JULY FIRST AND ENDS JUNE THIRTIETH FOR ALL
10 PURPOSES WITHIN THIS SECTION. THE CENTRAL OFFICE OF HOMESCHOOLING MAY
11 RECEIVE THE NOTICE OF INTENT AND OTHER SUCH DOCUMENTATION FOR HOME
12 INSTRUCTION STUDENTS WHO RESIDE WITHIN NEW YORK CITY.

13 B. PARENTS WHO DETERMINE TO COMMENCE HOME INSTRUCTION AFTER THE START
14 OF THE SCHOOL YEAR, OR WHO ESTABLISH RESIDENCE IN THE SCHOOL DISTRICT
15 AFTER THE START OF THE SCHOOL YEAR, SHALL PROVIDE WRITTEN NOTICE OF
16 THEIR INTENTION TO EDUCATE THEIR CHILD AT HOME WITHIN FOURTEEN DAYS
17 FOLLOWING THE COMMENCEMENT OF HOME INSTRUCTION WITHIN THE SCHOOL
18 DISTRICT.

19 2. PROCEDURES FOR DEVELOPMENT AND REVIEW OF AN INDIVIDUALIZED HOME
20 INSTRUCTION PLAN (IHIP).

21 A. WITHIN TEN BUSINESS DAYS OF THE RECEIPT OF THE NOTICE OF INTENTION
22 TO INSTRUCT AT HOME, THE SCHOOL DISTRICT SHALL SEND TO THE PARENTS A
23 COPY OF THIS SECTION AND A FORM ON WHICH TO SUBMIT AN INDIVIDUALIZED
24 HOME INSTRUCTION PLAN (IHIP) FOR EACH CHILD OF COMPULSORY ATTENDANCE AGE
25 WHO IS TO BE TAUGHT AT HOME.

26 B. WITHIN FOUR WEEKS OF THE RECEIPT OF SUCH MATERIALS, OR BY AUGUST
27 FIFTEENTH, WHICHEVER IS LATER, THE PARENT SHALL SUBMIT A COMPLETED IHIP
28 TO THE SCHOOL DISTRICT. THE DISTRICT SHALL PROVIDE ASSISTANCE IN PREPA-
29 RATION OF THE FORMS, IF REQUESTED BY THE PARENTS. THE PARENTS MAY SUBMIT
30 THE IHIP ON THE SCHOOL DISTRICT FORM OR ON ANOTHER FORM THAT INCLUDES
31 THE REQUIRED INFORMATION.

32 C. WITHIN TEN BUSINESS DAYS OF RECEIPT OF THE IHIP, OR BY AUGUST THIR-
33 TY-FIRST, WHICHEVER IS LATER, THE SCHOOL DISTRICT SHALL EITHER NOTIFY
34 THE PARENTS IN WRITING THAT THE IHIP COMPLIES WITH THE REQUIREMENTS OF
35 SUBDIVISIONS THREE AND FOUR OF THIS SECTION OR SHALL GIVE THE PARENTS
36 WRITTEN NOTICE OF ANY DEFICIENCY IN THE IHIP.

37 D. WITHIN FIFTEEN DAYS OF RECEIPT OF A NOTICE OF A DEFICIENCY IN THE
38 IHIP, OR BY SEPTEMBER FIFTEENTH, WHICHEVER IS LATER, THE PARENTS SHALL
39 SUBMIT A REVISED IHIP WHICH CORRECTS ANY SUCH DEFICIENCIES.

