

# STATE OF NEW YORK

5260

2019-2020 Regular Sessions

## IN SENATE

April 18, 2019

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed 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 education law is amended to read as follows:

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

17 § 3229. Home instruction. The purpose of this section is to establish  
18 procedures to assist school authorities in fulfilling their responsibility  
19 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

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

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age is substantially equivalent as required by subdivision two of section three thousand two hundred four of this part. Notwithstanding any other provision of law, to the extent that any provision of this section is inconsistent with any other local law, rule or regulation, the provisions of this section shall govern and be controlling.

1. Notice of intention to instruct at home.

a. Except as otherwise provided in paragraph b of this subdivision, parents or other persons in parental relation to a student of compulsory school attendance age shall annually provide written notice to the superintendent of schools of their school district of residence of their intention to educate their child at home by July first of each school year. The school year begins July first and ends June thirtieth for all purposes within this section. The central office of homeschooling may receive the notice of intent and other such documentation for home instruction students who reside within New York city.

b. Parents who determine to commence home instruction after the start of the school year, or who establish residence in the school district after the start of the school year, shall provide written notice of their intention to educate their child at home within fourteen days following the commencement of home instruction within the school district.

2. Procedures for development and review of an individualized home instruction plan (IHIP).

a. Within ten business days of the receipt of the notice of intention to instruct at home, the school district shall send to the parents a copy of this section and a form on which to submit an individualized home instruction plan (IHIP) for each child of compulsory attendance age who is to be taught at home.

b. Within four weeks of the receipt of such materials, or by August fifteenth, whichever is later, the parent shall submit a completed IHIP to the school district. The district shall provide assistance in preparation of the forms, if requested by the parents. The parents may submit the IHIP on the school district form or on another form that includes the required information.

c. Within ten business days of receipt of the IHIP, or by August thirty-first, whichever is later, the school district shall either notify the parents in writing that the IHIP complies with the requirements of subdivisions three and four of this section or shall give the parents written notice of any deficiency in the IHIP.

d. Within fifteen days of receipt of a notice of a deficiency in the IHIP, or by September fifteenth, whichever is later, the parents shall submit a revised IHIP which corrects any such deficiencies.

e. The superintendent of schools shall review the revised IHIP and shall notify the parents in writing as to whether the revised IHIP complies with subdivisions three and four of this section within fifteen days of receipt of the revised IHIP or by September thirtieth, whichever is later. If the revised IHIP is determined not to be in compliance with subdivisions three and four of this section, then the parents shall be notified in writing of the reasons for such determination. Such notice shall also contain the date of the next regularly scheduled meeting of the board of education that will be held at least ten days after the date of mailing of the notice, and shall indicate that if the parents wish to contest the determination of noncompliance, the parents must so notify the board of education at least three business days prior to such meeting. At such board meeting, the parents shall have the right to

1 present proof of compliance, and the board of education shall make a  
2 final determination of compliance or noncompliance.

3 f. The parents shall have the right to appeal any such final school  
4 district determination of noncompliance to the commissioner within thir-  
5 ty days after receipt of such determination.

6 g. When administrative review of a school district determination of  
7 noncompliance is completed, the parents shall immediately provide for  
8 the instruction of their children at a public school or elsewhere in  
9 compliance with sections three thousand two hundred four and three thou-  
10 sand two hundred ten of this part. For purposes of this subdivision,  
11 such administrative review shall be deemed to be completed when one of  
12 the following events has occurred:

13 (1) the parents have failed to contest a determination of noncompli-  
14 ance by appealing to the board of education;

15 (2) the parents have failed to appeal a final school district determi-  
16 nation of noncompliance to the commissioner; or

17 (3) the parents have received a decision of the commissioner which  
18 upholds a final school district determination of noncompliance.

19 h. Within ten days after administrative review of the determination of  
20 noncompliance is completed, the parents shall furnish the superintendent  
21 of schools with written notice of the arrangements they have made to  
22 provide their children with the required instruction, except that such  
23 notice shall not be required if the parents enroll their children in a  
24 public school.

25 3. Content of individualized home instruction plan (IHIP). Each  
26 child's IHIP shall contain:

27 a. The child's name, age and grade level;

28 b. A list of the syllabi, curriculum materials, textbooks or plan of  
29 instruction to be used in each of the required subjects listed in subdi-  
30 vision four of this section; and

31 c. The names of the individuals providing instruction.