40 E. THE SUPERINTENDENT OF SCHOOLS SHALL REVIEW THE REVISED IHIP AND
41 SHALL NOTIFY THE PARENTS IN WRITING AS TO WHETHER THE REVISED IHIP
42 COMPLIES WITH SUBDIVISIONS THREE AND FOUR OF THIS SECTION WITHIN FIFTEEN
43 DAYS OF RECEIPT OF THE REVISED IHIP OR BY SEPTEMBER THIRTIETH, WHICHEVER
44 IS LATER. IF THE REVISED IHIP IS DETERMINED NOT TO BE IN COMPLIANCE WITH
45 SUBDIVISIONS THREE AND FOUR OF THIS SECTION, THEN THE PARENTS SHALL BE
46 NOTIFIED IN WRITING OF THE REASONS FOR SUCH DETERMINATION. SUCH NOTICE
47 SHALL ALSO CONTAIN THE DATE OF THE NEXT REGULARLY SCHEDULED MEETING OF
48 THE BOARD OF EDUCATION THAT WILL BE HELD AT LEAST TEN DAYS AFTER THE
49 DATE OF MAILING OF THE NOTICE, AND SHALL INDICATE THAT IF THE PARENTS
50 WISH TO CONTEST THE DETERMINATION OF NONCOMPLIANCE, THE PARENTS MUST SO
51 NOTIFY THE BOARD OF EDUCATION AT LEAST THREE BUSINESS DAYS PRIOR TO SUCH
52 MEETING. AT SUCH BOARD MEETING, THE PARENTS SHALL HAVE THE RIGHT TO
53 PRESENT PROOF OF COMPLIANCE, AND THE BOARD OF EDUCATION SHALL MAKE A
54 FINAL DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.

1 F. THE PARENTS SHALL HAVE THE RIGHT TO APPEAL ANY SUCH FINAL SCHOOL
2 DISTRICT DETERMINATION OF NONCOMPLIANCE TO THE COMMISSIONER WITHIN THIR-
3 TY DAYS AFTER RECEIPT OF SUCH DETERMINATION.

4 G. WHEN ADMINISTRATIVE REVIEW OF A SCHOOL DISTRICT DETERMINATION OF
5 NONCOMPLIANCE IS COMPLETED, THE PARENTS SHALL IMMEDIATELY PROVIDE FOR
6 THE INSTRUCTION OF THEIR CHILDREN AT A PUBLIC SCHOOL OR ELSEWHERE IN
7 COMPLIANCE WITH SECTIONS THREE THOUSAND TWO HUNDRED FOUR AND THREE THOU-
8 SAND TWO HUNDRED TEN OF THIS PART. FOR PURPOSES OF THIS SUBDIVISION,
9 SUCH ADMINISTRATIVE REVIEW SHALL BE DEEMED TO BE COMPLETED WHEN ONE OF
10 THE FOLLOWING EVENTS HAS OCCURRED:

11 (1) THE PARENTS HAVE FAILED TO CONTEST A DETERMINATION OF NONCOMPLI-
12 ANCE BY APPEALING TO THE BOARD OF EDUCATION;

13 (2) THE PARENTS HAVE FAILED TO APPEAL A FINAL SCHOOL DISTRICT DETERMI-
14 NATION OF NONCOMPLIANCE TO THE COMMISSIONER; OR

15 (3) THE PARENTS HAVE RECEIVED A DECISION OF THE COMMISSIONER WHICH
16 UPHOLDS A FINAL SCHOOL DISTRICT DETERMINATION OF NONCOMPLIANCE.

17 H. WITHIN TEN DAYS AFTER ADMINISTRATIVE REVIEW OF THE DETERMINATION OF
18 NONCOMPLIANCE IS COMPLETED, THE PARENTS SHALL FURNISH THE SUPERINTENDENT
19 OF SCHOOLS WITH WRITTEN NOTICE OF THE ARRANGEMENTS THEY HAVE MADE TO
20 PROVIDE THEIR CHILDREN WITH THE REQUIRED INSTRUCTION, EXCEPT THAT SUCH
21 NOTICE SHALL NOT BE REQUIRED IF THE PARENTS ENROLL THEIR CHILDREN IN A
22 PUBLIC SCHOOL.

23 3. CONTENT OF INDIVIDUALIZED HOME INSTRUCTION PLAN (IHIP). EACH
24 CHILD'S IHIP SHALL CONTAIN:

25 A. THE CHILD'S NAME, AGE AND GRADE LEVEL;

26 B. A LIST OF THE SYLLABI, CURRICULUM MATERIALS, TEXTBOOKS OR PLAN OF
27 INSTRUCTION TO BE USED IN EACH OF THE REQUIRED SUBJECTS LISTED IN SUBDI-
28 VISION FOUR OF THIS SECTION; AND

29 C. THE NAMES OF THE INDIVIDUALS PROVIDING INSTRUCTION.

30 IF THE HOME INSTRUCTION STUDENT WILL BE MEETING THE COMPULSORY EDUCA-
31 TIONAL REQUIREMENTS OF SECTION THREE THOUSAND TWO HUNDRED FIVE OF THIS
32 PART THROUGH FULL-TIME STUDY AT A DEGREE-GRANTING INSTITUTION THEN THE
33 IHIP SHALL IDENTIFY THE DEGREE-GRANTING INSTITUTION AND THE SUBJECTS TO
34 BE COVERED. FOR THE PURPOSE OF THIS SUBDIVISION FULL-TIME STUDY AT A
35 DEGREE-GRANTING INSTITUTION SHALL MEAN ENROLLMENT FOR AT LEAST TWELVE
36 SEMESTER HOURS IN A SEMESTER.

37 4. REQUIRED COURSES. A. FOR PURPOSES OF THIS SUBDIVISION, A UNIT
38 MEANS THE INSTRUCTIONAL EQUIVALENT OF SIXTY-FOUR HUNDRED EIGHTY MINUTES
39 OF INSTRUCTION PER SCHOOL YEAR.

40 B. INSTRUCTION IN THE FOLLOWING SUBJECTS SHALL BE REQUIRED:

41 (1) FOR GRADES ONE THROUGH SIX: ARITHMETIC, READING, SPELLING, WRIT-
42 ING, THE ENGLISH LANGUAGE, GEOGRAPHY, UNITED STATES HISTORY, SCIENCE,
43 HEALTH EDUCATION, MUSIC, VISUAL ARTS, PHYSICAL EDUCATION, BILINGUAL
44 EDUCATION AND/OR ENGLISH AS A SECOND LANGUAGE WHERE THE NEED IS INDI-
45 CATED.

46 (2) FOR GRADES SEVEN AND EIGHT: ENGLISH (TWO UNITS); HISTORY AND
47 GEOGRAPHY (TWO UNITS); SCIENCE (TWO UNITS); MATHEMATICS (TWO UNITS);
48 PHYSICAL EDUCATION (ON A REGULAR BASIS); HEALTH EDUCATION (ON A REGULAR
49 BASIS); ART (ONE-HALF UNIT); MUSIC (ONE-HALF UNIT); PRACTICAL ARTS (ON A
50 REGULAR BASIS); AND LIBRARY SKILLS (ON A REGULAR BASIS). THE UNITS
51 REQUIRED IN THIS SUBPARAGRAPH ARE CUMULATIVE REQUIREMENTS FOR BOTH
52 GRADES SEVEN AND EIGHT.

53 (3) THE FOLLOWING COURSES SHALL BE TAUGHT AT LEAST ONCE DURING THE
54 FIRST EIGHT GRADES: UNITED STATES HISTORY, NEW YORK STATE HISTORY, AND
55 THE CONSTITUTIONS OF THE UNITED STATES AND NEW YORK STATE.

1 (4) FOR GRADES NINE THROUGH TWELVE: ENGLISH (FOUR UNITS); SOCIAL
2 STUDIES (FOUR UNITS), WHICH INCLUDES ONE UNIT OF AMERICAN HISTORY, ONE-
3 HALF UNIT IN PARTICIPATION IN GOVERNMENT, AND ONE-HALF UNIT OF ECONOM-
4 ICS; MATHEMATICS (TWO UNITS); SCIENCE (TWO UNITS); ART AND/OR MUSIC (ONE
5 UNIT); HEALTH EDUCATION (ONE-HALF UNIT); PHYSICAL EDUCATION (TWO UNITS);
6 AND THREE UNITS OF ELECTIVES. THE UNITS REQUIRED IN THIS SUBPARAGRAPH
7 ARE CUMULATIVE REQUIREMENTS FOR GRADES NINE THROUGH TWELVE.