32 If the home instruction student will be meeting the compulsory educa-  
33 tional requirements of section three thousand two hundred five of this  
34 part through full-time study at a degree-granting institution then the  
35 IHIP shall identify the degree-granting institution and the subjects to  
36 be covered. For the purpose of this subdivision full-time study at a  
37 degree-granting institution shall mean enrollment for at least twelve  
38 semester hours in a semester.

39 4. Required courses. a. For purposes of this subdivision, a unit  
40 means the instructional equivalent of sixty-four hundred eighty minutes  
41 of instruction per school year.

42 b. Instruction in the following subjects shall be required:

43 (1) for grades one through six: arithmetic, reading, spelling, writ-  
44 ing, the English language, geography, United States history, science,  
45 health education, music, visual arts, physical education, bilingual  
46 education and/or English as a second language where the need is indi-  
47 cated.

48 (2) for grades seven and eight: English (two units); history and  
49 geography (two units); science (two units); mathematics (two units);  
50 physical education (on a regular basis); health education (on a regular  
51 basis); art (one-half unit); music (one-half unit); practical arts (on a  
52 regular basis); and library skills (on a regular basis). The units  
53 required in this subparagraph are cumulative requirements for both  
54 grades seven and eight.

1 (3) the following courses shall be taught at least once during the  
2 first eight grades: United States history, New York state history, and  
3 the constitutions of the United States and New York state.

4 (4) for grades nine through twelve: English (four units); social  
5 studies (four units), which includes one unit of American history, one-  
6 half unit in participation in government, and one-half unit of econom-  
7 ics; mathematics (two units); science (two units); art and/or music (one  
8 unit); health education (one-half unit); physical education (two units);  
9 and three units of electives. The units required in this subparagraph  
10 are cumulative requirements for grades nine through twelve.

11 (5) the following subjects are to be covered during grades kindergar-  
12 ten through twelve:

- 13 (i) patriotism and citizenship;  
14 (ii) health education regarding alcohol, drug and tobacco misuse;  
15 (iii) highway safety and traffic regulations, including bicycle safe-  
16 ty; and  
17 (iv) fire and arson prevention and safety.

18 5. Attendance requirements. Each child shall attend upon instruction  
19 as follows: the substantial equivalent of one hundred eighty days of  
20 instruction shall be provided each school year. The cumulative hours of  
21 instruction for grades one through six shall be nine hundred hours per  
22 year. The cumulative hours of instruction for grades seven through  
23 twelve shall be nine hundred ninety hours per year. Absences shall be  
24 permitted on the same basis as provided in the policy of the school  
25 district for its own students. Records of attendance shall be maintained  
26 by the parent and shall be made available to the school district upon  
27 request. Instruction provided at a site other than the primary residence  
28 of the parents shall be provided in a building which has not been deter-  
29 mined to be in violation of the local building code.

30 6. Quarterly reports. On or before the date specified by the parent in  
31 the IHIP, a quarterly report for each child shall be furnished by the  
32 parent to the school district. The quarterly report shall contain the  
33 following:

- 34 a. the number of hours of instruction during said quarter;  
35 b. a description of the material covered in each subject listed in the  
36 IHIP;  
37 c. either a grade for the child in each subject or a written narrative  
38 evaluating the child's progress; and  
39 d. a written explanation in the event that less than eighty percent of  
40 the amount of the course materials as set forth in the IHIP planned for  
41 that quarter has been covered in any subject.

42 7. Annual assessment. The parent shall file an annual assessment in  
43 accordance with this subdivision by July thirtieth. The annual assess-  
44 ment shall include the results of a commercially published norm-refer-  
45 enced achievement test which meets the requirements of paragraph a of  
46 this subdivision, or an alternative form of evaluation which meets the  
47 requirements of paragraph b of this subdivision.

48 a. Commercially published norm-referenced achievement tests.

49 (1) the test shall be selected by the parent from one of the follow-  
50 ing: a nationally standardized achievement test, a state education  
51 department test, or another test approved by the state education depart-  
52 ment.