8 (5) THE FOLLOWING SUBJECTS ARE TO BE COVERED DURING GRADES KINDERGAR-
9 TEN THROUGH TWELVE:

10 (I) PATRIOTISM AND CITIZENSHIP;

11 (II) HEALTH EDUCATION REGARDING ALCOHOL, DRUG AND TOBACCO MISUSE;

12 (III) HIGHWAY SAFETY AND TRAFFIC REGULATIONS, INCLUDING BICYCLE SAFE-
13 TY; AND

14 (IV) FIRE AND ARSON PREVENTION AND SAFETY.

15 5. ATTENDANCE REQUIREMENTS. EACH CHILD SHALL ATTEND UPON INSTRUCTION
16 AS FOLLOWS: THE SUBSTANTIAL EQUIVALENT OF ONE HUNDRED EIGHTY DAYS OF
17 INSTRUCTION SHALL BE PROVIDED EACH SCHOOL YEAR. THE CUMULATIVE HOURS OF
18 INSTRUCTION FOR GRADES ONE THROUGH SIX SHALL BE NINE HUNDRED HOURS PER
19 YEAR. THE CUMULATIVE HOURS OF INSTRUCTION FOR GRADES SEVEN THROUGH
20 TWELVE SHALL BE NINE HUNDRED NINETY HOURS PER YEAR. ABSENCES SHALL BE
21 PERMITTED ON THE SAME BASIS AS PROVIDED IN THE POLICY OF THE SCHOOL
22 DISTRICT FOR ITS OWN STUDENTS. RECORDS OF ATTENDANCE SHALL BE MAINTAINED
23 BY THE PARENT AND SHALL BE MADE AVAILABLE TO THE SCHOOL DISTRICT UPON
24 REQUEST. INSTRUCTION PROVIDED AT A SITE OTHER THAN THE PRIMARY RESIDENCE
25 OF THE PARENTS SHALL BE PROVIDED IN A BUILDING WHICH HAS NOT BEEN DETER-
26 MINED TO BE IN VIOLATION OF THE LOCAL BUILDING CODE.

27 6. QUARTERLY REPORTS. ON OR BEFORE THE DATE SPECIFIED BY THE PARENT IN
28 THE IHIP, A QUARTERLY REPORT FOR EACH CHILD SHALL BE FURNISHED BY THE
29 PARENT TO THE SCHOOL DISTRICT. THE QUARTERLY REPORT SHALL CONTAIN THE
30 FOLLOWING:

31 A. THE NUMBER OF HOURS OF INSTRUCTION DURING SAID QUARTER;

32 B. A DESCRIPTION OF THE MATERIAL COVERED IN EACH SUBJECT LISTED IN THE
33 IHIP;

34 C. EITHER A GRADE FOR THE CHILD IN EACH SUBJECT OR A WRITTEN NARRATIVE
35 EVALUATING THE CHILD'S PROGRESS; AND

36 D. A WRITTEN EXPLANATION IN THE EVENT THAT LESS THAN EIGHTY PERCENT OF
37 THE AMOUNT OF THE COURSE MATERIALS AS SET FORTH IN THE IHIP PLANNED FOR
38 THAT QUARTER HAS BEEN COVERED IN ANY SUBJECT.