53 (2) the test shall be administered in accordance with one of the  
54 following options, to be selected by the parents:

- 55 (i) at the public school, by its professional staff;

1 (ii) at a registered nonpublic school, by its professional staff,  
2 provided that the consent of the chief school officer of the nonpublic  
3 school is obtained;

4 (iii) at a nonregistered nonpublic school, by its professional staff,  
5 provided that the consent of the chief school officer of the nonpublic  
6 school is obtained; or

7 (iv) at the parents' home or at any other reasonable location, by a  
8 New York state-certified teacher or by another qualified person. A qual-  
9 ified person is anyone who has met the test publisher's criteria to  
10 administer the test.

11 (3) the test shall be scored by a testing service chosen by the  
12 parent.

13 (4) the test shall be provided by the school district upon request by  
14 the parent, provided that the cost of any testing facilities, transpor-  
15 tation, and/or personnel for testing conducted at a location other than  
16 the public school shall be borne by the parent.

17 (5) if a score on a test is determined to be inadequate, the program  
18 shall be placed on probation pursuant to subdivision eight of this  
19 section. A student's score shall be deemed adequate if: the student has  
20 a composite score above the twenty-third percentile on national norms;  
21 or the student's score reflects one academic year of growth as compared  
22 to a test administered during or subsequent to the prior school year.

23 b. Alternative evaluation methods. An alternative form of evaluation  
24 shall be permitted to be chosen by the parent only as follows: (1) for  
25 grades one through three, a written narrative prepared by a person spec-  
26 ified in this paragraph; (2) for grades four through twelve, a written  
27 narrative prepared by a person specified in this paragraph. This alter-  
28 native form of evaluation may be used no more often than every other  
29 school year for these grades; (3) for the purposes of this paragraph,  
30 the person who prepares the written narrative shall be a New York state-  
31 certified teacher, a home instruction peer group review panel, or other  
32 person, who has interviewed the child and reviewed a portfolio of the  
33 child's work. Such person shall certify either that the child has made  
34 adequate academic progress or that the child has failed to make adequate  
35 progress. In the event that such child has failed to make adequate  
36 progress, the home instruction program shall be placed on probation  
37 pursuant to subdivision eight of this section. The certified teacher,  
38 peer review panel or other person shall be chosen by the parent. Any  
39 resulting cost shall be borne by the parent.

40 c. If a dispute arises between the parents and the superintendent of  
41 schools, including disputes over the administration of the commercially  
42 published norm-referenced achievement test or the use of alternative  
43 evaluation methods, the parents may appeal to the board of education. If  
44 the parents disagree with the determination of the board of education,  
45 the parents may appeal to the commissioner within thirty days of receipt  
46 of the board's final determination.

47 8. Probation. a. If a child's annual assessment fails to comply with  
48 the requirements of this subdivision, the home instruction program shall  
49 be placed on probation for a period of up to two school years. The  
50 parent shall be required to submit a plan of remediation which addresses  
51 the deficiencies in the child's achievement, and seeks to remedy such  
52 deficiencies. The plan shall be reviewed by the school district. The  
53 school district may require the parents to make changes in the plan  
54 prior to acceptance.

55 b. If after the end of any semester of the probationary period, the  
56 child progresses to the level specified in the remediation plan, then



1 the home instruction program shall be removed from probation. If the  
2 child does not attain at least seventy-five percent of the objectives  
3 specified in the remediation plan at the end of any given semester with-  
4 in the period of probation, or if after two years on probation one  
5 hundred percent of the objectives of the remediation plan have not been  
6 satisfied, the superintendent of schools shall provide the parents with  
7 notice and the board of education shall review the determination of  
8 noncompliance in accordance with this paragraph, except that consent of  
9 the parents to such review shall not be required.

10 9. Letter of substantial equivalency. The resident school district  
11 shall certify in writing when a student taught at home has completed  
12 their home instruction program in compliance with this section. This  
13 letter shall verify compliance with this section and that the home  
14 instruction program was therefore substantially equivalent in compliance  
15 with subdivision two of section three thousand two hundred four of this  
16 part. Any student who completes a home instruction program before they  
17 turn twenty-one can request this letter from their resident school  
18 district. Each school district must maintain the documentation necessary  
19 to verify completion of the home instruction program for six years.

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

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

50 § 4. This act shall take effect on the first of July next succeeding  
51 the date on which it shall have become a law.