39 7. ANNUAL ASSESSMENT. THE PARENT SHALL FILE AN ANNUAL ASSESSMENT IN
40 ACCORDANCE WITH THIS SUBDIVISION BY JULY THIRTIETH. THE ANNUAL ASSESS-
41 MENT SHALL INCLUDE THE RESULTS OF A COMMERCIALY PUBLISHED NORM-REFER-
42 ENCED ACHIEVEMENT TEST WHICH MEETS THE REQUIREMENTS OF PARAGRAPH A OF
43 THIS SUBDIVISION, OR AN ALTERNATIVE FORM OF EVALUATION WHICH MEETS THE
44 REQUIREMENTS OF PARAGRAPH B OF THIS SUBDIVISION.

45 A. COMMERCIALY PUBLISHED NORM-REFERENCED ACHIEVEMENT TESTS.

46 (1) THE TEST SHALL BE SELECTED BY THE PARENT FROM ONE OF THE FOLLOW-
47 ING: A NATIONALLY STANDARDIZED ACHIEVEMENT TEST, A STATE EDUCATION
48 DEPARTMENT TEST, OR ANOTHER TEST APPROVED BY THE STATE EDUCATION DEPART-
49 MENT.

50 (2) THE TEST SHALL BE ADMINISTERED IN ACCORDANCE WITH ONE OF THE
51 FOLLOWING OPTIONS, TO BE SELECTED BY THE PARENTS:

52 (I) AT THE PUBLIC SCHOOL, BY ITS PROFESSIONAL STAFF;

53 (II) AT A REGISTERED NONPUBLIC SCHOOL, BY ITS PROFESSIONAL STAFF,
54 PROVIDED THAT THE CONSENT OF THE CHIEF SCHOOL OFFICER OF THE NONPUBLIC
55 SCHOOL IS OBTAINED;

1 (III) AT A NONREGISTERED NONPUBLIC SCHOOL, BY ITS PROFESSIONAL STAFF,
2 PROVIDED THAT THE CONSENT OF THE CHIEF SCHOOL OFFICER OF THE NONPUBLIC
3 SCHOOL IS OBTAINED; OR

4 (IV) AT THE PARENTS' HOME OR AT ANY OTHER REASONABLE LOCATION, BY A
5 NEW YORK STATE-CERTIFIED TEACHER OR BY ANOTHER QUALIFIED PERSON. A QUAL-
6 IFIED PERSON IS ANYONE WHO HAS MET THE TEST PUBLISHER'S CRITERIA TO
7 ADMINISTER THE TEST.

8 (3) THE TEST SHALL BE SCORED BY A TESTING SERVICE CHOSEN BY THE
9 PARENT.

10 (4) THE TEST SHALL BE PROVIDED BY THE SCHOOL DISTRICT UPON REQUEST BY
11 THE PARENT, PROVIDED THAT THE COST OF ANY TESTING FACILITIES, TRANSPOR-
12 TATION, AND/OR PERSONNEL FOR TESTING CONDUCTED AT A LOCATION OTHER THAN
13 THE PUBLIC SCHOOL SHALL BE BORNE BY THE PARENT.

14 (5) IF A SCORE ON A TEST IS DETERMINED TO BE INADEQUATE, THE PROGRAM
15 SHALL BE PLACED ON PROBATION PURSUANT TO SUBDIVISION EIGHT OF THIS
16 SECTION. A STUDENT'S SCORE SHALL BE DEEMED ADEQUATE IF: THE STUDENT HAS
17 A COMPOSITE SCORE ABOVE THE TWENTY-THIRD PERCENTILE ON NATIONAL NORMS;
18 OR THE STUDENT'S SCORE REFLECTS ONE ACADEMIC YEAR OF GROWTH AS COMPARED
19 TO A TEST ADMINISTERED DURING OR SUBSEQUENT TO THE PRIOR SCHOOL YEAR.

20 B. ALTERNATIVE EVALUATION METHODS. AN ALTERNATIVE FORM OF EVALUATION
21 SHALL BE PERMITTED TO BE CHOSEN BY THE PARENT ONLY AS FOLLOWS: (1) FOR
22 GRADES ONE THROUGH THREE, A WRITTEN NARRATIVE PREPARED BY A PERSON SPEC-
23 IFIED IN THIS PARAGRAPH; (2) FOR GRADES FOUR THROUGH TWELVE, A WRITTEN
24 NARRATIVE PREPARED BY A PERSON SPECIFIED IN THIS PARAGRAPH. THIS ALTER-
25 NATIVE FORM OF EVALUATION MAY BE USED NO MORE OFTEN THAN EVERY OTHER
26 SCHOOL YEAR FOR THESE GRADES; (3) FOR THE PURPOSES OF THIS PARAGRAPH,
27 THE PERSON WHO PREPARES THE WRITTEN NARRATIVE SHALL BE A NEW YORK
28 STATE-CERTIFIED TEACHER, A HOME INSTRUCTION PEER GROUP REVIEW PANEL, OR
29 OTHER PERSON, WHO HAS INTERVIEWED THE CHILD AND REVIEWED A PORTFOLIO OF
30 THE CHILD'S WORK. SUCH PERSON SHALL CERTIFY EITHER THAT THE CHILD HAS
31 MADE ADEQUATE ACADEMIC PROGRESS OR THAT THE CHILD HAS FAILED TO MAKE
32 ADEQUATE PROGRESS. IN THE EVENT THAT SUCH CHILD HAS FAILED TO MAKE
33 ADEQUATE PROGRESS, THE HOME INSTRUCTION PROGRAM SHALL BE PLACED ON
34 PROBATION PURSUANT TO SUBDIVISION EIGHT OF THIS SECTION. THE CERTIFIED
35 TEACHER, PEER REVIEW PANEL OR OTHER PERSON SHALL BE CHOSEN BY THE
36 PARENT. ANY RESULTING COST SHALL BE BORNE BY THE PARENT.

37 C. IF A DISPUTE ARISES BETWEEN THE PARENTS AND THE SUPERINTENDENT OF
38 SCHOOLS, INCLUDING DISPUTES OVER THE ADMINISTRATION OF THE COMMERCIALY
39 PUBLISHED NORM-REFERENCED ACHIEVEMENT TEST OR THE USE OF ALTERNATIVE
40 EVALUATION METHODS, THE PARENTS MAY APPEAL TO THE BOARD OF EDUCATION. IF
41 THE PARENTS DISAGREE WITH THE DETERMINATION OF THE BOARD OF EDUCATION,
42 THE PARENTS MAY APPEAL TO THE COMMISSIONER WITHIN THIRTY DAYS OF RECEIPT
43 OF THE BOARD'S FINAL DETERMINATION.

44 8. PROBATION. A. IF A CHILD'S ANNUAL ASSESSMENT FAILS TO COMPLY WITH
45 THE REQUIREMENTS OF THIS SUBDIVISION, THE HOME INSTRUCTION PROGRAM SHALL
46 BE PLACED ON PROBATION FOR A PERIOD OF UP TO TWO SCHOOL YEARS. THE
47 PARENT SHALL BE REQUIRED TO SUBMIT A PLAN OF REMEDIATION WHICH ADDRESSES
48 THE DEFICIENCIES IN THE CHILD'S ACHIEVEMENT, AND SEEKS TO REMEDY SUCH
49 DEFICIENCIES. THE PLAN SHALL BE REVIEWED BY THE SCHOOL DISTRICT. THE
50 SCHOOL DISTRICT MAY REQUIRE THE PARENTS TO MAKE CHANGES IN THE PLAN
51 PRIOR TO ACCEPTANCE.

52 B. IF AFTER THE END OF ANY SEMESTER OF THE PROBATIONARY PERIOD, THE
53 CHILD PROGRESSES TO THE LEVEL SPECIFIED IN THE REMEDIATION PLAN, THEN
54 THE HOME INSTRUCTION PROGRAM SHALL BE REMOVED FROM PROBATION. IF THE
55 CHILD DOES NOT ATTAIN AT LEAST SEVENTY-FIVE PERCENT OF THE OBJECTIVES
56 SPECIFIED IN THE REMEDIATION PLAN AT THE END OF ANY GIVEN SEMESTER WITH-

1 IN THE PERIOD OF PROBATION, OR IF AFTER TWO YEARS ON PROBATION ONE
2 HUNDRED PERCENT OF THE OBJECTIVES OF THE REMEDIATION PLAN HAVE NOT BEEN
3 SATISFIED, THE SUPERINTENDENT OF SCHOOLS SHALL PROVIDE THE PARENTS WITH
4 NOTICE AND THE BOARD OF EDUCATION SHALL REVIEW THE DETERMINATION OF
5 NONCOMPLIANCE IN ACCORDANCE WITH THIS PARAGRAPH, EXCEPT THAT CONSENT OF
6 THE PARENTS TO SUCH REVIEW SHALL NOT BE REQUIRED.

7 9. LETTER OF SUBSTANTIAL EQUIVALENCY. THE RESIDENT SCHOOL DISTRICT
8 SHALL CERTIFY IN WRITING WHEN A STUDENT TAUGHT AT HOME HAS COMPLETED
9 THEIR HOME INSTRUCTION PROGRAM IN COMPLIANCE WITH THIS SECTION. THIS
10 LETTER SHALL VERIFY COMPLIANCE WITH THIS SECTION AND THAT THE HOME
11 INSTRUCTION PROGRAM WAS THEREFORE SUBSTANTIALLY EQUIVALENT IN COMPLIANCE
12 WITH SUBDIVISION TWO OF SECTION THREE THOUSAND TWO HUNDRED FOUR OF THIS
13 PART. ANY STUDENT WHO COMPLETES A HOME INSTRUCTION PROGRAM BEFORE THEY
14 TURN TWENTY-ONE CAN REQUEST THIS LETTER FROM THEIR RESIDENT SCHOOL
15 DISTRICT. EACH SCHOOL DISTRICT MUST MAINTAIN THE DOCUMENTATION NECESSARY
16 TO VERIFY COMPLETION OF THE HOME INSTRUCTION PROGRAM FOR SIX YEARS.

17 S 3. Subdivision 2-c of section 3602-c of the education law, as added
18 by chapter 217 of the laws of 2008, is amended to read as follows:

19 2-c. Solely for the purpose of the provision of education for students
20 with disabilities pursuant to this section and the computation of state
21 aid for such education pursuant to section thirty-six hundred two of
22 this article, a student in a home instruction program submitted by his
23 or her parent or person in parental relation for review pursuant to [the
24 regulations of the commissioner] SECTION THREE THOUSAND TWO HUNDRED
25 TWENTY-NINE OF THIS ARTICLE shall be deemed to be a student enrolled in
26 and attending a nonpublic school eligible to receive services pursuant
27 to subdivision two of this section; provided that such student is enti-
28 tled to attend the public schools without payment of tuition pursuant to
29 subdivision one of section thirty-two hundred two of this chapter and
30 has an individualized home instruction plan that has been determined by
31 the superintendent of schools of the school district in which the home
32 school is located to be in compliance with the regulations of the
33 commissioner. The deadlines for submission of written requests for the
34 education of students with disabilities set forth in subdivision two of
35 this section shall apply to students in a home instruction program,
36 except that such request may be submitted within thirty days of a change
37 in the student's school district of residence; provided that for
38 services in the two thousand eight--two thousand nine school year only
39 such written requests for students in a home instruction program shall
40 be submitted by June thirtieth, two thousand eight, or within thirty
41 days after the effective date of [this subdivision] CHAPTER TWO HUNDRED
42 SEVENTEEN OF THE LAWS OF TWO THOUSAND EIGHT, whichever is later, except
43 where subdivision two of this section or this subdivision authorizes
44 submission at a later date. Except as provided in this subdivision, a
45 home school shall not be considered a nonpublic school for any other
46 purpose under this chapter.

47 S 4. This act shall take effect on the first of July next succeeding
48 the date on which it shall have become a law.